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Income Tax Act 2007

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Inland Revenue Department.

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OC 16 FDPA refund of tax credit *[Repealed]* 2702
OC 17 FDPA credit transfer by company *[Repealed]* 2703
OC 18 FDPA transfer to imputation credit account *[Repealed]* 2703
OC 19 FDPA transfer to CTR account *[Repealed]* 2703
OC 20 Debit for policyholder base FDP credits *[Repealed]* 2703
OC 21 FDPA transfer to group account *[Repealed]* 2703
OC 22 FDPA breach of FDP ratio *[Repealed]* 2703
OC 23 FDPA breach of FDP ratio by PCA company *[Repealed]* 2703
OC 24 FDPA debit for loss of shareholder continuity *[Repealed]* 2703

OC 25 FDPA tax advantage arrangement *[Repealed]* 2703
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FDP credits attached to dividends

[Repealed]

OC 27 FDP credits attached to dividends *[Repealed]* 2704
OC 28 FDPA benchmark dividend rules *[Repealed]* 2704
OC 29 FDP credits and imputation credits attached to dividends *[Repealed]* 2704

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[Repealed]

OC 30 Payment of further income tax for closing debit balance *[Repealed]* 2704
OC 31 Payment of further income tax when company no longer New Zealand resident *[Repealed]* 2704
OC 32 Reduction of further income tax *[Repealed]* 2704
OC 33 Income tax paid satisfying liability for further income tax *[Repealed]* 2705
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[Repealed]

OC 35 Meaning of FDP reference period *[Repealed]* 2705
OC 36 Meaning of maximum deficit debit *[Repealed]* 2705
OC 37 Meaning of policyholder FDP ratio *[Repealed]* 2705
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Table O3: FDP credits

[Repealed]

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[Repealed]

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[Repealed]

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[Repealed]

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OD 3 Choosing to become CTR company *[Repealed]* 2708
OD 4 When company stops being CTR company *[Repealed]* 2708

CTR credits

[Repealed]

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OD 6 CTRA transfer from FDP account *[Repealed]* 2709
OD 7 CTRA dividend derived with CTR credit *[Repealed]* 2709
OD 8 CTRA reduction of FDP *[Repealed]* 2709
OD 9 CTRA reversal of tax advantage arrangement *[Repealed]* 2709

CTR debits

[Repealed]

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OD 13 CTRA adjustment for conduit tax relief *[Repealed]* 2710
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OD 15 CTRA break in shareholding chain for company *[Repealed]* 2710
OD 16 CTRA increase in resident shareholding *[Repealed]* 2710
OD 17 CTRA breach of CTR ratio *[Repealed]* 2710
OD 18 CTRA tax advantage arrangement *[Repealed]* 2710
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[Repealed]

OD 20 CTR credits attached to dividends *[Repealed]* 2711
OD 21 CTRA benchmark dividend rules *[Repealed]* 2711
OD 22 CTR credits and imputation credits attached to dividends *[Repealed]* 2711

Payment of FDP and refunds

[Repealed]

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OD 24 FDP payable on resident's restricted amalgamation *[Repealed]* 2711
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[Repealed]

Table O6: conduit tax relief debits

[Repealed]

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Introductory provision

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Companies with branch equivalent tax accounts

[Repealed]

Introductory provisions

[Repealed]

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OE 3	Choosing to become BETA company *[Repealed]*	2715
OE 4	When company stops being BETA company *[Repealed]*	2715
OE 5	Treatment of attributed CFC income and FIF income in this subpart	2715

Branch equivalent tax credits

[Repealed]

OE 6	BETA payment of income tax on foreign income *[Repealed]*	2715
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Treatment of debits from conduit relief

[Repealed]

OE 11B	Company with debit balance, including debits from conduit relief, in some income years *[Repealed]*	2717

Branch equivalent tax debits

[Repealed]

OE 12	BETA payment of FDP *[Repealed]*	2717
OE 13	BETA reduction in FDP *[Repealed]*	2717
OE 14	BETA refund of income tax *[Repealed]*	2717
OE 15	BETA debit for loss of shareholder continuity *[Repealed]*	2717
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Debit if credit balance at beginning of first affected income year

[Repealed]

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Branch equivalent tax debits

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[Repealed]

Table O8: branch equivalent tax debits

[Repealed]

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Table O10: person's branch equivalent tax debits

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ASC debits

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Table O12: ASC debits

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[Repealed]

Introductory provision

[Repealed]

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Companies with policyholder credit accounts

[Repealed]

Introductory provision

[Repealed]

OJ 2 Policyholder credit accounts of companies *[Repealed]* 2731

Policyholder credits of PCA company

[Repealed]

OJ 3 PCA transfer from imputation credit account *[Repealed]* 2731
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OJ 5 PCA transfer of life insurance business *[Repealed]* 2731
OJ 6 PCA credit for maximum deficit in FDP account *[Repealed]* 2731
OJ 7 PCA credit for reduced deficit in FDP account *[Repealed]* 2731

Policyholder debits of PCA company

[Repealed]

OJ 8 PCA payment of tax relating to policyholder base *[Repealed]* 2732
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Persons with policyholder credit accounts

[Repealed]

Introductory provisions

[Repealed]

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OJ 13 Choosing to stop being PCA person *[Repealed]* 2732

Policyholder credits of PCA person

[Repealed]

OJ 14 PCA person's equivalent credit *[Repealed]* 2733
OJ 15 PCA person's credit for transfer of life insurance business *[Repealed]* 2733

Policyholder debits of PCA person

[Repealed]

OJ 16 PCA person's payment of tax relating to policyholder base *[Repealed]* 2733
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Table O13: policyholder credits

[Repealed]

Table O14: policyholder debits

[Repealed]

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OP 16 Consolidated ICA credit transfer to company 2777
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OP 18 Consolidated ICA transfer from group company's FDP account *[Repealed]* 2778

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Consolidated groups and FDP accounts

[Repealed]

Introductory provisions

[Repealed]

OP 51 FDP accounts of consolidated FDP groups *[Repealed]* 2805
OP 52 Choosing to stop being consolidated FDP group *[Repealed]* 2805
OP 53 When group company emigrates *[Repealed]* 2805
OP 54 When credits and debits arise only in consolidated FDP group accounts *[Repealed]* 2805
OP 55 Provisions applying to consolidated FDP groups *[Repealed]* 2805

FDP credits of consolidated FDP groups

[Repealed]

OP 56 Consolidated FDPA payment of FDP *[Repealed]* 2805
OP 57 Consolidated FDPA payment of further FDP *[Repealed]* 2806
OP 58 Consolidated FDPA dividend derived with FDP credit *[Repealed]* 2806
OP 59 Consolidated FDPA group company's credit *[Repealed]* 2806
OP 60 Consolidated FDPA credit transfer to company *[Repealed]* 2806
OP 61 Consolidated FDPA transfer from group's CTR account *[Repealed]* 2806
OP 62 Consolidated FDPA transfer for net foreign attributed income *[Repealed]* 2806
OP 63 Consolidated FDPA reversal of tax advantage arrangement *[Repealed]* 2806

FDP debits of consolidated FDP groups

[Repealed]

OP 64 Consolidated FDPA payment of dividend *[Repealed]* 2806
OP 65 Consolidated FDPA credit transfer by company *[Repealed]* 2807
OP 66 Consolidated FDPA refund of FDP *[Repealed]* 2807
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OP 68 Consolidated FDPA refund of tax credit *[Repealed]* 2807
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OP 72 Consolidated FDPA breach of FDP ratio *[Repealed]* 2807
OP 73 Consolidated FDPA debit for loss of shareholder continuity *[Repealed]* 2807

OP 74 Consolidated FDPA debit for policyholder base FDP credits *[Repealed]* 2808
OP 75 Consolidated FDPA breach of FDP ratio by PCA company *[Repealed]* 2808
OP 76 Consolidated FDPA tax advantage arrangement *[Repealed]* 2808
OP 77 Consolidated FDPA final balance *[Repealed]* 2808

Table O21: FDP credits of consolidated FDP groups

[Repealed]

Table O22: FDP debits of consolidated FDP groups

[Repealed]

Consolidated groups and CTR credits

[Repealed]

Introductory provisions

[Repealed]

OP 78 CTR accounts of consolidated groups *[Repealed]* 2809
OP 79 When credits and debits arise only in CTR group accounts *[Repealed]* 2809
OP 80 Provisions applying to consolidated groups with CTR accounts *[Repealed]* 2809

CTR credits of consolidated groups

[Repealed]

OP 81 Consolidated CTRA tax credit for conduit tax relief *[Repealed]* 2810
OP 82 Consolidated CTRA reduction of FDP *[Repealed]* 2810
OP 83 Consolidated CTRA dividend derived with CTR credit *[Repealed]* 2810
OP 84 Consolidated CTRA group company's credit *[Repealed]* 2810
OP 85 Consolidated CTRA transfer from group's FDP account *[Repealed]* 2810
OP 86 Consolidated CTRA reversal of tax advantage arrangement *[Repealed]* 2810

CTR debits of consolidated groups

[Repealed]

OP 87 Consolidated CTRA payment of dividend *[Repealed]* 2811
OP 88 Consolidated CTRA transfer to group's FDP account *[Repealed]* 2811
OP 89 Consolidated CTRA adjustment for conduit tax relief *[Repealed]* 2811
OP 90 Consolidated CTRA group company's debit *[Repealed]* 2811
OP 91 Consolidated CTRA increase in resident shareholding *[Repealed]* 2811
OP 92 Consolidated CTRA breach of CTR ratio *[Repealed]* 2811
OP 93 Consolidated CTRA tax advantage arrangement *[Repealed]* 2811
OP 94 Consolidated CTRA final balance *[Repealed]* 2812

Consolidated groups' FDP payments and refunds

[Repealed]

OP 95 FDP payable for credits and debits in group's CTR account *[Repealed]* 2812

OP 96 Refund on transfer from group's FDP account *[Repealed]* 2812

Table O23: conduit tax relief credits of consolidated groups

[Repealed]

Table O24: conduit tax relief debits of consolidated groups

[Repealed]

Consolidated groups and branch equivalent tax accounts

[Repealed]

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[Repealed]

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OP 98 Choosing to stop being consolidated BETA group *[Repealed]* 2813

OP 99 When credits and debits arise only in branch equivalent tax group accounts *[Repealed]* 2813

Branch equivalent tax credits of consolidated BETA groups

[Repealed]

OP 100 Consolidated BETA payment of income tax on foreign income *[Repealed]* 2814

OP 101 Consolidated BETA payment of income tax *[Repealed]* 2814

OP 102 Consolidated BETA remaining debit balances *[Repealed]* 2814

OP 103 Consolidated BETA refund of FDP *[Repealed]* 2814

OP 104 Consolidated BETA credit for loss of shareholder continuity *[Repealed]* 2814

Treatment by consolidated BETA groups of BETA debits from conduit relief

[Repealed]

OP 104B Consolidated BETA group with debit balance, including debits from conduit relief, in certain income years *[Repealed]* 2815

Branch equivalent tax debits of consolidated BETA groups

[Repealed]

OP 105 Consolidated BETA payment of FDP *[Repealed]* 2815

OP 106 Consolidated BETA reduction of FDP *[Repealed]* 2815

OP 107 Consolidated BETA refund of income tax *[Repealed]* 2815

OP 108 Consolidated BETA debit for loss of shareholder continuity *[Repealed]* 2815

Debit if credit balance at beginning of first affected income year

[Repealed]

OP 108B Consolidated BETA group with credit balance at beginning of first affected income year *[Repealed]* 2816

Table O25: branch equivalent tax credits of consolidated BETA groups

[Repealed]

Table O26: branch equivalent tax debits of consolidated BETA groups

[Repealed]

Consolidated groups and policyholder credit accounts

[Repealed]

Introductory provision

[Repealed]

OP 109 Policyholder credit accounts of consolidated groups *[Repealed]* 2816

Policyholder credits of consolidated groups

[Repealed]

OP 110 Consolidated PCA transfer from imputation credit account *[Repealed]* 2817

OP 111 Consolidated PCA transfer from FDP account *[Repealed]* 2817

OP 112 Consolidated PCA group company's credit *[Repealed]* 2817

OP 113 Consolidated PCA maximum deficit debit in FDP account *[Repealed]* 2817

OP 114 Consolidated PCA reduced deficit debit in FDP account *[Repealed]* 2817

Policyholder debits of consolidated groups

[Repealed]

OP 115 Consolidated PCA payment of tax relating to policyholder base *[Repealed]* 2817

OP 116 Consolidated PCA transfer to imputation credit account *[Repealed]* 2817

Table O27: policyholder credits of consolidated groups

[Repealed]

Table O28: policyholder debits of consolidated groups

[Repealed]

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[Repealed]

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A 1 Title

This Act is the Income Tax Act 2007.

Compare: 2004 No 35 s A 1

A 2 Commencement

1 April 2008

(1) This Act comes into force on 1 April 2008.

Charitable entities

(1B) Despite subsection (1), sections CW 41(2) and CW 42(1)(b) come into force on 1 July 2008.

Act effective for 2008–09 income year and later

(2) However, except when the context requires otherwise, this Act applies only with respect to the tax on income derived in the 2008–09 income year and later income years.

Defined in this Act: income year, tax

Compare: 2004 No 35 s A 2

Section A 2(1B) heading: inserted, on 1 April 2008, by section 307 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section A 2(1B): inserted, on 1 April 2008, by section 307 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Part A
Purpose and interpretation

Contents

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AA 3	Definitions	137
AA 4	Crown bound	137

AA 1 Purpose of Act

The main purposes of this Act are—

(a) to define, and impose tax on, a net amount of income:

(b) to impose obligations concerning tax:

(c) to set out rules for calculating tax and for satisfying the obligations imposed.

Defined in this Act: amount, income, tax

Compare: 2004 No 35 s AA 1

Section AA 1(a): amended, on 1 April 2023, by section 5(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section AA 1 list of defined terms **amount**: inserted, on 1 April 2023, by section 5(2)(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section AA 1 list of defined terms **income**: inserted, on 1 April 2023, by section 5(2)(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section AA 1 list of defined terms **net income**: repealed, on 1 April 2023, by section 5(2)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

AA 2 Interpretation

Aids to interpretation

(1) Diagrams, examples, flowcharts, readers' notes, and the lists of defined terms following sections are included in this Act only as interpretational aids. If there is conflict between an interpretational aid and a provision of this Act, the provision prevails.

Defined terms

(2) If a defined term is used in a section and is not included in the list of defined terms following the section, the term is nevertheless used in the section as defined.

Compare: 1994 No 164 s AA 2

Section AA 2(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

AA 3 Definitions

Role of Part Y

(1) Definitions of terms that apply generally for the purposes of this Act, and general provisions on the interpretation and construction of this Act, appear in Part Y (Definitions and related matters).

Role of Legislation Act 2019, Part 2

(2) The Legislation Act 2019, Part 2, also contains definitions of terms, including in particular the term **person**, and other provisions that apply to the interpretation and construction of this Act.

Compare: 2004 No 35 s AA 3(2)

Section AA 3(2) heading: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

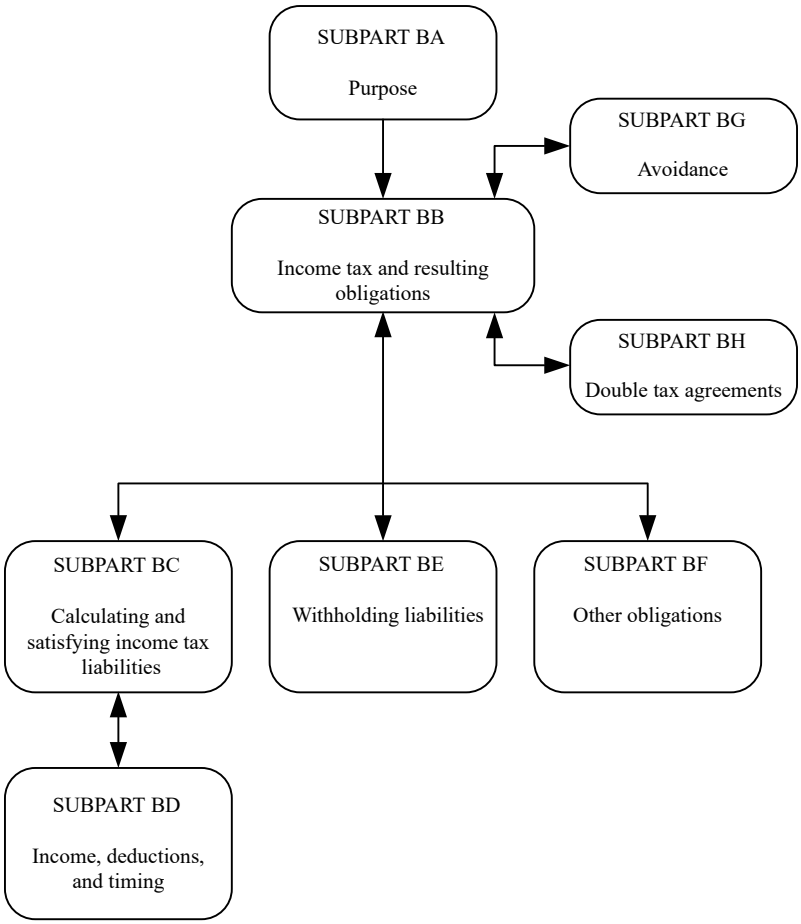
Section AA 3(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

AA 4 Crown bound

This Act binds the Crown.

Part B
Core provisions

Flowchart B1: Outline of Part



Subpart BA—Purpose

Contents

Page

BA 1 Purpose 139

BA 1 Purpose

The purposes of this Part are—

(a) to impose income tax, provisional tax, withholding liabilities, and other tax obligations concerning taxes:

(b) to set out procedures to be followed for calculating tax and satisfying the obligations imposed under this Act:

(c) to provide a basis for applying the other Parts:

(d) generally to set up the scheme of the Act and the main links between its Parts.

Defined in this Act: income tax, provisional tax, tax

Compare: 2004 No 35 s BA 1

Subpart BB—Income tax and resulting obligations

Contents

Page

BB 1 Imposition of income tax 139
BB 2 Main obligations 139
BB 3 Overriding effect of certain matters 140

BB 1 Imposition of income tax

Income tax is imposed on taxable income, at the rate or rates of tax fixed by an annual taxing Act, and is payable to the Crown under this Act and the Tax Administration Act 1994.

Defined in this Act: annual taxing Act, income tax, pay, tax, taxable income

Compare: 2004 No 35 s BB 1

BB 2 Main obligations

Income tax liability

(1) A person's income tax liability for a tax year must be calculated, and satisfied by the person, under subpart BC (Calculating and satisfying income tax liabilities).

Non-filing taxpayer

(2) Despite subsection (1), a non-filing taxpayer is not required to file a return of income.

Provisional tax

(3) A person liable to pay provisional tax must pay provisional tax for a tax year under the provisional tax rules.

Withholding liabilities

(4) A person who has a withholding liability must satisfy it under subpart BE (Withholding liabilities).

Other obligations

(5) A person who has an obligation in relation to income tax or ancillary tax under subpart BF (Other obligations) must satisfy it under that subpart.

Defined in this Act: ancillary tax, income tax, income tax liability, non-filing taxpayer, pay, provisional tax rules, provisional tax, return of income, tax year

Compare: 2004 No 35 s BB 2

Section BB 2(5): amended, on 23 March 2020, by section 82(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section BB2 list of defined terms **income tax**: inserted, on 23 March 2020, by section 82(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

BB 3 Overriding effect of certain matters

Tax avoidance arrangements: subpart BG

(1) Under Part G (Avoidance and non-market transactions), the Commissioner may counteract a tax advantage from a tax avoidance arrangement.

Double tax agreements: subpart BH

(2) Subpart BH (Double tax agreements) provides for the effect of a double tax agreement.

Defined in this Act: Commissioner, double tax agreement, income tax, tax, tax avoidance arrangement

Compare: 2004 No 35 s BB 3

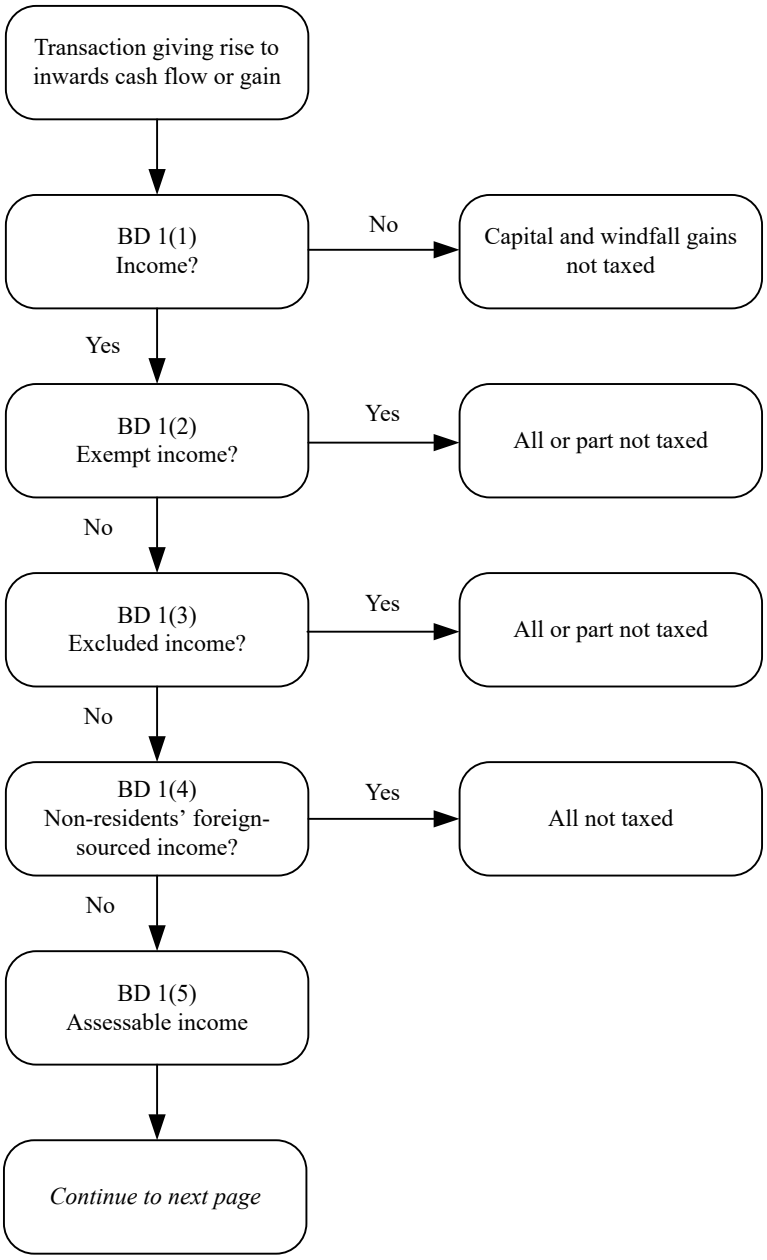
Section BB 3(2): replaced, on 1 July 2014, by section 5 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

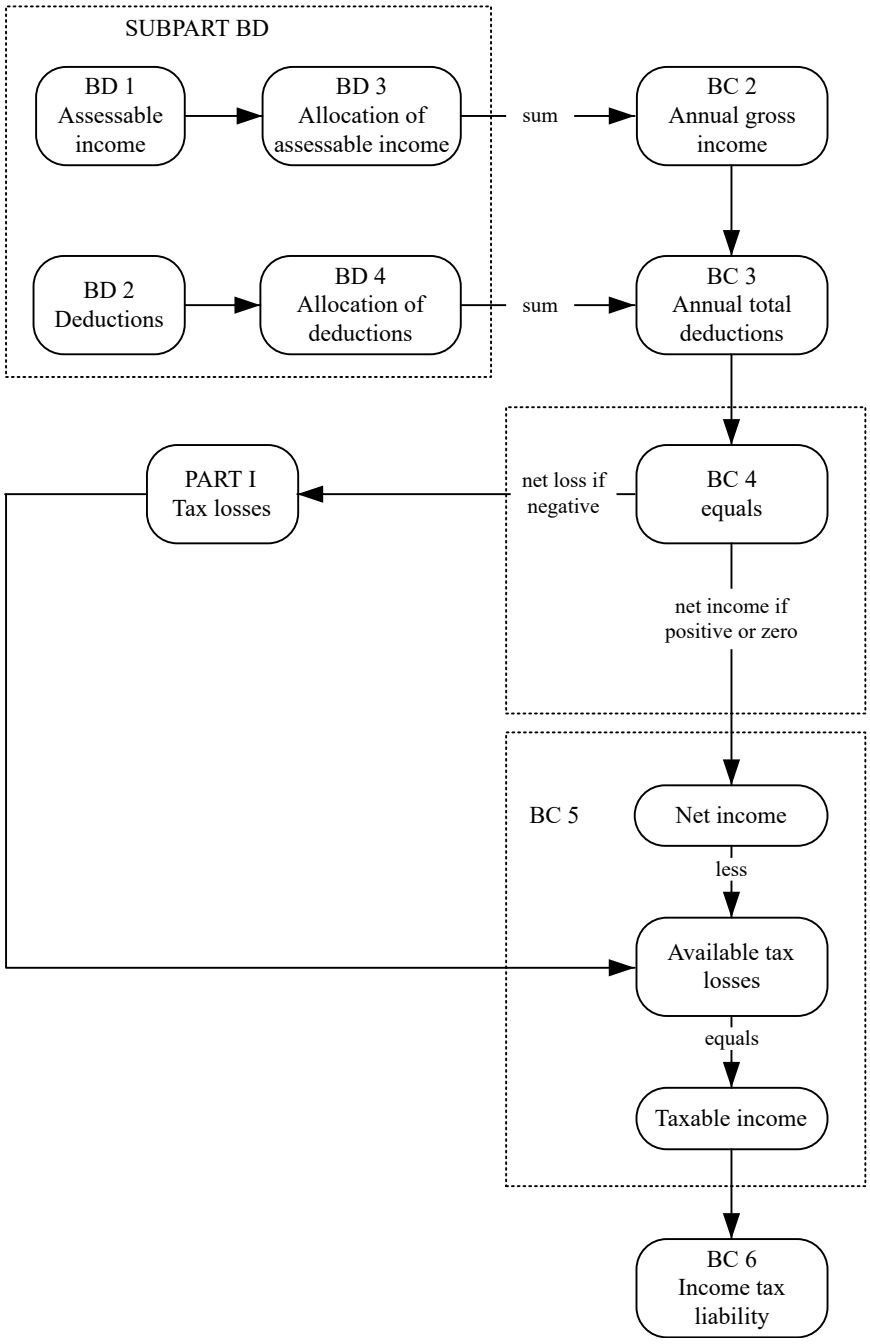
Subpart BC—Calculating and satisfying income tax liabilities

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Flowchart B2: Calculating and satisfying income tax liabilities





Flowchart B2: amended (with effect on 1 April 2008), on 7 December 2009, by section 4 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

BC 1 Non-filing and filing taxpayers

Non-filing taxpayer

(1) The income tax liability of a non-filing taxpayer for a tax year is the total tax withheld from amounts of income included in the taxpayer's annual gross income for the year.

Filing taxpayer

(2) The income tax liability of a filing taxpayer for a tax year is calculated under sections BC 2 to BC 6.

Filing taxpayer with schedular income

(3) If a filing taxpayer has schedular income, their income tax liability calculation is modified by section BC 7.

Defined in this Act: amount, annual gross income, filing taxpayer, income, income tax liability, non-filing taxpayer, schedular income, tax, tax year

Compare: 2004 No 35 s BC 1

BC 2 Annual gross income

A person's **annual gross income** for a tax year is the total of their assessable income that is allocated to the corresponding income year.

Defined in this Act: annual gross income, assessable income, corresponding income year, tax year

Compare: 2004 No 35 s BC 2

BC 3 Annual total deduction

A person's **annual total deduction** for a tax year is the total of their deductions that are allocated to the corresponding income year.

Defined in this Act: annual total deduction, corresponding income year, deduction, tax year

Compare: 2004 No 35 s BC 3

BC 4 Net income and net loss

Income more than deductions

(1) If, for a tax year, a person's annual gross income is more than their annual total deduction, the difference is their **net income** for the year.

Income equal to deductions

(2) If, for a tax year, a person's annual gross income equals their annual total deduction, their **net income** for the year is zero.

Deductions more than income

(3) If, for a tax year, a person's annual total deduction is more than their annual gross income, the difference is their **net loss** for the year, and their net income for the year is zero.

Treatment of net loss

(4) A person's net loss for a tax year is included under Part I (Treatment of tax losses) in their tax loss for the tax year that may, under Part I, be—

(a) subtracted from their net income for a future tax year:

(b) made available to another person to subtract from that other person's net income for that or a future tax year:

(c) used in certain other ways.

Defined in this Act: annual gross income, annual total deduction, net income, net loss, tax loss, tax year

Compare: 2004 No 35 s BC 4

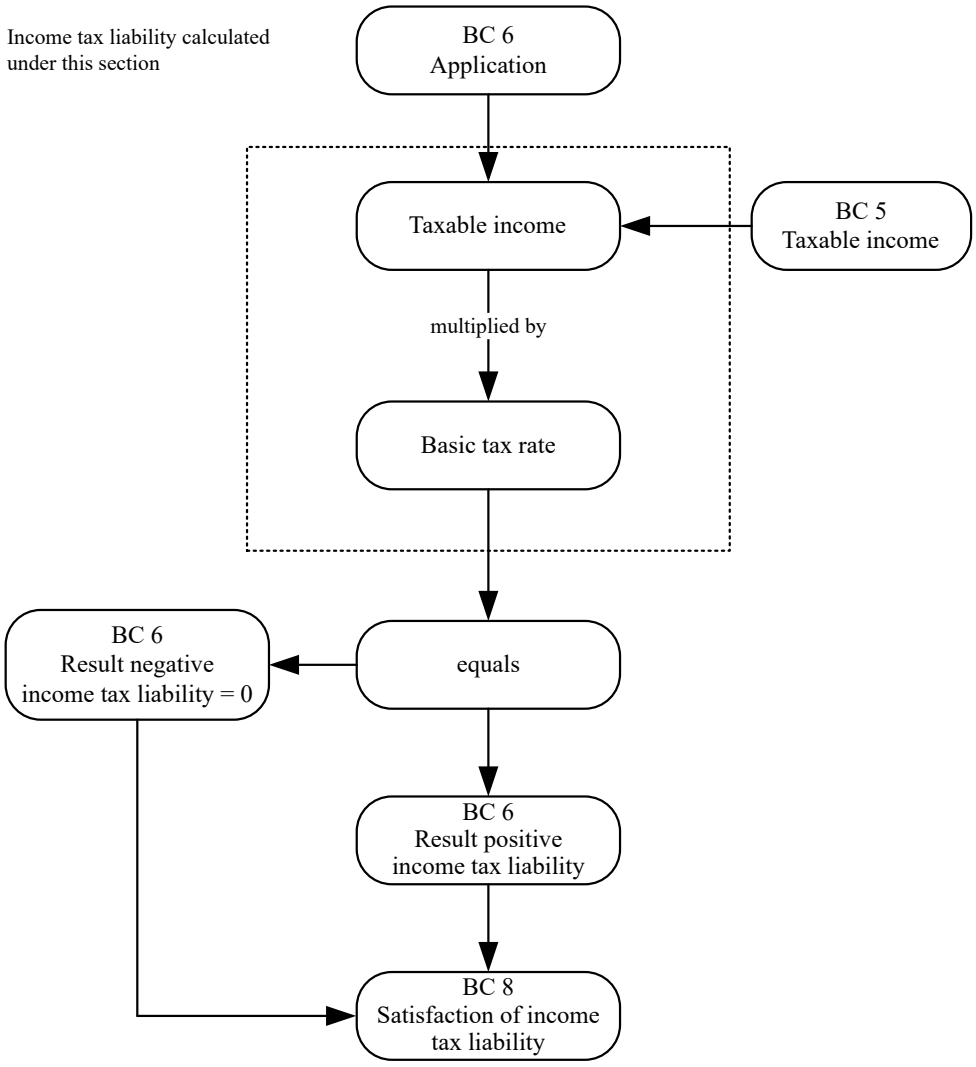
BC 5 Taxable income

A person's **taxable income** for a tax year is determined by subtracting any available tax loss that the person has from their net income under Part I (Treatment of tax losses).

Defined in this Act: available tax loss, net income, taxable income, tax year

Compare: 2004 No 35 s BC 5

Flowchart B3: Calculating income tax liability



Section BC 5 list of defined terms **tax loss**: repealed (with effect on 1 April 2008), on 30 March 2022, by section 47 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

BC 6 Income tax liability of filing taxpayer

Calculation of amount

(1) The income tax liability of a filing taxpayer for a tax year is the amount calculated by multiplying their taxable income for the tax year by the basic tax rate. The income tax liability of a filing taxpayer with schedular income is determined under section BC 7.

When liability zero or negative

(2) If the income tax liability calculated under subsection (1) is zero or negative, the filing taxpayer's income tax liability for the tax year is zero.

Defined in this Act: amount, basic tax rate, filing taxpayer, income tax liability, schedular income, tax year, taxable income

Compare: 2004 No 35 s BC 6

BC 7 Income tax liability of person with schedular income

Modified income tax liability

(1) The income tax liability for a tax year of a person who has schedular income for the year is the total of—

(a) their schedular income tax liability for the year calculated under subsection (2) or (3); and

(b) the amount that would be their income tax liability for the year if they had no schedular income.

Schedular income tax liability

(2) If a person has 1 kind of schedular income for a tax year, their **schedular income tax liability** for the year is the amount that would be the income tax liability for the year if their only income for the year were that schedular income.

Multiple schedular income

(3) If a person has more than 1 kind of schedular income for a tax year, their **schedular income tax liability** for the year is the total of the amounts calculated for each kind of schedular income.

Income tax liability of multi-rate PIEs

(4) The income tax liability for a tax year of a multi-rate PIE is determined under subpart HM (Portfolio investment entities).

Special rule for natural person investors in multi-rate PIEs

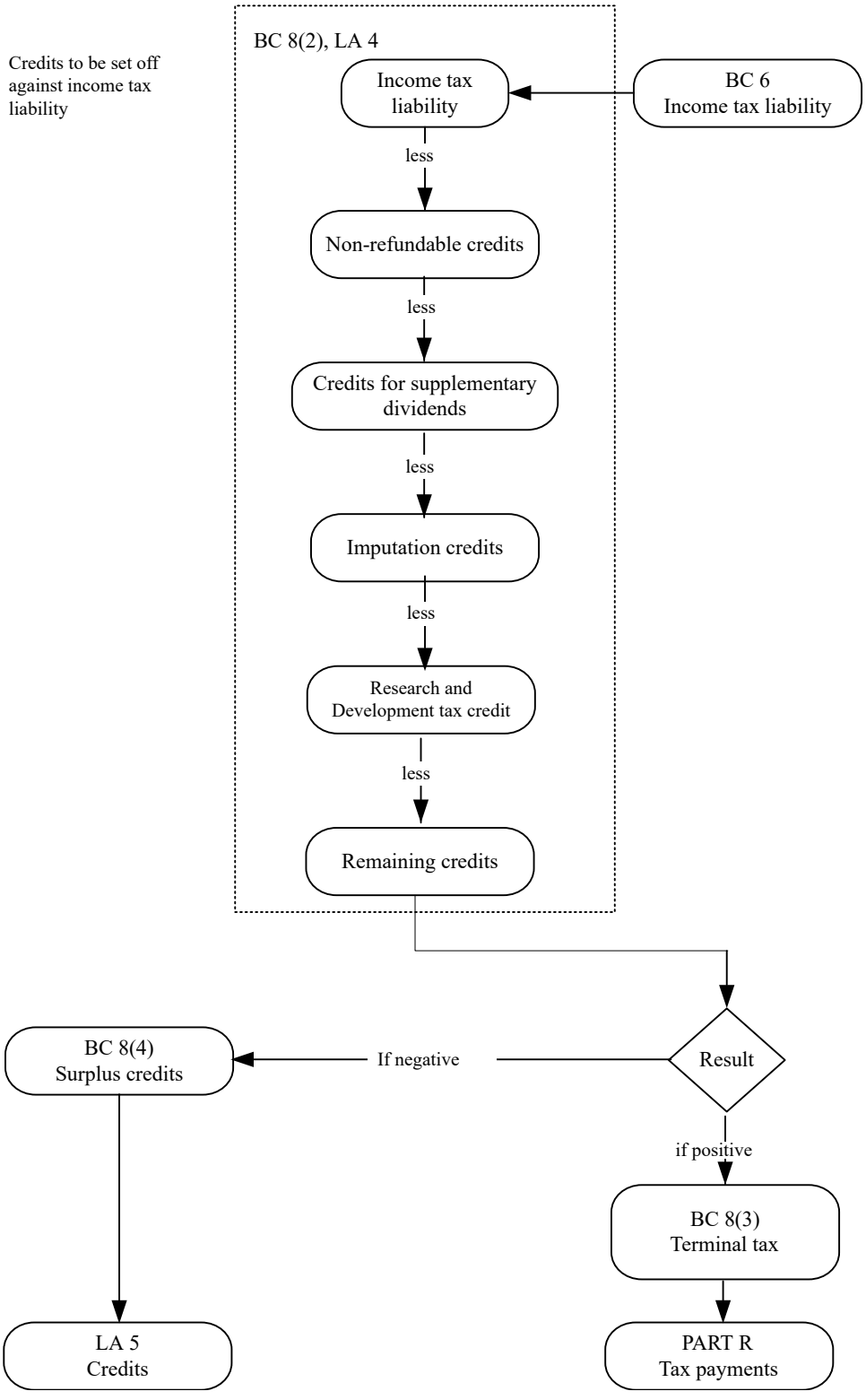
(5) The schedular income tax liability of a natural person who is resident in New Zealand and is an investor in a multi-rate PIE, when the rate of tax applied for the year is not equal to the investor's prescribed investor rate for the year, is calculated under section HM 36B (Calculating PIE schedular income adjust-

ments for natural person investors) to provide an adjustment to the amount of the person's income tax liability referred to in subsection (1)(b).

Defined in this Act: amount, income, income tax liability, multi-rate PIE, natural person, prescribed investor rate, resident in New Zealand, schedular income, schedular income tax liability, tax year

Compare: 2004 No 35 s BC 7

Flowchart B4: Satisfying income tax liability



Section BC 7(4) heading: added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 4(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BC 7(4): added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 4(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BC 7(5) heading: inserted, on 1 April 2020, by section 83(1) (and see section 83(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section BC 7(5): inserted, on 1 April 2020, by section 83(1) (and see section 83(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section BC 7(5): amended, on 29 March 2024, by section 5(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BC 7(5): amended (with effect on 1 April 2020), on 30 March 2021, by section 5(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section BC 7 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 4(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BC 7 list of defined terms **natural person**: inserted, on 29 March 2024, by section 5(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BC 7 list of defined terms **prescribed investor rate**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 5(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section BC 7 list of defined terms **resident in New Zealand**: inserted, on 29 March 2024, by section 5(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Flowchart B4: amended, on 1 April 2019, by section 5 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

BC 8 Satisfaction of income tax liability

Use of tax credits

(1) Credits for tax paid, tax withheld, or other circumstances, calculated under Parts L (Tax credits and other credits) and M (Tax credits paid in cash), satisfy a person's income tax liability for a tax year as far as the credits extend.

Ordering rule

(2) The order in which the person uses their credits is set out in section LA 4 (When total tax credit more than income tax liability).

Terminal tax

(3) If the person's income tax liability is more than the total of their credits, the difference is the person's **terminal tax**. The person must pay the terminal tax to complete the satisfaction of their income tax liability.

Remaining credits

(4) The treatment of any credits remaining after the person's income tax liability is satisfied is dealt with in section LA 5 (Treatment of remaining credits).

Defined in this Act: income tax liability, pay, tax, tax credit, tax year, terminal tax

Compare: 2004 No 35 s BC 9

Subpart BD—Income, deductions, and timing

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BD 1 Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income

Amounts of income

(1) An amount is income of a person if it is their income under a provision in Part C (Income).

Exempt income

(2) An amount of income of a person is **exempt income** if it is their exempt income under a provision in subpart CW (Exempt income) or CZ (Terminating provisions).

Excluded income

(3) An amount of income of a person is **excluded income** if—

(a) it is their excluded income under a provision in subpart CX (Excluded income) or CZ; and

(b) it is not their non-residents' foreign-sourced income.

Non-residents' foreign-sourced income

(4) An amount of income of a person is **non-residents' foreign-sourced income** if—

(a) the amount is a foreign-sourced amount; and

(b) the person is a non-resident when it is derived; and

(c) the amount is not income of a trustee to which section HC 25(2) (Foreign-sourced amounts: non-resident trustees) applies.

Assessable income

(5) An amount of income of a person is **assessable income** in the calculation of their annual gross income if it is not income of any of the following kinds:

(a) their exempt income:

(b) their excluded income:

(c) their non-residents' foreign-sourced income.

Defined in this Act: amount, annual gross income, assessable income, excluded income, exempt income, foreign-sourced amount, income, non-resident, non-residents' foreign-sourced income

Compare: 2004 No 35 s BD 1

BD 2 Deductions

An amount is a **deduction** of a person if they are allowed a deduction for the amount under Part D (Deductions).

Defined in this Act: amount, deduction

Compare: 2004 No 35 s BD 2

BD 3 Allocation of income to particular income years

Application

(1) Every amount of income must be allocated to an income year under this section.

General rule

(2) An amount of income is allocated to the income year in which the amount is derived, unless a provision in any of Parts C or E to I provides for allocation on another basis.

Interpretation of derive

(3) When the time of derivation of an amount of income is being determined, regard must be had to case law, which—

(a) requires some people to recognise income on an accrual basis; and

(b) requires other people to recognise income on a cash basis; and

(c) more generally, defines the concept of derivation.

Income credited in account

(4) Despite subsection (3), income that has not previously been derived by a person is treated as being derived when it is credited in their account or, in some other way, dealt with in their interest or on their behalf.

Role of Part E

(5) Part E (Timing and quantifying rules) contains a number of provisions that—

(a) specifically modify the allocation of income or have the effect of modifying the allocation of income; or

(b) allocate income as part of the process of quantifying it.

Single allocation

(6) An amount of income may be allocated only once.

Defined in this Act: amount, income, income year

Compare: 2004 No 35 s BD 3

BD 4 Allocation of deductions to particular income years

Application

(1) Every deduction must be allocated to an income year under this section.

General rule

(2) A deduction for an amount of expenditure or loss is allocated to the income year in which the expenditure or loss is incurred, unless a provision in any of Parts D to I provides for allocation on another basis.

Interpretation of incur

(3) When the time of incurrence of an amount of expenditure or loss is being determined, regard must be had to case law, which—

(a) requires some people to recognise expenditure or loss on an accrual basis; and

(b) requires other people to recognise expenditure or loss on a cash basis; and

(c) more generally, defines the concept of incurrence.

Role of Part E

(4) Part E (Timing and quantifying rules) contains a number of provisions that—

(a) specifically modify the allocation of deductions or have the effect of modifying the allocation of deductions; or

(b) allocate deductions as part of the process of quantifying them.

Allocation

(5) If an expenditure or loss gives rise to more than 1 deduction, the deductions are allocated to income years to the extent that their total is no more than the amount of the expenditure or loss.

Defined in this Act: amount, deduction, income year, loss

Compare: 2004 No 35 s BD 4

Subpart BE—Withholding liabilities

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BE 1 Withholding liabilities

PAYE income payments

(1) A person who makes a PAYE income payment must withhold an amount from the payment under the PAYE rules.

Resident passive income

(2) A person who makes a payment of resident passive income must withhold an amount from the payment under the RWT rules.

Non-resident passive income

(3) A person who makes a payment of non-resident passive income must withhold an amount from the payment under the NRWT rules.

Fringe benefits

(4) A person who provides a fringe benefit to another person must pay fringe benefit tax under the FBT rules.

Employer's superannuation cash contributions

(5) A person who makes an employer's superannuation cash contribution must pay ESCT under the ESCT rules.

Retirement scheme contributions

(5B) A person who makes a retirement scheme contribution to a retirement savings scheme must pay RSCT under the RSCT rules.

Residential land purchase amount

(6) A person described in section RL 3 (Associated persons: who must pay, and how?) must withhold an amount from a residential land purchase amount under the RLWT rules.

Defined in this Act: amount, dividend, employer's superannuation cash contribution, ESCT, ESCT rules, FBT rules, fringe benefit, fringe benefit tax, non-resident passive income, NRWT rules, pay, PAYE income payment, PAYE rules, resident passive income, residential land purchase amount, retirement savings scheme, retirement scheme contribution, RLWT rules, RSCT, RSCT rules, RWT rules, superannuation fund

Compare: 2004 No 35 s BE 1

Section BE 1(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 5(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 5(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1(5) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 5(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1(5): substituted (with effect on 1 April 2008), on 6 October 2009, by section 5(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1(5B) heading: inserted, on 1 April 2008, by section 308(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section BE 1(5B): inserted, on 1 April 2008, by section 308(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section BE 1(6) heading: replaced, on 1 July 2016, by section 38(1) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section BE 1(6): replaced, on 1 July 2016, by section 38(1) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section BE 1 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 5(5)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 5(5)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 5(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1 list of defined terms **FDP rules**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 5(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1 list of defined terms **PAYE income payment**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 5(5)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1 list of defined terms **PAYE payment**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 5(5)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BE 1 list of defined terms **residential land purchase amount**: inserted, on 1 July 2016, by section 38(2) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section BE 1 list of defined terms **retirement savings scheme**: inserted, on 1 April 2008, by section 308(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section BE 1 list of defined terms **retirement scheme contribution**: inserted, on 1 April 2008, by section 308(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section BE 1 list of defined terms **RLWT rules**: inserted, on 1 July 2016, by section 38(2) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section BE 1 list of defined terms **RSCT**: inserted, on 1 April 2008, by section 308(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section BE 1 list of defined terms **RSCT rules**: inserted, on 1 April 2008, by section 308(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subpart BF—Other obligations

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BF 1 Other obligations

A person must pay the following types of income or ancillary tax under the relevant Part:

(a) qualifying company election tax under Part H (Taxation of certain entities):

(b) income tax on taxable distributions from non-complying trusts under Part H:

(bb) multinational top-up tax under Part H:

(c) further income tax under Part O (Memorandum accounts):

(d) RLWT under subpart RL (Residential land withholding tax), if the person is described in section RL 2 (Vendors: who must pay, and how?).

(e) *[Repealed]*

Defined in this Act: ancillary tax, further income tax, income tax, multinational top-up tax, non-complying trust, pay, qualifying company election tax, RLWT, taxable distribution

Compare: 2004 No 35 s BF 1

Section BF 1(bb): inserted, on 1 January 2025, by section 6(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BF 1(d): replaced, on 1 July 2016, by section 39(1) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section BF 1(e): repealed, on 2 June 2016, by section 4 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section BF 1 list of defined terms **further FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 6(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section BF 1 list of defined terms **multinational top-up tax**: inserted, on 1 January 2025, by section 6(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BF 1 list of defined terms **RLWT**: inserted, on 1 July 2016, by section 39(2) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section BF 1 list of defined terms **withdrawal tax**: repealed, on 29 March 2018 (with effect on 2 June 2016), by section 5 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart BG—Avoidance

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BG 1 Tax avoidance

Avoidance arrangement void

(1) A tax avoidance arrangement is void as against the Commissioner for income tax purposes.

Reconstruction

(2) Under Part G (Avoidance and non-market transactions), the Commissioner may counteract a tax advantage that a person has obtained from or under a tax avoidance arrangement.

Defined in this Act: Commissioner, income tax, tax avoidance arrangement

Compare: 2004 No 35 s BG 1

Subpart BH—Double tax agreements

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BH 1 Double tax agreements

Meaning

(1) **Double tax agreement** means an agreement that—

(a) has been negotiated for 1 or more of the purposes set out in subsection (2); and

(b) has been agreed between—

(i) 1 or more governments of territories outside New Zealand and the government of New Zealand; or

(ii) the Taipei Economic and Cultural Office in New Zealand and the New Zealand Commerce and Industry Office; and

(c) has entered into force as a result of a declaration by the Governor-General by Order in Council under subsection (3).

Purposes

(2) The following are the purposes for which a double tax agreement may be negotiated:

(a) to provide relief from double taxation:

(b) to provide relief from tax:

(c) to tax the income derived by non-residents from any source in New Zealand:

(d) to determine the income to be attributed to non-residents or their agencies, branches, or establishments in New Zealand:

(e) to determine the income to be attributed to New Zealand residents who have special relationships with non-residents:

(f) to prevent fiscal evasion:

(g) to facilitate the exchange of information:

(h) to assist in recovering unpaid tax.

Entry into force

(3) An agreement to which subsection (1)(a) and (b) apply comes into force as declared by the Governor-General by Order in Council and on the date determined under the agreement.

Secondary legislation

(3B) An Order in Council under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Overriding effect

(4) Despite anything in this Act, except the provisions listed in subsection (4B), or in any other Inland Revenue Act or the Official Information Act 1982 or the Privacy Act 2020, a double tax agreement has effect in relation to—

(a) income tax:

(b) any other tax imposed by this Act:

(c) the exchange of information that relates to a tax, as defined in paragraph (a)(i) to (v) of the definition of **tax** in section 3(1) of the Tax Administration Act 1994.

Provisions

(4B) The provisions of this Act referred to in subsection (4) are—

(a) subsection (4C):

(b) subsection (5):

(c) subsection (5B):

(d) section BG 1 (Tax avoidance):

(e) section GB 54 (Arrangements involving establishments):

(f) section RF 11C (Interest paid by non-resident companies to non-residents).

Exclusion: multinational top-up tax

(4C) A double tax agreement does not have effect in relation to multinational top-up tax unless the double tax agreement expressly provides otherwise.

Agreement for recovery of tax

(5) An agreement that provides for the recovery of unpaid tax is subject to Part 10A of the Tax Administration Act 1994.

Foreign account information-sharing agreements

(5B) A foreign account information-sharing agreement is subject to Part 11B of the Tax Administration Act 1994.

Reference to profits

(6) A reference in a double tax agreement to the profits of an activity or business is to be read, if possible, as a reference to the amount that would be a person's net income if that activity or business were their only activity or business.

Reference to unrelated persons

(7) A reference in a double tax agreement to 2 persons being unrelated is to be read, if possible, as a reference to 2 persons being not associated.

Defined in this Act: associated, business, double tax agreement, income, income tax, Inland Revenue Acts, multinational top-up tax, net income, New Zealand, New Zealand resident, non-resident, pay, source in New Zealand, tax

Compare: 2004 No 35 s BH 1

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section BH 1(1)(b)(i): amended (with effect on 21 October 2013), on 21 February 2017, by section 4 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section BH 1(3): replaced, on 30 March 2017, by section 6(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section BH 1(3B) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section BH 1(3B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section BH 1(4) heading: replaced, on 1 January 2025, by section 7(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BH 1(4): replaced, on 1 January 2025, by section 7(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BH 1(4B) heading: inserted, on 1 January 2025, by section 7(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BH 1(4B): inserted, on 1 January 2025, by section 7(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BH 1(4C) heading: inserted, on 1 January 2025, by section 7(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BH 1(4C): inserted, on 1 January 2025, by section 7(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section BH 1(5B) heading: inserted, on 1 July 2014, by section 6(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section BH 1(5B): inserted, on 1 July 2014, by section 6(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section BH 1(7) heading: added, on 8 December 2009, by section 5 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section BH 1(7): added, on 8 December 2009, by section 5 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section BH 1 list of defined terms **associated**: inserted, on 8 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section BH 1 list of defined terms **multinational top-up tax**: inserted, on 1 January 2025, by section 7(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Part C
Income

Subpart CA—General rules

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CA 1 Amounts that are income

Amounts specifically identified

(1) An amount is income of a person if it is their income under a provision in this Part.

Ordinary meaning

(2) An amount is also income of a person if it is their income under ordinary concepts.

Defined in this Act: amount, income

Compare: 2004 No 35 s CA 1

CA 2 Amounts that are exempt income or excluded income

What this section does

(1) This section identifies the subparts in this Act that deal with exempt income and excluded income.

Exempt income

(2) An amount of income of a person is **exempt income** if it is their exempt income under a provision in subpart CW (Exempt income) or CZ (Terminating provisions).

Excluded income

(3) An amount of income of a person is **excluded income** if—

(a) it is their excluded income under a provision in subpart CX (Excluded income) or CZ; and

(b) it is not their non-residents' foreign-sourced income.

Defined in this Act: amount, excluded income, exempt income, non-residents' foreign-sourced income

Compare: 2004 No 35 s CA 2

Subpart CB—Income from business or trade-like activities

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Business generally

CB 1 Amounts derived from business

Income

(1) An amount that a person derives from a business is income of the person.

Exclusion

(2) Subsection (1) does not apply to an amount that is of a capital nature.

Defined in this Act: amount, business, income

Compare: 2004 No 35 s CB 1

CB 2 Amounts received on disposal of business assets that include trading stock

When this section applies

(1) This section applies in an income year when—

(a) a person (**person A**) who owns or carries on a business disposes of some or all of the assets of the business to another person (**person B**); and

(b) the disposal is made outside the ordinary course of the business, or to put an end to the business or a part of it; and

(c) the assets consist of or include trading stock of the business, or a share or interest in trading stock.

Assessable income of person A

(2) An amount that person A receives from the disposal of the trading stock is taken into account in determining their income for the income year. The amount is derived at the time of disposal referred to in subsection (1).

Price of acquisition by person B

(3) In the calculation of the taxable income of person B for the income year or a later income year, person B is treated as acquiring the trading stock for the amount of the disposal referred to in subsection (2).

Disposal

(4) In this section, a disposal—

(a) includes the passing of property by an exchange, gift, distribution under a will or on intestacy; and

(b) does not include a disposal under any of sections FC 3 to FC 8 (which relate to distributions after death) that is not at market value.

Relationship with section CB 1

(5) This section overrides section CB 1.

Defined in this Act: amount, assessable income, business, dispose, distribution, income year, market value, property, taxable income, trading stock

Compare: 2004 No 35 s FB 3

Schemes for profit

CB 3 Profit-making undertaking or scheme

An amount that a person derives from carrying on or carrying out an undertaking or scheme entered into or devised for the purpose of making a profit is income of the person.

Defined in this Act: amount, income

Compare: 2004 No 35 s CB 2

Personal property

CB 4 Personal property acquired for purpose of disposal

An amount that a person derives from disposing of personal property is income of the person if they acquired the property for the purpose of disposing of it.

Defined in this Act: amount, income, personal property

Compare: 2004 No 35 s CB 3

CB 5 Business of dealing in personal property

An amount that a person derives from disposing of personal property is income of the person if their business is to deal in property of that kind.

Defined in this Act: amount, business, income, personal property

Compare: 2004 No 35 s CB 4

Land

CB 6A Disposal within 2 years: bright-line test for residential land

Income if land disposed of within 2 years

(1) An amount that a person derives from disposing of residential land is income of the person if the person's bright-line end date is within 2 years of their bright-line start date.

Meaning of bright-line start date

(2) A person's **bright-line start date** for their disposal of residential land is given in column 3 of the following table if the condition in column 2 of the relevant row is met for the person and the disposal:

Row	Condition to be satisfied	Bright-line start date for person's disposal of residential land
1	If none of the other rows apply	The date on which the instrument to transfer the land to the person was registered under the Land Transfer Act 2017
2	Land outside New Zealand	The date on which the instrument to transfer the land to the person was registered under foreign laws of a similar nature to the Land Transfer Act 2017
3	An instrument to transfer the land to the person was not registered before the person's bright-line end date	The date the person acquired an estate or interest in the land under section CB 15B
4	The land was acquired from another person on completion of a land development or subdivision	The date the sale and purchase agreement for the developed or subdivided land was entered into
5	The land results from the person subdividing their land (the **undivided land**)	The person's bright-line start date for the undivided land
5B	The land results from the person subdividing land they co-own	The date given by section CW 3C (Certain partitions or subdivisions of land)
6	The land is a freehold estate converted from a lease with perpetual right of renewal	The date of the grant of the leasehold estate
7	A joint tenancy is converted to a tenancy in common or a tenancy in common is converted to a joint tenancy	To the extent the person's share or notional share in the land is unchanged, the person's bright-line start date for the land before the conversion
8	A change of trustees	Where land is transferred from a trustee of a trust (**trustee A**) to another trustee of the trust (**trustee B**) as a result of a change in trustees, trustee B's bright-line start date is the bright-line start date trustee A had for the land

How to use this table: Read column 2 from top to bottom to find the condition that applies. For the condition in column 2 that is met, the person's bright-line start date is the date in column 3 of that same row.

Transfers of land to and from existing landowners

(3) For the purposes of subsection (2), when a person who owns land (**pre-existing land**) has more land transferred to them (the **transferred land**) or transfers part of their pre-existing land (also the **transferred land**) to another person,

the instrument of transfer for the transferred land is treated as being for the transferred land only and not being for the pre-existing land.

Meaning of bright-line end date

(4) **Bright-line end date**, for a person's disposal of residential land, means—

(a) the earliest of—

(i) the date the person enters into an agreement for the disposal:

(ii) the date on which the person makes a gift of the land:

(iii) the date on which the land is compulsorily acquired under any Act by the Crown, a local authority, or a public authority:

(iv) if there is a mortgage secured on the land, the date on which the land is disposed of by or for the mortgagee because the mortgagor defaulted; or

(b) if none of paragraph (a)(i) to (iv) apply, the date on which the estate or interest in the land is disposed of.

When this section does not apply

(5) This section does not apply—

(a) to a disposal of land by—

(i) an executor or administrator who acquired the land in the circumstances described in section FC 1(1)(a) (Disposals to which this subpart applies):

(ii) a beneficiary who acquired the land in the circumstances described in section FC 1(1)(b):

(b) if—

(i) any of sections CB 6 to CB 12 apply:

(ii) section CB 16A applies:

(iii) section FC 9 (Residential land transferred to executor, administrator, or beneficiary on death of person) applies.

Relationship with subject matter

(6) This section is modified by sections FB 3A, FO 10, and FO 17 (which provide rollover relief for land transferred on settlement of relationship property or company amalgamation) and subpart FD (Rollover relief from the bright-line test).

Defined in this Act: amount, bright-line end date, bright-line start date, dispose, income, land, lease, leasehold estate, local authority, mortgage, New Zealand, own, public authority, residential land, trust, trustee, year

Section CB 6A: replaced, on 1 July 2024, by section 8(3) (and see section 8(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CB 6A table row 5B: inserted (with effect on 1 July 2024), on 29 March 2025, by section 5(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 6A(5): replaced (with effect on 1 July 2024), on 29 March 2025, by section 5(2) (and see section 5(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CB 6AB Residential land transferred in relation to certain family trusts and other capacities

[Repealed]

Section CB 6AB: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CB 6AC Residential land transferred in relation to certain Māori family trusts

[Repealed]

Section CB 6AC: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CB 6AE Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi

[Repealed]

Section CB 6AE: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CB 6 Disposal: land acquired for purpose or with intention of disposal

Income

(1) An amount that a person derives from disposing of land is income of the person if they acquired the land—

(a) for 1 or more purposes that included the purpose of disposing of it:

(b) with 1 or more intentions that included the intention of disposing of it.

Exclusions

(2) Subsection (1) is overridden by the exclusions for residential land in section CB 16 and for business premises in section CB 19.

Land partially disposed of or disposed of with other land

[Repealed]

(3) *[Repealed]*

Defined in this Act: amount, business, dispose, income, land

Compare: 2004 No 35 ss CB 5, OB 1 "land" paragraph (a)(i)

Section CB 6(3) heading: repealed (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, pursuant to section 8(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CB 6(3): repealed (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 8(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CB 7 Disposal: land acquired for purposes of business relating to land

Income

(1) An amount that a person (**person A**) derives from disposing of land is income of person A if—

(a) both the following apply:

(i) at the time person A acquired the land they, or an associated person, carried on a business of dealing in land; and

(ii) person A acquired the land for the purpose of the business; or

(b) both the following apply:

(i) at the time person A acquired the land they, or an associated person, carried on a business of developing land or dividing land into lots; and

(ii) person A acquired the land for the purpose of the business; or

(c) all the following apply:

(i) at the time person A acquired the land they, or an associated person, carried on a business of erecting buildings; and

(ii) person A acquired the land for the purpose of the business; and

(iii) before or after acquiring the land person A, or the associated person, made improvements to it.

Exclusions

(2) Subsection (1) is overridden by the exclusions for residential land in section CB 16 and for business premises in section CB 19.

Defined in this Act: amount, associated person, business, dispose, improvements, income, land

Compare: 2004 No 35 s CB 6

CB 8 Disposal: land used for landfill, if notice of election

An amount that a person derives from disposing of land is income of the person if—

(a) the person uses the land as a landfill before disposing of the land; and

(b) at the time of disposal, the land is not being used as a landfill; and

(c) the person acquiring the land is not an associated person; and

(d) the person notifies the Commissioner of an election that the land be subject to this section by the day that is the later of the following:

(i) the day that is 12 months after the day on which the person acquires the land:

(ii) 24 June 2006; and

(e) the person makes an election under paragraph (d) for all land that the person acquires and uses as a landfill; and

(f) any person associated with the person makes an election under paragraph (d) for all land that the associated person acquires and uses as a landfill.

Defined in this Act: associated person, Commissioner, dispose, notice, notify

Compare: 2004 No 35 s CB 6B

Section CB 8(c): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 7(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CB 8(d): amended, on 2 June 2016, by section 5(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CB 8 list of defined terms **notice**: inserted, on 2 June 2016, by section 5(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CB 8 list of defined terms **notify**: inserted, on 2 June 2016, by section 5(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

CB 9 Disposal within 10 years: land dealing business

Income

(1) An amount that a person derives from disposing of land is income of the person if—

(a) they dispose of the land within 10 years of acquiring it; and

(b) at the time they acquired the land, they carried on a business of dealing in land, whether or not the land was acquired for the purpose of the business.

Income: associated person in business of dealing in land

(2) An amount that a person (**person A**) derives from disposing of land within 10 years of acquiring it is income of person A if a person (**person B**) associated with them at the time the land was acquired carried on a business of dealing in land, whether or not—

(a) person A carried on a business of dealing in land; or

(b) the land was acquired for the purpose of person B's business.

Exclusions

(3) Subsection (2) is overridden by the exclusions in sections CB 15C and CB 15D, for bodies linked or associated with a local authority and for companies in the same wholly-owned group as Kāinga Ora–Homes and Communities,

and subsections (1) and (2) are overridden by the exclusions in sections CB 16 and CB 19, for residential land and for business premises.

Defined in this Act: amount, associated person, business, dispose, income, Kāinga Ora–Homes and Communities, land, year

Compare: 2004 No 35 s CB 7

Section CB 9(3): replaced (with effect on 1 July 2017), on 18 March 2019, by section 116 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 9(3): amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CB 9 list of defined terms **Kāinga Ora–Homes and Communities**: inserted (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CB 10 Disposal within 10 years: land development or subdivision business

Income

(1) An amount that a person derives from disposing of land is income of the person if—

(a) they dispose of the land within 10 years of acquiring it; and

(b) at the time they acquired the land, they carried on a business of developing land or dividing land into lots, whether or not the land was acquired for the purpose of the business.

Income: associated person in business of developing or subdividing land

(2) An amount that a person (**person A**) derives from disposing of land within 10 years of acquiring it is income of person A if a person (**person B**) associated with them at the time the land was acquired carried on a business of developing land or dividing land into lots, whether or not—

(a) person A carried on a business of developing land or dividing land into lots:

(b) the land was acquired for the purpose of person B's business.

Exclusions

(3) Subsection (2) is overridden by the exclusions in sections CB 15C and CB 15D, for bodies linked or associated with a local authority and for companies in the same wholly-owned group as Kāinga Ora–Homes and Communities, and subsections (1) and (2) are overridden by the exclusions in sections CB 16 and CB 19, for residential land and for business premises.

Defined in this Act: amount, associated person, business, dispose, income, Kāinga Ora–Homes and Communities, land, year

Compare: 2004 No 35 s CB 8

Section CB 10(3): replaced (with effect on 1 July 2017), on 18 March 2019, by section 117 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 10(3): amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CB 10 list of defined terms **Kāinga Ora–Homes and Communities**: inserted (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CB 11 Disposal within 10 years of improvement: building business

Income

(1) An amount that a person derives from disposing of land is income of the person if they dispose of the land and—

(a) within 10 years before the disposal, the person or an associate of the person completed improvements to the land; and

(b) at the time the improvements were begun,—

(i) the person carried on a business of erecting buildings:

(ii) an associate of the person carried on a business of erecting buildings.

Person or associate

(2) Subsection (1) applies whether or not the land was acquired for the person's business or an associate's business.

Exclusions

(3) Subsection (1)(b)(ii) is overridden by the exclusions in sections CB 15C and CB 15D, for bodies linked or associated with a local authority and for companies in the same wholly-owned group as Kāinga Ora–Homes and Communities, and subsections (1) and (2) are overridden by the exclusions in sections CB 16 and CB 19, for residential land and for business premises.

Defined in this Act: amount, associated person, business, dispose, improvements, income, Kāinga Ora–Homes and Communities, land, year

Compare: 2004 No 35 s CB 9

Section CB 11(1) heading: replaced (with effect on 1 April 2008), on 18 March 2019, by section 118(1) (and see section 118(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 11(1): replaced (with effect on 1 April 2008), on 18 March 2019, by section 118(1) (and see section 118(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 11(2) heading: replaced (with effect on 1 April 2008), on 18 March 2019, by section 118(1) (and see section 118(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 11(2): replaced (with effect on 1 April 2008), on 18 March 2019, by section 118(1) (and see section 118(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 11(3): replaced (with effect on 1 July 2017), on 18 March 2019, by section 118(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 11(3): amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CB 11 list of defined terms **Kāinga Ora–Homes and Communities**: inserted (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CB 12 Disposal: schemes for development or division begun within 10 years

Income

(1) An amount that a person derives from disposing of land is income of the person if the amount is derived in the following circumstances:

(a) an undertaking or scheme, which is not necessarily in the nature of a business, is carried on; and

(b) the undertaking or scheme involves the development of the land or the division of the land into lots; and

(c) the person, or another person for them, carries on development or division work on or relating to the land; and

(d) the development or division work is not minor; and

(e) the undertaking or scheme was begun within 10 years of the date on which the person acquired the land.

Exclusions

(2) Subsection (1) is overridden by the exclusions for residential land in section CB 17, for business premises in section CB 20, for farm land in section CB 21, and for investment land in section CB 23.

Defined in this Act: amount, business, dispose, income, land, year

Compare: 2004 No 35 s CB 10

CB 13 Disposal: amount from major development or division and not already in income

Income

(1) An amount that a person derives from disposing of land is income of the person if—

(a) the amount is not income under any of sections CB 6A to CB 12, and CB 14; and

(b) the amount is derived in the following circumstances:

(i) an undertaking or scheme, which is not necessarily in the nature of a business, is carried on; and

(ii) the undertaking or scheme involves the development of the land or the division of the land into lots; and

(iii) the person, or another person for them, carries on development or division work on or relating to the land; and

(iv) the development or division work involves significant expenditure on channelling, contouring, drainage, earthworks, kerbing, levelling, roading, or any other amenity, service, or work customarily undertaken or provided in major projects involving the development of land for commercial, industrial, or residential purposes.

Exclusions

(2) Subsection (1) is overridden by the exclusions for residential land in section CB 17, for business premises in section CB 20, for farm land in section CB 21, and for investment land in section CB 23.

Relationship with section DB 27

(3) Section DB 27 (Amount from major development or division and not already in income) deals with a deduction for the value of the land.

Defined in this Act: amount, business, deduction, dispose, income, land

Compare: 2004 No 35 s CB 11

Section CB 13(1)(a): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CB 13(1)(a): amended (with effect on 27 March 2021), on 30 March 2021, by section 7 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 13(1)(a): amended (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 5(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section CB 13(2) heading: substituted, on 1 April 2008, by section 309 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CB 13(2): substituted, on 1 April 2008, by section 309 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

CB 14 Disposal: amount from land affected by change and not already in income

Income

(1) An amount that a person derives from disposing of land is income of the person if—

(a) the amount is not income under any of sections CB 6A to CB 12; and

(b) the person disposed of the land within 10 years of acquiring it; and

(c) the total amount that they derive from its disposal is more than the cost of the land; and

(d) at least 20% of the excess arises from a factor, or more than 1 factor, that—

(i) relates to the land; and

(ii) is described in subsection (2); and

(iii) occurs after the person acquired the land, for the factors described in subsection (2)(c), (e), (g), and (i).

Factors for purposes of subsection (1)(d)

(2) The factors referred to in subsection (1)(d) are—

(a) the rules of an operative district plan under the Resource Management Act 1991:

(b) the likelihood of the imposition of rules:

(c) a change to the rules:

(d) the likelihood of a change to the rules:

(e) a consent granted under the Resource Management Act 1991:

(f) the likelihood of a consent being granted:

(g) a decision of the Environment Court made under the Resource Management Act 1991:

(h) the likelihood of a decision being made:

(i) the removal of a condition, covenant, designation, heritage order, obligation, prohibition, or restriction under the Resource Management Act 1991:

(j) the likelihood of the removal of a condition, covenant, designation, heritage order, obligation, prohibition, or restriction:

(k) an occurrence of a similar nature to any of the occurrences described in any of paragraphs (a) to (j):

(l) the likelihood of an occurrence of a similar nature to any of the occurrences described in any of paragraphs (a) to (j).

Exclusions

(3) Subsection (1) is overridden by the exclusions for residential property in section CB 18 and for farm land in section CB 22.

Defined in this Act: amount, dispose, income, land, year

Compare: 2004 No 35 s CB 12

Section CB 14(1)(a): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CB 14(1)(a): amended (with effect on 27 March 2021), on 30 March 2021, by section 8 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 14(1)(a): amended (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 6(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section CB 14(2)(a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section CB 14(2)(e): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section CB 14(2)(g): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section CB 14(2)(i): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

CB 15 Transactions between associated persons

Income

(1) An amount that a person (the **transferee**) derives from disposing of land is income of the transferee if—

(a) the land has been transferred to the transferee from another person (the **transferor**); and

(b) the transferor and the transferee are associated persons at the time of the transfer; and

(c) the amount derived is more than the cost of the land to the transferee; and

(d) the amount derived would have been income of the transferor under any of sections CB 6 to CB 14 if the transferor had retained and disposed of the land.

Exclusion for Kāinga Ora–Homes and Communities and wholly-owned group

(1B) Subsection (1) is overridden by section CB 15D.

Date on which some transferees acquire land

(2) For the purposes of sections CB 7 to CB 12 and CB 14, if a person (the **transferor**) transfers land to a person (the **transferee**) who is an associated person at the time of the transfer, the transferee is treated as acquiring the land on the date, other than under this subsection, on which the transferor acquired the land.

Defined in this Act: amount, associated person, dispose, income, land

Compare: 2004 No 35 s CB 13

Section CB 15(1): amended (with effect on 1 April 2008), on 18 March 2019, by section 119(1) (and see section 119(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 15(1B) heading: inserted (with effect on 1 July 2017), on 18 March 2019, by section 119(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 15(1B) heading: amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CB 15(1B): inserted (with effect on 1 July 2017), on 18 March 2019, by section 119(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 15(2): replaced (with effect on 1 April 2008), on 18 March 2019, by section 119(3) (and see section 119(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CB 15B When land acquired

General rule

(1) For the purposes of this subpart, a person acquires an estate, interest, or option that is land (the **land**) on the date that begins a period in which the person has an estate or interest in, or an option to acquire, the land, alone or jointly or in common with another person.

First exception: acquisition of land by company to be formed

(2) If a person, on behalf of a company to be formed, enters an agreement under which the company will have land, the company is treated, for the purposes of this subpart in relation to the land, as existing from when the person enters the agreement.

Second exception: land from exercise of option

(3) A person that exercises an option to acquire land and acquires the land, is treated as acquiring the land at the time when they exercise the option.

Relationship with subparts FB and FC

(4) Subsections (1) to (3) are overridden, for a transaction, by a provision in subpart FB or FC (which relate to transfers of property) providing for the timing of the transaction.

Defined in this Act: company, estate, interest, land

Section CB 15B: inserted (with effect on 22 November 2013 and applying for disposals of land occurring on or after that date), on 30 June 2014, by section 7(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CB 15B(1): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CB 15B(1): amended (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 7(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section CB 15B(3) heading: replaced (with effect on 22 November 2013), on 21 February 2017, by section 63 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CB 15B(3): replaced (with effect on 22 November 2013), on 21 February 2017, by section 63 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CB 15B(3) heading: replaced (with effect on 14 May 2016), on 21 February 2017, by section 64 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CB 15B(3): replaced (with effect on 14 May 2016), on 21 February 2017, by section 64 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Exclusions for bodies controlled by local authorities

Heading: inserted (with effect on 1 September 2015), on 30 March 2017, by section 12 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CB 15C Council-controlled organisations and other companies

Exclusion from application of some land provisions: kinds of associated persons

(1) Sections CB 9(2), CB 10(2), and CB 11(1)(b)(ii) do not apply to a person (**person A**) despite the activities of an associated person (**person B**) if—

(a) person A is a local authority or—

(i) a council-controlled organisation that is linked by ownership or control to the local authority:

(ii) an entity referred to in section 6(4)(a) to (ca) of the Local Government Act 2002, that is linked by ownership or control to the local authority:

(iii) an entity that is associated with the local authority other than under section YB 14 (Tripartite relationship); and

(b) person B is—

(i) the local authority or an organisation or entity of a kind referred to in paragraph (a)(i) to (iii):

(ii) a person that is not associated with person A other than under section YB 14.

Exclusion from application of some land provisions: members of consolidated group

(2) If person A and person B are members of a consolidated group, and subsection (1) applies to prevent an amount from being income of person A, the amount is not income of person A under section CV 2 (Consolidated groups: income of company in group).

Defined in this Act: associated person, consolidated group, council-controlled organisation, local authority

Section CB 15C: inserted (with effect on 1 September 2015), on 30 March 2017, by section 12 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CB 15C(1): amended (with effect on 1 September 2015), on 18 March 2019, by section 120 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Exclusions for Kāinga Ora–Homes and Communities and wholly-owned group

Heading: inserted (with effect on 1 July 2017), on 18 March 2019, by section 121 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Heading: amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CB 15D Kāinga Ora–Homes and Communities and wholly-owned group

Exclusion from application of some land provisions

(1) Sections CB 9(2), CB 10(2), CB 11(1)(b)(ii), and CB 15(1) do not apply to Kāinga Ora–Homes and Communities or a company in the same wholly-owned group of companies as Kāinga Ora–Homes and Communities.

Exclusion for group members and members of consolidated group

(2) If subsection (1) applies to prevent an amount from being income of a person who is a member of a wholly-owned group of companies or a consolidated group, the amount is not income of the person under section CV 1 or CV 2 (which apply to group companies and to consolidated groups).

Defined in this Act: amount, company, consolidated group, income, Kāinga Ora–Homes and Communities, wholly-owned group of companies

Section CB 15D: inserted (with effect on 1 July 2017), on 18 March 2019, by section 121 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 15D heading: amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CB 15D(1): amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CB 15D list of defined terms **Kāinga Ora–Homes and Communities**: inserted (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Exclusion for land acquired from a co-owner on a partition or subdivision

Heading: inserted (with effect on 27 March 2021), on 28 March 2024, by section 11 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CB 15E Disposals of land subject to section CW 3C

When this section applies

(1) This section applies to a person for a disposal of land acquired from a co-owner on a partition or subdivision if—

(a) the person derives income from the disposal under section CB 15(1); and

(b) had the person disposed of their interest in the land that was partitioned or subdivided immediately before the partition or subdivision, section CB 15(1) would not have applied to the disposal.

Exempt income when no or minor acquisition of land on partition or subdivision

(2) The amount of income the person derives under section CB 15(1) from disposing of the land is exempt income if the person's end value proportion under section CW 3C (Certain partitions or subdivisions of land) is no more than 105% of their acquisition proportion under section CW 3C.

Partially exempt income when more than minor acquisition of land on partition or subdivision

(3) If subsection (2) does not apply, the amount of income the person derives under section CB 15(1) from disposing of the land is exempt income to the extent given by the formula—

amount derived x (acquisition proportion ÷ end value proportion).

Definition of items in formula

(4) The items in the formula are defined in subsections (5) to (7).

Amount derived

(5) **Amount derived** is the amount the person derives from disposing of the land.

Acquisition proportion

(6) **Acquisition proportion** is the person's acquisition proportion as described in section CW 3C.

End value proportion

(7) **End value proportion** is the person's end value proportion as described in section CW 3C.

Exclusion for group members and members of consolidated group

(8) If subsection (2) or (3) applies to prevent an amount from being income of a person who is a member of a wholly-owned group of companies or a consolidated group, the amount is not income of the person under section CV 1 or CV 2 (which apply to group companies and consolidated groups).

Defined in this Act: acquisition proportion, amount, associated, consolidated group, co-owner, dispose, end value proportion, exempt income, income, land, wholly-owned group of companies

Section CB 15E: inserted (with effect on 27 March 2021), on 28 March 2024, by section 11 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CB 15E(1)(a): replaced (with effect on 27 March 2021), on 29 March 2025, by section 6(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E(1)(b): replaced (with effect on 27 March 2021), on 29 March 2025, by section 6(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E(2) heading: replaced (with effect on 27 March 2021), on 29 March 2025, by section 6(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E(2): amended (with effect on 27 March 2021), on 29 March 2025, by section 6(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E(3) heading: replaced (with effect on 27 March 2021), on 29 March 2025, by section 6(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E(3): amended (with effect on 27 March 2021), on 29 March 2025, by section 6(6)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E(3): amended (with effect on 27 March 2021), on 29 March 2025, by section 6(6)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E list of defined terms **acquisition proportion**: inserted (with effect on 27 March 2021), on 29 March 2025, by section 6(7) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 15E list of defined terms **end value proportion**: inserted (with effect on 27 March 2021), on 29 March 2025, by section 6(7) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Exclusions for residential land

CB 16A Main home exclusion for disposal within 2 years

Main home exclusion

(1) Section CB 6A does not apply to a person who disposes of residential land if the land has been used predominantly, for most of the bright-line period, for a dwelling that was the main home of—

- (a) the person; or
- (b) a beneficiary of a trust, if the person is a trustee of the trust and—
  - (i) a principal settlor of the trust does not have a main home; or
  - (ii) if a principal settlor of the trust does have a main home, it is that main home that the person is disposing of.

Modified rule for constructing main home

(2) For the purposes of determining under subsection (1) whether residential land has been used for most of the bright-line period predominantly for a dwelling that was the main home of the person or a beneficiary of a trust, as described in subsection (1), the period in which the dwelling was constructed is ignored.

When this section does not apply

(3) The exclusion in subsection (1) does not apply to a person who disposes of residential land if—

- (a) the exclusion has been used by the person twice within the 2 years immediately preceding the bright-line end date for the residential land:
- (b) the person has engaged in a regular pattern of acquiring and disposing of residential land described in subsection (1).

Person may include group of persons

(4) For the purposes of subsection (3)(b), **person** includes a group of persons if the requirements of subsection (5) are met.

Meaning of group of persons

(5) For the purposes of subsection (4), a **group of persons**—

(a) means 2 or more persons when together all the persons occupy, or have occupied, residential land described in subsection (1); and

(b) includes a person other than a natural person (the **non-natural person**) if another person referred to in paragraph (a) has significant involvement in, or control of, the activities of the non-natural person. For the avoidance of doubt, if the other person can direct, alone or as part of a group, the activities of the non-natural person, they have significant involvement in, or control of, the activities of the non-natural person.

Defined in this Act: bright-line end date, dispose, dwelling, group of persons, land, main home, own, principal settlor, residential land, trust, trustee, year

Section CB 16A: replaced, on 1 July 2024, by section 12(5) (and see section 12(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CB 16 Residential exclusion from sections CB 6 to CB 11

Exclusion

(1) Sections CB 6 to CB 11 do not apply if—

(a) the person (**person A**)—

(i) acquired the land with a dwellinghouse on it; or

(ii) acquired the land and erected a dwellinghouse on it; and

(b) the dwellinghouse was occupied mainly as a residence by,—

(i) person A:

(ii) if members of person A's family live with them, person A and members of person A's family living with them:

(iii) if person A is a trustee, 1 or more beneficiaries of the trust.

What exclusion applies to

(2) The exclusion applies to the land that has the dwellinghouse on it. It also applies to land related to the land that has the dwellinghouse on it if the total area of the related land is—

(a) 4,500 square metres or less; or

(b) more than 4,500 square metres, if the larger area is required for the reasonable occupation and enjoyment of the dwellinghouse.

Exception

(3) The exclusion does not apply when—

(a) section CB 6(1) applies to the disposal; and

(b) person A has engaged in a regular pattern of acquiring and disposing of land described in subsection (1).

Regular patterns undertaken by groups of persons

(4) For the purposes of subsection (3), in relation to land described in subsection (1), person A includes a group of persons if the requirements of subsection (5) are met.

Meaning of group of persons

(5) For the purposes of subsection (4), a **group of persons**—

(a) means 2 or more persons when together all of the persons occupy, or have occupied, land described in subsection (1); and

(b) includes a person other than a natural person (the **non-natural person**), if another person referred to in paragraph (a) has significant involvement in, or control of, the activities of the non-natural person. For the avoidance of doubt, if the other person is able to direct, alone or as part of a group, the activities of the non-natural person, they have significant involvement in, or control of, the activities of the non-natural person.

Defined in this Act: dispose, group of persons, land, trustee

Compare: 2004 No 35 s CB 14

Section CB 16(1)(a): amended, on 30 March 2021, by section 11(1)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(1)(b): replaced (with effect on 1 April 2008), on 18 March 2019, by section 123(1) (and see section 123(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 16(1)(b)(i): amended, on 30 March 2021, by section 11(1)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(1)(b)(ii): amended, on 30 March 2021, by section 11(1)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(1)(b)(ii): amended, on 30 March 2021, by section 11(1)(c) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(1)(b)(iii): amended, on 30 March 2021, by section 11(1)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(3) heading: replaced, on 30 March 2021, by section 11(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(3): replaced, on 30 March 2021, by section 11(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(4) heading: inserted, on 30 March 2021, by section 11(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(4): inserted, on 30 March 2021, by section 11(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(5) heading: inserted, on 30 March 2021, by section 11(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16(5): inserted, on 30 March 2021, by section 11(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 16 list of defined terms **group of persons**: inserted, on 30 March 2021, by section 11(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

CB 17 Residential exclusion from sections CB 12 and CB 13

Exclusion: developing or dividing land for residential use

(1) Sections CB 12 and CB 13 do not apply if—

(a) the work involved in the undertaking or scheme is to create or effect a development, division, or improvement; and

(b) the development, division, or improvement is for use in, and for the purposes of, the residing on the land of,—

(i) the person:

(ii) if members of the person's family live with them, the person and members of the person's family living with them.

Exclusion: dividing residential land

(2) Sections CB 12 and CB 13 do not apply if—

(a) the land is a lot that came out of a larger area of land that the person divided into 2 or more lots; and

(b) the larger area of land was 4,500 square metres or less immediately before it was divided and was occupied mainly as residential land for,—

(i) the person:

(ii) if members of the person's family live with them, the person and members of their family living with them.

Defined in this Act: land

Compare: 2004 No 35 s CB 15

Section CB 17(1): amended, on 1 April 2008, by section 310 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CB 17(1)(b): replaced (with effect on 1 April 2008), on 18 March 2019, by section 124(1) (and see section 124(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 17(2)(b): replaced (with effect on 1 April 2008), on 18 March 2019, by section 124(2) (and see section 124(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CB 18 Residential exclusion from section CB 14

Exclusion

(1) Section CB 14 does not apply if—

(a) the person acquired the land and used it or intended to use it for residential purposes; and

(b) they disposed of the land to another person who acquired it for residential purposes.

Purpose of acquisition for purposes of subsection (1)(b)

(2) For the purposes of subsection (1)(b), the purpose of the acquisition by the other person is ascertained from the circumstances of the disposal and other relevant matters.

Meaning of residential purposes

(3) In this section, **residential purposes**—

(a) means a purpose that the person has of using the land or intending to use the land mainly as a residence for,—

(i) the person:

(ii) if members of the person's family live with them, the person and members of the person's family living with them; and

(b) includes the purpose of erecting a dwellinghouse on the land to be occupied as such a residence.

Defined in this Act: dispose, land, residential purposes

Compare: 2004 No 35 s CB 16

Section CB 18(3)(a): replaced (with effect on 1 April 2008), on 18 March 2019, by section 125(1) (and see section 125(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Exclusions for business premises

CB 19 Business exclusion from sections CB 6 to CB 11

Exclusion

(1) Sections CB 6 to CB 11 do not apply to a disposal of land by a person (**person A**) if—

(a) the land is the premises of a business; and

(b) person A acquired and occupied, or erected and occupied, the premises mainly to carry on a substantial business from them.

Exception

(2) The exclusion does not apply when—

(a) section CB 6(1) applies to the disposal; and

(b) person A has engaged in a regular pattern of acquiring and disposing of land described in subsection (1).

When regular patterns undertaken by groups of persons

(2B) For the purposes of subsection (2), person A includes a group of persons if the requirements of subsection (2C) are met.

Meaning of group of persons

(2C) For the purposes of subsection (2B), a **group of persons** means 2 or more persons if—

(a) the persons occupy premises mainly to carry on a substantial business from them as described in subsection (1)(b), irrespective of the nature of any business carried on from the premises; and

(b) a person, whether or not they occupy premises as described in subsection (1)(b), has significant involvement in, or control of, the activities of all persons referred to in paragraph (a) (the **occupiers**). For the avoidance of doubt, if the person is able to direct, alone or as part of a group, the activities of the occupiers, they have significant involvement in, or control of, the activities of the occupiers.

Meaning of land

(3) In this section, **land** includes land that—

(a) is reserved, with the premises, for the use of the business; and

(b) is of an area no greater than that required for the reasonable occupation of the premises and the carrying on of the business.

Defined in this Act: business, dispose, group of persons, land

Compare: 2004 No 35 s CB 17

Section CB 19(1): amended, on 30 March 2021, by section 12(1)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19(1)(b): amended, on 30 March 2021, by section 12(1)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19(2) heading: replaced, on 30 March 2021, by section 12(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19(2): replaced, on 30 March 2021, by section 12(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19(2B) heading: inserted, on 30 March 2021, by section 12(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19(2B): inserted, on 30 March 2021, by section 12(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19(2C) heading: inserted, on 30 March 2021, by section 12(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19(2C): inserted, on 30 March 2021, by section 12(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 19 list of defined terms **group of persons**: inserted, on 30 March 2021, by section 12(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

CB 20 Business exclusion from sections CB 12 and CB 13

Sections CB 12 and CB 13 do not apply if—

(a) the work involved in the undertaking or scheme is to create or effect a development, division, or improvement; and

(b) the development, division, or improvement is for use in, and for the purposes of, the carrying on of a business by the person on the land; and

(c) the business does not consist of the undertaking or scheme.

Defined in this Act: business, land

Compare: 2004 No 35 s CB 18

Section CB 20: amended, on 1 April 2008, by section 311(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CB 20 heading: amended, on 1 April 2008, by section 311(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Exclusions for farm land

CB 21 Farm land exclusion from sections CB 12 and CB 13

Exclusion

(1) Sections CB 12 and CB 13 do not apply if—

(a) the land is a lot resulting from the division of a larger area of land into 2 or more lots; and

(b) immediately before the land was divided, the larger area of land was occupied or used by the person, their spouse, civil union partner or de facto partner, or both of them, mainly for the purposes of a farming or agricultural business carried on by either or both of them; and

(c) the area and nature of the land disposed of mean that it is then capable of being worked as an economic unit as a farming or agricultural business; and

(d) the land was disposed of mainly for the purpose of using it in a farming or agricultural business.

Circumstances for purposes of subsection (1)(d)

(2) The circumstances of the disposal of the land are relevant to the decision on whether the land was disposed of mainly for the purpose of using it in a farming or agricultural business. The circumstances include—

(a) the consideration for the disposal of the land:

(b) current prices paid for land in that area:

(c) the terms of the disposal:

(d) a zoning or other classification relating to the land:

(e) the proximity of the land to any other land being used or developed for uses other than farming or agricultural uses.

Defined in this Act: business, dispose, land, pay

Compare: 2004 No 35 s CB 19

CB 22 Farm land exclusion from section CB 14

Exclusion

(1) Section CB 14 does not apply if—

(a) the person (**person A**) acquired the land, and they, their spouse, civil union partner or de facto partner, or both of them used or intended to use the land mainly for the purposes of a farming or agricultural business carried on by them, their spouse, civil union partner, or de facto partner, or both of them; and

(b) they disposed of the land to another person (**person B**) mainly for the purposes of the continuing use of the land in a farming or agricultural business.

Purposes of acquisition for purposes of subsection (1)(b)

(2) For the purposes of subsection (1)(b), person B's purposes in acquiring the land are ascertained from circumstances of the disposal arising after person A acquired the land and other relevant matters, not including the factors described in section CB 14(1).

Defined in this Act: business, dispose, land

Compare: 2004 No 35 s CB 20

Exclusion for investment land

CB 23 Investment exclusion from sections CB 12 and CB 13

Sections CB 12 and CB 13 do not apply if—

(a) the work involved in the undertaking or scheme is to create or effect a development, division, or improvement; and

(b) the development, division, or improvement is for use in, and for the purposes of, the person's deriving from the land income of the kind described in section CC 1 (Land).

Defined in this Act: income, land

Compare: 2004 No 35 s CB 21

Section CB 23: amended, on 1 April 2008, by section 312(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CB 23 heading: amended, on 1 April 2008, by section 312(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Partial or multiple disposals of land

Heading: inserted, on 30 March 2025, by section 7 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CB 23B Land partially disposed of or disposed of with other land

Sections CB 6A to CB 23 apply to an amount derived from the disposal of land if the land is—

(a) part of the land to which the relevant section applies:

(b) the whole of the land to which the relevant section applies:

(c) disposed of together with other land.

Defined in this Act: amount, dispose, land

Compare: 2004 No 35 s CB 5A

Section CB 23B: inserted, on 1 April 2008, by section 313 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CB 23B heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CB 23B: amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CB 23B: amended (with effect on 27 March 2021), on 30 March 2021, by section 13 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CB 23B: amended (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 9(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Timber

CB 24 Disposal of timber or right to take timber

Income

(1) An amount is income of a person if they derive it from—

(a) disposing of timber; or

(b) disposing of a right to take timber.

Whether or not person owns land

(2) Subsection (1) applies whether or not the person owns the land on which the timber is situated.

Disposal for below market value

(3) Section GC 2 (Disposals of timber rights or standing timber) may apply to treat a person as deriving an amount on the grant of a right to take timber or disposal of standing timber.

Defined in this Act: amount, dispose, income, own, right to take timber, standing timber

Compare: 2004 No 35 s CB 22

CB 25 Disposal of land with standing timber

When this section applies

(1) This section applies when a person disposes of land with standing timber on it.

Exclusions

(2) This section does not apply when the standing timber is of 1 of the following kinds:

(a) trees that are ornamental or incidental, as evidenced by a certificate given under section 44C of the Tax Administration Act 1994; or

(b) trees in a crop subject to a forestry right, as defined in section 2 of the Forestry Rights Registration Act 1983, registered under the Land Transfer Act 2017; or

(c) trees subject to a right to take a benefit (in the form of a profit a prendre) granted before 1 January 1984.

Income

(3) The amount that the person derives from disposing of the standing timber is income of the person.

Defined in this Act: amount, dispose, income, standing timber

Compare: 2004 No 35 s CB 23

Section CB 25(2)(b): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Investments

CB 26 Disposal of certain shares by portfolio investment entities

When this section applies

(1) This section applies when—

(a) the income from the disposal by a person (the **entity**) of the share is excluded income under section CX 55 (Proceeds from disposal of investment shares); and

(ab) the share is not in a listed PIE; and

(b) a dividend from the share is—

(i) declared before the disposal; and

(ii) paid to a holder of the share who, after the disposal, becomes entitled to the dividend; and

(c) the entity attributes the proceeds from the disposal to investors who are not entitled to the benefit of the dividend.

Income

(2) The entity is treated as deriving an amount of income calculated using the formula—

(shares at declaration − shares on distribution) × dividend.

Definition of items in formula

(3) In the formula,—

(a) **shares at declaration** is the number of shares held by the entity when the dividend is declared:

(b) **shares on distribution** is the number of shares for which the entity derives a dividend:

(c) **dividend** is the amount of the dividend per share or, for a share issued by an ICA company, the amount of the dividend per share that is not fully imputed.

Positive result

(4) The result of the formula must be a positive amount.

Defined in this Act: amount, company, dividend, excluded income, fully imputed, ICA company, income, listed PIE, pay, portfolio investment entity, share

Compare: 2007 No 97 s CB 26

Section CB 26: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 8(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CB 26(1)(ab): inserted, on 30 June 2014, by section 8(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CB 26(1)(b)(ii): amended (with effect on 1 April 2012), on 17 July 2013, by section 4 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CB 26(1)(c): inserted (with effect on 1 April 2012), on 17 July 2013, by section 4 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CB 26 list of defined terms **listed PIE**: inserted, on 30 June 2014, by section 8(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Farming, forestry, or fishing

CB 27 Income equalisation schemes

Income derived by a person, as timed and quantified under any of the following provisions, is income of the person:

(a) sections EH 11, EH 14, EH 16, EH 18, EH 20 to EH 22, EH 24, and EH 26 (which relate to the main income equalisation scheme):

(b) *[Repealed]*

(c) sections EH 72, EH 74, and EH 76 (which relate to the thinning operations income equalisation scheme).

Defined in this Act: income, main income equalisation scheme, person, thinning operations income equalisation scheme

Compare: 2004 No 35 s CB 24

Section CB 27(b): repealed, on 18 March 2019, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 27 list of defined terms **adverse event income equalisation scheme**: repealed, on 18 March 2019, by section 126(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CB 27B Entering partners' livestock income

[Repealed]

Section CB 27B: repealed (with effect on 1 April 2009), on 6 October 2009, by section 9(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Environmental restoration

CB 28 Environmental restoration accounts

Income from refund

(1) A person who receives a refund for a tax year under section EK 12 (Refund if application or excess balance) derives for the person's corresponding income year an amount of income calculated using the formula—

refund ÷ tax rate.

Income from transfer from environmental restoration account

(2) If there is a transfer from a person's environmental restoration account under section EK 15, EK 16, or EK 19 (which relate to environmental restoration accounts), the person derives for the corresponding income year an amount of income calculated using the formula—

transfer ÷ tax rate.

Definitions of items in formulas

(3) The items in the formulas are defined in subsections (4) to (6).

Refund

(4) **Refund** is the amount of the refund.

Tax rate

(5) **Tax rate** is the highest rate of income tax on taxable income that—

(a) is set out in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits); and

(b) would apply to the person for the tax year if the person had sufficient taxable income.

Transfer

(6) **Transfer** is the amount in the environmental restoration account that is transferred.

Income arising from renewal of resource consent

(7) A person who incurs expenditure of a type listed in schedule 19, part A, clauses 2 to 5 (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise) and not in schedule 19, part C derives income under subsection (8) if—

(a) the deduction under section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the expenditure is determined by the period for which a resource consent is granted; and

(b) the period of the grant of the resource consent is extended by more than 50% in a later income year or a new resource consent is granted for a period that is more than 50% of the total period of the resource consent.

Amount of income

(8) The person derives for the income year in which the period of the resource consent is extended, or the new resource consent is granted, an amount of income equal to the greater of zero and the difference between—

(a) the total deduction under section DB 46 for the person for the period from the grant of the resource consent to the beginning of the income year:

(b) the total deduction for the expenditure that the person would have had under section DB 46 for the period referred to in paragraph (a), if the period of the resource consent at the time of the grant had been 35 years.

Defined in this Act: apply, corresponding income year, environmental restoration account, income, income tax, resource consent, taxable income, tax year

Compare: 2004 No 35 s CB 24B

Section CB 28(1): amended, on 2 June 2016, by section 6(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CB 28(5)(a): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CB 28(7): amended (with effect on 1 April 2018), on 18 March 2019, by section 127(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 28(7)(a): amended (with effect on 1 April 2018), on 18 March 2019, by section 127(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CB 28 list of defined terms **apply**: inserted, on 2 June 2016, by section 6(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Minerals

CB 29 Disposal of minerals

Income

(1) An amount that a person derives from disposing of minerals taken from land is income of the person.

Whether or not person owns land

(2) Subsection (1) applies whether or not the person owns the land from which the minerals are taken.

Defined in this Act: amount, dispose, income, mineral, own

Compare: 2004 No 35 s CB 25

Intellectual property

CB 30 Disposal of patent applications or patent rights

If a person derives an amount from the disposal of a patent application with a complete specification or from the disposal of patent rights, the amount is income of the person.

Defined in this Act: amount, income, patent rights

Compare: 2004 No 35 s CB 26

Section CB 30 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CB 30: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Transfer of business

CB 31 Disposal of business: transferred employment income obligations

When this section applies

(1) This section applies when section DC 10 (Disposal of business: transferred employment income obligations) applies and the reduction in the consideration is more than the amount the buyer actually pays for the transferred obligation.

Income

(2) The excess is income of the buyer.

Timing of income

(3) The income is allocated to the income year in which the reduction of the transferred provision is required to be recognised by the buyer under generally accepted accounting practice.

Defined in this Act: amount, generally accepted accounting practice, income, income year, pay

Compare: 2004 No 35 s CB 27

Section CB 31 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CB 31(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Stolen property

CB 32 Property obtained by theft

Income

(1) If a person obtains possession or control of property without claim of right, an amount equal to the market value of the property is income of the person.

Timing of income

(2) The income is allocated to the income year in which the person obtains possession or control of the property.

Whether or not constructive trust

(3) Subsection (1) applies whether or not the person holds the property as a trustee under a constructive trust.

Defined in this Act: amount, claim of right, income, income year, possession, property, trustee

Compare: 2004 No 35 s CB 28

Look-through companies

Heading: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 26(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

CB 32B Owners of look-through companies

A person who has an effective look-through interest for a look-through company has an amount of income to the extent to which an amount of income results from the application of subpart HB (Look-through companies) or section HZ 8 (Retrospective transitional provision for market valuation under section HB 4) to them and the look-through company.

Defined in this Act: amount, effective look-through interest, income, look-through company

Section CB 32B: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 26(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CB 32B: amended, on 1 April 2017, by section 13 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CB 32C Dividend income for first year of look-through company

When this section applies

(1) This section applies for an income year when, in the income year, the person has—

(a) an effective look-through interest for a look-through company (**LTC**) on the first day of that year, and the company existed in the previous income year, but was not a look-through company in that previous year:

(b) an effective look-through interest for a look-through company on the day after the LTC amalgamates in that year with a company that ceases to exist after the amalgamation (the **amalgamating company**), and the amalgamating company was not a look-through company immediately before the amalgamation.

Income

(2) The person has an amount of income under—

(a) subsection (4); or

(b) subsection (8), if—

(i) the relevant LTC was a qualifying company in the relevant previous year; and

(ii) a dividend under subsection (4) would not be fully imputed.

Dividend

(3) An amount of income under subsection (4) or (8) is treated as a dividend including an attached imputation credit, as provided by the relevant subsection.

Formula

(4) For the purposes of subsection (2)(a), the amount of income is a positive amount calculated using the formula—

(untaxed reserves + reserves imputation credit) × effective interest.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **untaxed reserves** is the amount given by the formula in subsection (6):

(b) **reserves imputation credit** is the total amount given by the formula in subsection (7B), up to the maximum permitted ratio for the untaxed reserves under section OA 18 (Calculation of maximum permitted ratios) and is treated as an attached imputation credit included in the dividend calculated under this section:

(c) **effective interest** is the person's effective look-through interest for an LTC on the relevant day under subsection (1)(a) or (b).

Formula

(6) For the purposes of subsection (5)(a), the amount of untaxed reserves is calculated using the formula—

dividends – assessable income – exit exemption.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **dividends** is the sum of the amounts that would be dividends if the following events occurred for the company or the amalgamating company (the **company**), immediately before it became an LTC or amalgamated with an LTC:

(i) it disposed of all of its property, other than cash, to an unrelated person at market value for cash; and

(ii) it met all of its liabilities at market value, including income tax liabilities for the disposal year but excluding income tax liabilities that would arise solely from meeting all of its liabilities at market value or from disposing of all of its property; and

(iii) it was liquidated, with the amount of cash remaining being distributed to shareholders without imputation credits attached:

(b) **assessable income** is the total assessable income that the company would derive by taking the actions described in paragraph (a)(i) and (ii) less the amount of any deduction that the company would have for taking those actions:

(c) **exit exemption** is the amount given by the formula in section CX 63(2) (Dividends derived after ceased to be look-through company), treating the amount described in paragraph (a) as a dividend paid by the company for the purposes of section CX 63(1), if section CX 63 would apply to a dividend paid by the company.

Formula

(7B) For the purposes of subsection (5)(b), the amount of reserves imputation credit is calculated using the formula—

current credits + future amounts.

Definition of items in formula

(7C) In the formula in subsection (7B),—

(a) **current credits** is the amount of the balance in the company's imputation credit account on the relevant day:

(b) **future amounts** is an amount of income tax payable for an earlier income year but not paid on or before the relevant day, less refunds due for the earlier income year but paid after the relevant day.

Formula

(8) For the purposes of subsection (2)(b), the amount of income is a positive amount calculated using the formula—

((balances ÷ tax rate – balances) + balances imputation credit) × effective interest.

Definition of items in formula

(9) In the formula in subsection (8),—

(a) **balances** is the sum of the following amounts:

(i) the balance in the company's imputation credit account on the relevant day:

(ii) an amount of income tax payable for an earlier income year but not paid on or before the relevant day, less refunds due for the earlier income year but paid after the relevant day:

(b) **tax rate** is the basic tax rate for the income year of the company that contains the relevant day described in subsection (10):

(c) **balances imputation credit** is the amount of the item **balances** in paragraph (a), and is treated as an attached imputation credit included in the dividend calculated under this section:

(d) **effective interest** is the person's effective look-through interest for an LTC on the relevant day under subsection (1)(a) or (b).

Relevant day

(10) In this section, the relevant day for measuring relevant items in the formulas is—

(a) the last day of the income year before the income year described in subsection (1)(a), as applicable; or

(b) the day of the amalgamation described in subsection (1)(b), as applicable.

Income tax and refund

(11) For the purposes of subsections (7C)(b) and (9)(a)(ii),—

(a) income tax payable is income tax that would, when paid, give rise to a credit in the company's imputation credit account under sections OB 4 to OB 29 (which relate to imputation credits):

(b) a refund of income tax due is the amount that would, when paid, give rise to a debit to the company's imputation credit account under sections OB 30 to OB 59 (which relate to imputation debits).

Defined in this Act: amalgamating company, amalgamation, amount, assessable income, basic tax rate, company, deduction, dispose, dividend, effective look-through interest, fully imputed, imputation credit, imputation credit account, income, income tax, income year, liquidation, look-through company, qualifying company

Section CB 32C: replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 14(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CB 32C(5)(b): replaced, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(7)(a)(ii): replaced, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(7B) heading: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(7B): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(7C) heading: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(7C): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(9)(a)(i): amended, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(9)(a)(ii): amended, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(10): amended, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CB 32C(11): amended, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 8(6) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Mutual associations

CB 33 Amounts derived by mutual associations

When this section applies

(1) This section applies when an association enters into a transaction of a kind described in section HE 2 (Classes of mutual transaction) with—

(a) 1 or more members; or

(b) 1 or more members along with 1 or more persons who are not members of the association.

Income: other income provisions

(2) If the association derives from the transaction an amount that would, in the absence of this subsection, be income under a provision in this Part but for the mutual character of the transaction, the amount is income of the association.

Defined in this Act: amount, association, income, income year, member

Compare: 2004 No 35 s HF 1(1)

Section CB 33(2) heading: substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 5(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 33(2): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 5(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CB 34 Amounts derived by members from mutual associations

When this section applies

(1) This section applies when an association, in relation to a mutual transaction, pays an association rebate to a member in an income year in circumstances where a payment for the transaction would be taken into account in determining the taxable income of the member.

Income

(2) The amount of the association rebate is income of the member in the income year but only to the extent of the amount of the association's deduction under section DV 19 (Association rebates).

Statutory producer boards: timing of payment

(3) If a statutory producer board pays an association rebate to a member that is a mutual association, the association is treated as deriving the amount in the income year in which the producer board chooses under section DV 19(7) to have the amount as the deduction.

When amount paid

(4) For the purposes of this section, an amount is treated as having been paid to a person when it is credited in account or dealt with in some way in their interest or on their behalf. Subsection (3) overrides this subsection.

Relationship with dividend rules

(5) An association rebate—

(a) is not a dividend to the extent to which it is a payment of the kind described in subsection (2) and is no more than the amount of the deduction the association is allowed under section DV 19; and

(b) for an association that is not a company, and to the extent to which it is more than the amount of the deduction the association is allowed under section DV 19, is income of the member.

Defined in this Act: amount, association, association rebate, deduction, dividend, income, income year, member, pay, statutory producer board

Compare: 2004 No 35 s HF 1(3)(c), (5), (6)

Partners and partnerships

Heading: added, on 1 April 2008, by section 5(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

CB 35 Amounts of income for partners

A person who is a partner has an amount of income to the extent to which an amount of income results from the application of subpart HG (Joint venturers, partners, and partnerships) to them and their partnership.

Defined in this Act: amount, income, partner, partnership

Section CB 35: added, on 1 April 2008, by section 5(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Emissions units under Climate Change Response Act 2002

Heading: substituted (with effect on 1 January 2009), on 6 October 2009, by section 10 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CB 36 Disposal of emissions units

When this section applies

(1) This section applies when a person disposes of an emissions unit.

Income

(2) The amount that the person derives on the disposal is income.

Surrender of unit: deemed sale at given value

(3) If the disposal is by surrender under the Climate Change Response Act 2002, the person is treated as having sold the unit, at the time of the surrender, to an unrelated person for an amount equal to—

(a) the unit's cost, if none of paragraphs (b) to (f) applies; or

(b) the unit's value under section ED 1(7B) (Valuation of excepted financial arrangements), if that subsection applies and none of paragraphs (c) to (f) apply; or

(c) zero, if subsection (4) applies; or

(d) zero, if subsection (5) applies; or

(e) the unit's market value, if subsection (6) applies; or

(f) the unit's market value, if subsection (7) applies.

Surrender of unit: emissions relating to post-1989 forest land

(4) The person is treated as selling the unit for an amount of zero if the person surrenders the emissions unit in relation to post-1989 forest land, including for ceasing an activity in relation to post-1989 forest land.

Surrender of unit: under forest sink covenant

(4B) The person is treated as selling the unit for an amount of zero if the person transfers the emissions unit to the Crown under a forest sink covenant under section 67Y of the Forests Act 1949.

Surrender of unit: deforestation of some pre-1990 forest land

(5) The person is treated as selling the unit for an amount of zero if—

(a) the person surrenders the emissions unit in relation to the deforestation of pre-1990 forest land; and

(b) the person would derive income, other than exempt income or excluded income, from a disposal of the land without timber at the time of the surrender.

Surrender of post-1989 forest land emissions unit or forest sink emissions unit: for other purposes

(6) The person is treated as selling a post-1989 forest land emissions unit or forest sink emissions unit for an amount equal to the unit's market value if the person surrenders the emissions unit other than—

(a) for emissions in relation to post-1989 forest land:

(b) by a transfer to the Crown required by a permanent forestry scheme:

(c) for ceasing an activity in relation to post-1989 forest land.

Surrender of unit: free unit other than forest land unit

(7) The person is treated as selling a unit that is not a forest land emissions unit for an amount equal to the unit's market value if—

(a) the person surrenders the unit when it has a value of zero; and

(b) the unit was transferred to the person under Part 4, subpart 2 of the Climate Change Response Act 2002 at a price of zero.

Converted unit treated as sold

(8) If a person converts a New Zealand emissions unit, other than a forest land emissions unit, into something else under the Climate Change Response Act 2002, the person is treated as having sold the converted unit for an amount equal to—

(a) the unit's value under section ED 1(7B), if that subsection applies; or

(b) the unit's cost, otherwise.

Cancellation of historic approved overseas unit and replacement with New Zealand emissions unit

(8B) If a person transfers an approved overseas unit as defined in section 4(1) of the Climate Change Response Act 2002 for cancellation under schedule 1AA, clause 14(2) of that Act and is transferred a New Zealand emissions unit under schedule 1AA, clause 14(3) of that Act, the person is treated as having sold the approved overseas unit for an amount equal to—

(a) the unit's value under section ED 1(7B), if that subsection applies; or

(b) the unit's cost, otherwise.

Surrender of forest sink emissions unit for entitlement to New Zealand emissions unit

(8C) If a person surrenders a forest sink emissions unit under schedule 1AA, clause 30(2) of the Climate Change Response Act 2002 and receives an entitlement to a New Zealand emissions unit under schedule 1AA, clause 30(4) of that Act, the person is treated as having sold the forest sink emissions unit for an amount equal to—

(a) the unit's value under section ED 1(7B), if that subsection applies; or

(b) the unit's cost, otherwise.

Cancellation of unit

(8D) If a person cancels an emissions unit, the person is treated as selling the unit for an amount of zero.

Excluded income: pre-1990 forest land emissions unit

(9) Section CX 51B (Disposal of pre-1990 forest land emissions units) applies to the disposal to another person of a pre-1990 forest land emissions unit.

Excluded income: fishing quota emissions unit

(10) Section CX 51C (Disposal of fishing quota emissions units) applies to the disposal to another person of a fishing quota emissions unit.

Defined in this Act: amount, convert, emissions unit, fishing quota emissions unit, forest land emissions unit, forest sink emissions unit, New Zealand emissions unit, permanent forestry scheme, pre-1990 forest land emissions unit, post-1989 forest land emissions unit, surrender

Section CB 36: substituted (with effect on 1 January 2009), on 6 October 2009, by section 10 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CB 36(4): amended (with effect on 1 January 2009), on 29 March 2025, by section 8(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 36(4): amended (with effect on 1 July 2010), on 17 July 2013, by section 5 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CB 36(4B) heading: inserted (with effect on 1 January 2009), on 7 September 2010, by section 6(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36(4B): inserted (with effect on 1 January 2009), on 7 September 2010, by section 6(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36(6) heading: substituted (with effect on 1 January 2009), on 7 September 2010, by section 6(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36(6): substituted (with effect on 1 January 2009), on 7 September 2010, by section 6(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36(6)(b): replaced, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section CB 36(6)(c): inserted (with effect on 1 January 2009), on 29 March 2025, by section 8(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CB 36(7): substituted (with effect on 1 July 2010), on 21 December 2010, by section 27 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CB 36(8): amended, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section CB 36(8B) heading: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section CB 36(8B): inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section CB 36(8C) heading: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section CB 36(8C): inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section CB 36(8D) heading: inserted (with effect on 1 January 2009), on 30 March 2022, by section 50(1) (and see section 50(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CB 36(8D): inserted (with effect on 1 January 2009), on 30 March 2022, by section 50(1) (and see section 50(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CB 36(9) heading: substituted (with effect on 1 January 2009), on 7 September 2010, by section 6(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36(10) heading: added (with effect on 1 July 2010), on 7 September 2010, by section 6(4) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36(10): added (with effect on 1 July 2010), on 7 September 2010, by section 6(4) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36 list of defined terms **fishing quota emissions unit**: inserted (with effect on 1 July 2010), on 7 September 2010, by section 6(5)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36 list of defined terms **forest sink emissions unit**: inserted (with effect on 1 January 2009), on 7 September 2010, by section 6(5)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CB 36 list of defined terms **Kyoto emissions unit**: repealed (with effect on 1 January 2009), on 27 February 2014, by section 5 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CB 36 list of defined terms **permanent forestry scheme**: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Subpart CC—Income from holding property (excluding equity)

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Land use

CC 1 Land

Income

(1) An amount described in subsection (2) is income of the owner of land if they derive the amount from—

(a) a lease, licence, or easement affecting the land; or

(b) the grant of a right to take the profits of the land.

Amounts

(2) The amounts are—

(a) rent:

(b) a fine:

(c) a premium:

(d) a payment for the goodwill of a business:

(e) a payment for the benefit of a statutory licence:

(f) a payment for the benefit of a statutory privilege:

(g) other revenues.

Amounts derived from certain assets

(2B) Despite subsections (1) and (2), an amount referred to in section CW 8B (Certain amounts derived from use of assets) is not a payment of rent or another amount for the purposes of this section.

Exception for amount from grant of easement

[Repealed]

(2C) *[Repealed]*

Relationship with section GC 5

(3) The treatment of leases of property to related parties for less than an adequate rent is dealt with in section GC 5 (Leases for inadequate rent).

Defined in this Act: amount, business, income, lease, own, pay

Compare: 2004 No 35 s CC 1

Section CC 1(2B) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 6(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CC 1(2B): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 6(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CC1(2C) heading: repealed (with effect on 1 April 2015), on 23 March 2020, pursuant to section 85 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CC1(2C): repealed (with effect on 1 April 2015), on 23 March 2020, by section 85 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CC 1B Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence

When this section applies

(1) This section applies when a person (the **payee**) derives an amount—

(a) in relation to a right (the **land right**) that is—

(i) a leasehold estate not including a perpetual right of renewal:

(ii) a licence to use land; and

(b) as consideration for—

(i) the agreement by the payee to the grant, renewal, extension, or transfer of the land right:

(ii) the grant, renewal, extension, or transfer of the land right.

Income

(2) The amount is income of the payee.

Exception for payment as consideration for transfer of land right

(3) The amount is not income of the payee if—

(a) the payee is the holder of the land right; and

(b) the amount is consideration for the transfer of the land right to the person paying the amount; and

(c) the amount is not sourced from funds provided, by the owner of the estate in land from which the land right is granted, for purposes that include obtaining the surrender or termination of the land right; and

(d) each of the payee and the person paying the amount is not associated with the owner of the estate in land from which the land right is granted.

Exception for tenant or licensee of residential premises

(4) The amount is not income of the payee if the payee—

(a) is a natural person and derives the amount as a tenant or licensee of residential premises whose expenditure on the residential premises does not meet the requirements of the general permission; and

(b) is not associated with the owner of the estate in land from which the land right is granted.

Exception for payment of capital contribution

(5) The amount is not income of the payee if the amount is derived as a capital contribution.

Exception for payment as consideration for grant of permanent easement

(6) The amount is not income of the payee if—

(a) the payee is the owner of a fee simple estate in land; and

(b) the amount—

(i) is consideration for the grant, for the duration of the estate, of an easement over the land; and

(ii) is not a periodic payment.

Defined in this Act: amount, associated, capital contribution, estate, general permission, income, land, leasehold estate, own, pay

Section CC 1B: replaced, on 1 April 2015 (applying to an amount derived on or after that date), by section 10(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CC 1B(1): amended (with effect on 1 April 2013, until the replacement of section CC 1B on 1 April 2015), on 23 March 2020, by section 86(1) (and see section 86(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CC 1B(1)(a): amended (with effect on 1 April 2015), on 23 March 2020, by section 87(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CC 1B(1)(b)(ii): replaced (with effect on 1 April 2015), on 23 March 2020, by section 87(2) (and see section 87(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CC 1B(6) heading: inserted (with effect on 1 April 2015), on 23 March 2020, by section 87(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CC 1B(6): inserted (with effect on 1 April 2015), on 23 March 2020, by section 87(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CC 1C Consideration for agreement to surrender leasehold estate or terminate licence

When this section applies

(1) This section applies when—

(a) a person (the **payee**) is the owner of—

(i) an estate in land from which is granted a right (the **land right**) that is a leasehold estate not including a perpetual right of renewal, or is a licence to use land:

(ii) the land right; and

(b) derives an amount as consideration for the agreement by the payee to the surrender or termination of the land right.

Income

(2) The amount is income of the payee.

Exception for tenant or licensee of residential premises

(3) The amount is not income if the payee is a natural person and derives the amount as a tenant or licensee of residential premises whose expenditure on the residential premises does not meet the requirements of the general permission.

Defined in this Act: amount, general permission, income, land, leasehold estate, own

Section CC 1C: inserted (with effect on 1 April 2013 and applying to an amount that is derived on or after that date), on 17 July 2013, by section 7(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CC 1C(1): replaced (with effect on 1 April 2013 and applying to an amount derived on or after that date), on 30 June 2014, by section 11(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CC 2 Non-compliance with covenant for repair

When this section applies

(1) This section applies when a person who is a lessor of land derives an amount for non-compliance by the lessee with an obligation under a lease of the land—

(a) to maintain the land; or

(b) to make repairs to improvements on the land.

Income

(2) The amount is income of the lessor.

Timing of income

(3) The income is allocated to the income year in which the lessor receives the amount.

Relationship with sections EI 5 and EI 6

(4) Subsection (3) is overridden by sections EI 5 (Amount paid to lessor for non-compliance with covenant for repair) and EI 6 (Amount paid for non-compliance: when lessor ceases to own land).

Defined in this Act: amount, income, income year, lease, repairs

Compare: 2004 No 35 s CC 2

CC 2B Compensation for land or buildings affected by emergency events

An amount derived by a person under section FP 5(2) (Replacement property for land or buildings affected by emergency events) is income of the person.

Defined in this Act: amount, income

Section CC 2B: inserted, on 1 April 2025, by section 9 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CC 2C Compensation for improvements to land affected by emergency events

An amount derived by a person under section FP 12(2) or (4) (Replacement property for improvements to land affected by emergency events) is income of the person.

Defined in this Act: amount, income

Section CC 2C: inserted, on 1 April 2025, by section 9 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Financial instruments

CC 3 Financial arrangements

Income: party to financial arrangement

(1) If a person who is a party to a financial arrangement is treated as deriving an amount of income under the financial arrangement under subpart EW (Financial arrangements rules), the amount is income of the person.

Income: trustee

(2) Income derived by a trustee in the circumstances described in section EW 50 (Income when debt forgiven to trustee) is income of the trustee.

Defined in this Act: amount, financial arrangement, income, trustee

Compare: 2004 No 35 s CC 3

CC 4 Payments of interest

Income

(1) Interest derived by a person is income of the person.

Apportionment

(2) Interest due but unpaid on the date on which a person disposes of a security is apportioned between the person disposing of the security and the person acquiring it.

Non-resident financial arrangement income

(3) Non-resident financial arrangement income derived by a person is income of the person.

Defined in this Act: income, interest, non-resident financial arrangement income, pay

Compare: 2004 No 35 s CC 4

Section CC 4(3) heading: inserted, on 30 March 2017, by section 15(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CC 4(3): inserted, on 30 March 2017, by section 15(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CC 4 list of defined terms **non-resident financial arrangement income**: inserted, on 30 March 2017, by section 15(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CC 5 Annuities

Income

(1) An annuity derived by a person is income of the person.

Apportionment

(2) Income under an annuity due but unpaid on the date on which a person disposes of the annuity is apportioned between the person disposing of the annuity and the person acquiring it.

Relationship with sections CW 4 and CW 30

(3) This section is overridden by sections CW 4 (Annuities under life insurance policies) and CW 30 (Annuities from Crown Bank Accounts).

Defined in this Act: income, pay

Compare: 2004 No 35 s CC 5

CC 6 Prizes received under Building Societies Act 1965

Income

(1) A prize received by a person under section 31A of the Building Societies Act 1965 is income of the person, whether they take it as cash or as an advance.

Timing of income

(2) The income is allocated as follows:

(a) a cash prize is allocated to the day on which the bonus ballot giving rise to the prize is held; and

(b) an advance is allocated to the day on which the advance is made or, if the advance is made in a series of advances, to the first day on which an advance is made.

Defined in this Act: income

Compare: 2004 No 35 s CC 6

CC 7 Consideration other than in money

When this section applies

(1) This section applies when—

(a) a lender provides money to a borrower for use in a business that the borrower carries on in New Zealand; and

(b) the borrower provides to the lender, as some or all of the consideration, a tangible or intangible benefit that—

(i) is not interest; and

(ii) may or may not be relief from an obligation; and

(iii) may or may not be convertible into money; and

(c) the borrowing is a commercial transaction under which the borrower would have been liable to pay interest at the current commercial rate, given the nature and term of the loan, if the borrower had not provided the benefit, whether or not the contract between the borrower and the lender provides for the payment of interest if the benefit is not provided.

Income

(2) The amount described in subsection (3) is income of the lender.

Amount of income

(3) The amount is the interest that the borrower would have been liable to pay if the lender had lent the money to the borrower in consideration of the payment of interest at the current commercial rate, given the nature and term of the loan, reduced by the amount of any interest that the borrower pays.

Defined in this Act: amount, business, income, interest, New Zealand, pay

Compare: 2004 No 35 s CC 7

CC 8 Use of money interest payable by Commissioner

Income

(1) Interest payable by the Commissioner to a person under Part 7 of the Tax Administration Act 1994 is income of the person.

Timing of income

(2) Interest to which this section applies is allocated under section EF 4 (Use of money interest payable by Commissioner).

Relationship with financial arrangements rules

(3) Interest to which this section applies is disregarded for the purposes of the financial arrangements rules.

Defined in this Act: Commissioner, financial arrangements rules, income, interest, pay

Compare: 2004 No 35 s CC 8

CC 8B Certain commercial bills: non-resident holders

When this section applies

(1) This section applies when a non-resident holder of a commercial bill who is required to calculate and allocate income and expenditure under neither the financial arrangements rules nor the old financial arrangements rules because of the application of section EW 9(2) to (4) or EZ 45(e) (which relate to the application of the rules)—

(a) disposes of the commercial bill other than by redemption; or

(b) redeems a commercial bill whose issuer is an associated person of the non-resident.

Income: disposal

(2) The value of the commercial bill on the day the non-resident holder disposes of it is income of the person.

Income: redemption

(3) The amount that the non-resident holder receives on redemption is income of the person.

Defined in this Act: amount, commercial bill, financial arrangements rules, income, non-resident, old financial arrangements rules

Compare: 2004 No 35 s CZ 8

Section CC 8B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 11(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Royalties

CC 9 Royalties

Income

(1) A royalty derived by a person is income of the person.

Meaning of royalty

(2) **Royalty** includes a payment of any kind derived as consideration for—

(a) the use of, or right to use, a copyright, patent, plant variety rights, trademark, design or model, plan, secret formula or process, or other similar property or right:

(b) the use of, or right to use, a mine or quarry:

(c) the extraction, removal, or other exploitation of standing timber or a natural resource:

(d) the right to extract, remove, or otherwise exploit standing timber or a natural resource:

(e) the use of, or right to use, a film, a videotape, or a tape in connection with radio broadcasting:

(f) the supply of scientific, technical, industrial, or commercial knowledge or information:

(g) the total or partial forbearance of the use of, or the grant of a right to use, property or a right referred to in any of paragraphs (a) to (e):

(h) the supply of assistance that enables the application or use of anything in any of paragraphs (a) to (f):

(i) the total or partial forbearance of the supply of knowledge or information or assistance referred to in paragraph (f) or (h).

Relevance of description of payment

(3) For the purposes of subsection (2), none of the following is relevant:

(a) how the payment is described or computed:

(b) whether the payment is periodical or otherwise:

(c) whether the payment is an instalment of the purchase price of real property:

(d) whether the payment is an instalment of the purchase price of personal property.

Defined in this Act: income, natural resource, pay, royalty, standing timber

Compare: 2004 No 35 s CC 9

Section CC 9 list of defined terms **natural resource**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

CC 9B Resale royalties

When this section applies

(1) This section applies when—

(a) a person receives a resale royalty in respect of the resale of an original visual artwork under section 18 of the Resale Right for Visual Artists Act 2023; and

(b) the resale royalty is income of the person under section CB 1 (Amounts derived from business).

Income

(2) The amount of the resale royalty retained by the collection agency under section 20 of the Resale Right for Visual Artists Act 2023 is treated as income of the person.

Defined in this Act: collection agency, income, resale royalty

Section CC 9B: inserted (with effect on 1 December 2024), on 29 March 2025, by section 10 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CC 9C Amount of resale royalty retained by collection agency

When this section applies

(1) This section applies when the collection agency receives an amount of a resale royalty under section 17 of the Resale Right for Visual Artists Act 2023.

Income

(2) The amount is not income of the collection agency except to the extent of the amount that the collection agency is entitled to retain under section 20 of that Act.

Defined in this Act: collection agency, income, resale royalty

Section CC 9C: inserted (with effect on 1 December 2024), on 29 March 2025, by section 10 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CC 10 Films

When this section applies

(1) This section applies when a person has a right or interest of any of the kinds described in subsection (2) in or to—

(a) a film; or

(b) a print of the film; or

(c) publicity material for the film; or

(d) any other tangible asset relating to the film.

Right or interest

(2) The right or interest is a right or interest, including a future or contingent right or interest, of any of the following kinds:

(a) copyright in the film:

(b) a licence relating to the copyright:

(c) an equitable right in the copyright:

(d) an equitable right in a licence relating to the copyright:

(e) any other right existing in or attaching to the film:

(f) a right to income, or a share of income, from the rental, sale, use, or other exploitation of the film.

Income

(3) The following amounts are income of the person:

(a) an amount received or receivable by the person for—

(i) the use of, or the right to use, the film or a right or interest in a right in the film:

(ii) the granting of a licence for a future right in the film:

(iii) the disposal of some or all of a right or interest in a right in the film:

(iv) the assignment of a right or an interest in a right:

(v) the assignment of a right to derive income from the use of a right or interest; and

(b) an amount derived by the person from the rental, sale, use, or other exploitation of the film.

Relationship with sections CV 17 and YD 7

[Repealed]

(4) *[Repealed]*

Defined in this Act: amount, film, income

Compare: 2004 No 35 s CC 10

Section CC 10(4) heading: repealed, on 2 November 2012, by section 5 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CC 10(4): repealed, on 2 November 2012, by section 5 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Finance leases

CC 11 Lessee acquiring lease asset on expiry of term of lease

When this section applies

(1) This section applies for the purposes of section FA 9 (Treatment when lease ends: lessee acquiring asset), when, after the term of a finance lease, a lessee acquires the personal property lease asset and then disposes of it.

Income of lessee

(2) If the lessee disposes of the lease asset for an amount that is more than the consideration paid for it, the difference is income of the lessee in the income year in which they dispose of the asset.

Defined in this Act: consideration, finance lease, income, lessee, pay, personal property lease asset, tax year

Compare: 2004 No 35 s FC 8E

CC 12 Lessor acquiring lease asset on expiry of term of lease

When this section applies

(1) This section applies for the purposes of section FA 10(3) (Treatment when lease ends: lessor acquiring asset), when, after the term of a finance lease,—

(a) a lessor under the lease sells, assigns, or leases the personal property lease asset to another person under another finance lease; and

(b) the consideration is more than the amount determined under section FA 10(2).

Income of lessor

(2) To the extent to which the difference between the amount determined under section FA 10(2) and the consideration is not paid by the lessor to the lessee under the original finance lease, the amount is income of the lessor in the income year in which the original lease term ends.

Defined in this Act: consideration, finance lease, income, lessee, lessor, pay, personal property lease asset, tax year

Compare: 2004 No 35 s FC 8D(2)

Hire purchase agreements

CC 13 Amounts paid in income years after hire purchase agreement ends

When this section applies

(1) This section applies for the purposes of section FA 18 (Treatment of amounts paid in income years after agreement ends), when an amount that is liable to be paid under a hire purchase agreement is paid in an income year that is later than the income year in which the agreement ends.

Income of seller

(2) An amount that the buyer is liable to pay under the terms of the agreement is income of the seller in the income year in which they receive it.

Income of buyer

(3) An amount paid by the seller to the buyer under section FA 18(3)(b) is income of the buyer in the income year in which the amount is paid.

Defined in this Act: amount, hire purchase agreement, income, income year, pay

Compare: 2004 No 35 s FC 10(5)(d)–(f)

IFRS leases

Heading: inserted (with effect on 1 January 2019), on 30 March 2021, by section 14(1) (and see section 14(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

CC 14 NZ IFRS 16 leases

When this section applies

(1) This section applies when a person has, under section EJ 10B (IFRS leases), an amount of income for their IFRS lease.

Amount, and timing, of income

(2) The person has income quantified and allocated under section EJ 10B.

Defined in this Act: amount, income, person

Section CC 14: inserted (with effect on 1 January 2019), on 30 March 2021, by section 14(1) (and see section 14(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

New investment assets: change of use

Heading: inserted (with effect on 22 May 2025), on 29 May 2025, by section 4 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

CC 15 New investment assets: change of use

When this section applies

(1) This section applies if a person that has deducted an amount for a new investment asset under section DI 5 (New investment asset deduction) subsequently changes the use of the asset such that the percentage of deductible use of the

asset under subpart DA (General rules) would change, applying apportionment to the permissions and limitations applicable for section DI 5.

When this section does not apply: less than 25% change in deductible use

(2) This section does not apply if, for the asset, the amount given by the following formula, expressed as a percentage, is less than 25%:

$$1 - (\text{new use} \div \text{previous use}).$$

Income

(3) The person has, for the asset, an amount of income equal to the amount calculated by the following formula:

$$\text{DI 5 deduction} - (\text{new use} \div \text{previous use} \times \text{DI 5 deduction}).$$

Definition of items in formulas in subsections (2) and (3)

(4) In the formulas in subsections (2) and (3),—

(a) **new use** is the new percentage of deductible use under subpart DA for the asset, applying apportionment to the permissions and limitations applicable for section DI 5, expressed as a decimal:

(b) **previous use** is the previous percentage of deductible use under subpart DA for the asset, applying apportionment to the permissions and limitations applicable for section DI 5, expressed as a decimal:

(c) **DI 5 deduction** is—

(i) the amount of the deduction under section DI 5 for the previous use, if subparagraph (ii) does not apply:

(ii) the amount given by the terms in the round brackets in the formula in subsection (3) the previous time this section applied to the asset, if this section previously applied to the asset.

Relationship with subject matter

(5) For an item that is depreciable property, the amount of income under subsection (3) increases the item's adjusted tax value for the purposes of section EE 48(1)(a) (Effect of disposal or event).

Example

Thomas buys a new yacht for $100,000 that he begins using in the 2025–26 income year. He reduces the base used for determining depreciation by $20,000. He determines that 90% business use is a reasonable basis for apportionment. He claims $18,000 as a deduction, which is 90% of $20,000. In the 2026–27 income year, he only uses the yacht 40% of the time for business. This is a reduction in business use from 90% to 40%. Had Thomas taken the Investment Boost deduction using the apportionment in the 2026–27 income year, he would have been entitled to claim just $8,000. Thomas must return income of $10,000

($18,000 − $8,000) in the 2026–27 income year. The asset's adjusted tax value is increased by $10,000 accordingly.

Defined in this Act: adjusted tax value, amount, deduction, depreciable property, income, new investment asset

Section CC 15: inserted (with effect on 22 May 2025), on 29 May 2025, by section 4 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Subpart CD—Income from equity

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Income

CD 1 Dividend

Income

(1) A dividend derived by a person is income of the person.

Timing of income: dividends other than non-cash dividends

(2) The income is allocated to the income year in which the person receives the dividend if the dividend is a dividend other than a non-cash dividend.

Exception: certain dividends derived by dual resident companies

(3) Despite subsection (2), the income is allocated to the income year of the person in which the DRCD deferral date falls if the dividend—

(a) is derived by a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand; and

(b) meets the requirements set out in section CW 10(1)(b) to (d), (5), and (6) (Dividend within New Zealand wholly-owned group).

Defined in this Act: company, dividend, double tax agreement, DRCD deferral date, income, income year, New Zealand resident, non-cash dividend, resident in New Zealand

Compare: 2004 No 35 s CD 1

Section CD 1(1) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 15(1) (and see section 15(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CD 1(2) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 15(2) (and see section 15(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CD 1(2): inserted (with effect on 1 April 2020), on 30 March 2021, by section 15(2) (and see section 15(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CD 1(3) heading: inserted (with effect on 30 August 2022), on 31 March 2023, by section 10(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 1(3): inserted (with effect on 30 August 2022), on 31 March 2023, by section 10(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 1 list of defined terms **company**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 10(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 1 list of defined terms **double tax agreement**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 10(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 1 list of defined terms **DRCD deferral date**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 10(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 1 list of defined terms **income year**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 15(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CD 1 list of defined terms **New Zealand resident**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 10(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 1 list of defined terms **non-cash dividend**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 15(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CD 1 list of defined terms **resident in New Zealand**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 10(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CD 2 Distribution excluded from being dividend

A distribution, derived by a member of a co-operative company, that is excluded by section CD 34B or CZ 41 (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) from being a dividend is income of the member.

Defined in this Act: co-operative company, dividend, income

Compare: 2004 No 35 s CD 1B

Section CD 2: amended (with effect on 1 July 2022), on 28 March 2024, by section 13 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CD 2: amended (with effect on 1 April 2010), on 7 September 2010, by section 7 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

What is a dividend?

CD 3 Meaning of dividend

Sections CD 4 to CD 20 define what is a **dividend**.

Defined in this Act: dividend

Compare: 2004 No 35 s CD 2

Section CD 3: amended, on 18 March 2019, by section 128 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CD 4 Transfers of company value generally

Transfers of company value from company

(1) A transfer of company value from a company to a person is a dividend if—

(a) the cause of the transfer is a shareholding in the company, as described in section CD 6; and

(b) none of the exclusions in sections CD 22 to CD 37 applies to the transfer.

Calculation rules

(2) Sections CD 38 to CD 42 apply for the purposes of calculating the amount of the dividend.

Defined in this Act: company, dividend, transfer of company value

Compare: 2004 No 35 s CD 3

Section CD 4 heading: amended, on 23 March 2020, by section 88(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 4(1) heading: amended, on 23 March 2020, by section 88(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 4(1): amended, on 23 March 2020, by section 88(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 4 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 88(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 4 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 88(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CD 5 What is a transfer of company value?

General test

(1) A **transfer of company value** from a company to a person occurs when—

(a) the company provides money or money's worth to the person; and

(b) if the person provides any money or money's worth to the company under the same arrangement, the market value of what the company provides is more than the market value of what the person provides.

Release of debt

(2) A company (the **creditor**) provides money's worth to a person (the **debtor**) if the debtor is released from an obligation to pay money to the creditor, either by agreement or by operation of law, except to the extent to which—

(a) the obligation the debtor is released from is an amount of debt to which section EW 46C(4) (Consideration when debt remitted within economic group) applies; and

(b) at the time the debtor is released, the debtor is a company that is a member of the same wholly-owned group as the creditor, and the debtor is described in section EW 46C(1)(a) or (b).

When shares are cancelled

(2B) The market value of any transfer from the shareholder to the company on the cancellation of a share or the shareholder's rights as a shareholder is zero.

Provision of services for less than market value

(3) Despite subsection (1), a transfer of company value does not occur to the extent to which the money's worth provided by the company is only the provision of services.

Limit to subsection (3)

(4) Subsection (3) does not apply to the provision of services by a company that is a close company, if the provision is the benefit of expenditure of the company.

Defined in this Act: arrangement, close company, company, market value, pay, services, share, shareholder, transfer of company value, wholly-owned group of companies

Compare: 2004 No 35 s CD 4

Section CD 5 heading: amended, on 23 March 2020, by section 89(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 5(1): amended, on 23 March 2020, by section 89(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 5(2): replaced (with effect on 1 April 2008), on 30 March 2017, by section 16(1) (and see section 16(3)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 5(2)(a): amended (with effect on 1 April 2008), on 30 March 2022, by section 51 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 5(2)(a): amended (with effect on 1 April 2008), on 18 March 2019, by section 129(1) (and see section 129(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CD 5(2B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 12(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 5(2B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 12(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 5(2B): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 9(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 5(3): amended, on 23 March 2020, by section 89(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 5 list of defined terms **market value**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 12(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 5 list of defined terms **share**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 12(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 5 list of defined terms **shareholder**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 12(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 5 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 89(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 5 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 89(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 5 list of defined terms **wholly-owned group of companies**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 16(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CD 6 When is a transfer caused by a shareholding relationship?

General test

(1) A transfer of company value from a company to a person (the **recipient**) is caused by a shareholding in the company if—

(a) the recipient at any relevant time—

(i) holds shares in the company; or

(ii) is associated with a shareholder; and

(iii) *[Repealed]*

(b) the company makes the transfer because of that shareholding of the relevant shareholder.

Indication that test met

(2) One indication that a transfer is caused by a shareholding is if the terms of the arrangement that results in the transfer are different from the terms on which the company would enter into a similar arrangement if no shareholding were involved.

Deductible distributions of producer boards

(3) Despite subsection (1), a transfer of company value by a statutory producer board to a member is not caused by a shareholding if—

(a) the transfer is a cash distribution; and

(b) the distribution is a deduction under section DV 19 (Association rebates) or any other provision of this Act; and

(c) the board does not choose to treat the distribution as a dividend under section OB 73 (Statutory producer boards attaching imputation credits to cash distributions).

Deductible distributions of co-operative companies

(4) Despite subsection (1), a transfer of company value by a co-operative company to a shareholder is not caused by a shareholding if—

(a) the transfer is a cash distribution; and

(b) the distribution is a deduction under section DV 19 or any other provision of this Act; and

(c) the company does not choose to treat the distribution as a dividend under section OB 82 (When and how co-operative company makes election).

Relationship with sections DV 18 and DV 19

(5) For the purposes of subsections (3)(b) and (4)(b), section DV 19 is not overridden by section DV 18 (Statutory producer boards and co-operative companies).

Defined in this Act: arrangement, associated person, company, co-operative company, deduction, share, shareholder, statutory producer board, transfer of company value, trustee

Compare: 2004 No 35 s CD 5

Section CD 6(1): amended, on 23 March 2020, by section 90(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 6(1)(a)(ii): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 13(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 6(1)(a)(iii): repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 13(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 6(3): amended, on 23 March 2020, by section 90(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 6(3)(b): amended (with effect on 1 April 2008), on 18 March 2019, by section 130(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CD 6(4): amended, on 23 March 2020, by section 90(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 6(4)(b): amended (with effect on 1 April 2008), on 18 March 2019, by section 130(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CD 6(5) heading: amended (with effect on 1 April 2008), on 18 March 2019, by section 130(3)(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CD 6(5): amended (with effect on 1 April 2008), on 18 March 2019, by section 130(3)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CD 6 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 90(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 6 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 90(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CD 7 Bonus issues in lieu of dividend

Bonus issues in lieu

(1) A bonus issue in lieu is a dividend.

Amount of dividend

(2) The amount of the dividend is the money or money's worth offered as an alternative.

Defined in this Act: amount, bonus issue in lieu, dividend, pay, RWT

Compare: 2004 No 35 s CD 6

Section CD 7(2): amended (with effect on 1 October 2012), on 2 November 2012, by section 6 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

CD 7B Shares issued under profit distribution plans

Profit distribution plan shares

(1) A share issued by a company under a profit distribution plan is a dividend.

Amount of dividend

(2) The amount of the dividend is the amount offered by the company for the repurchase of the share.

Relationship with section CD 22

(3) Section CD 22 does not apply in relation to a share issued under a profit distribution plan and repurchased by the company as part of the plan.

Defined in this Act: amount, company, dividend, profit distribution plan, RWT, share

Section CD 7B: inserted (with effect on 1 October 2012), on 2 November 2012, by section 7 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

CD 8 Elections to make bonus issue into dividend

Treating bonus issues as dividends

(1) A bonus issue that is not a bonus issue in lieu or a share issued under a profit distribution plan is a dividend if—

(a) the bonus issue—

(i) is issued fully paid from reserves of the company:

(ii) if a dividend, would not be exempt income under section CW 10 (Dividend within New Zealand wholly-owned group); and

(b) the company chooses under this section to treat the bonus issue as a dividend.

Form of election

(2) A company chooses to treat a bonus issue as a dividend by—

(a) resolving, when it makes the bonus issue, that it is a dividend; and

(b) resolving, when it makes the bonus issue, the amount to be treated as a dividend, which must be more than zero; and

(c) giving notice to the Commissioner under section 63 of the Tax Administration Act 1994 of the election and the amount.

Amount of dividend

(3) The amount of the dividend is the amount chosen by the company.

Defined in this Act: amount, bonus issue, bonus issue in lieu, Commissioner, company, dividend, notice, pay, profit distribution plan, share

Compare: 2004 No 35 s CD 7

Section CD 8(1): amended (with effect on 1 October 2012), on 2 November 2012, by section 8(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CD 8(1)(a)(ii): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 4(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CD 8 list of defined terms **profit distribution plan**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 8(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CD 8 list of defined terms **share**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 8(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

CD 9 Interests in money or property of foreign unit trust

Interest absolutely vested in unit holder

(1) If a beneficial interest in money or property of a unit trust that is a foreign company vests absolutely in a unit holder, the money or property is a dividend for the unit holder.

Amount of dividend

(2) The amount of the dividend is the value of the money or property.

Defined in this Act: dividend, foreign company, unit holder, unit trust

Compare: 2004 No 35 s CD 7B

CD 10 Bonus issue by foreign unit trust instead of money or property

Interest absolutely vested in unit holder

(1) A bonus issue made to a unit holder by a unit trust that is a foreign company is a dividend for the unit holder if the issue is made under an arrangement or decision that the unit trust will make the bonus issue instead of causing a beneficial interest in money or property of the unit trust to vest absolutely in the unit holder.

Amount of dividend

(2) The amount of the dividend is the value of the money or property in which a beneficial interest would have vested in the unit holder if the bonus issue had not been made.

Defined in this Act: bonus issue, dividend, foreign company, unit holder, unit trust

Compare: 2004 No 35 s CD 7C

CD 11 Avoidance arrangements

An amount treated as a dividend under any of the following sections is a dividend:

(a) section GB 1 (Arrangements involving dividend stripping):

(b) section GB 23(7) (Excessive remuneration to relatives):

(c) section GB 25 (Close company remuneration to shareholders, directors, or relatives).

Defined in this Act: amount, close company, director, dividend, relative, shareholder

Compare: 2004 No 35 ss GB 1(3), GD 3(1), (2), GD 5

CD 12 Superannuation schemes entering trust rules

When this section applies

(1) This section applies when a superannuation scheme that is treated as a company because it is a unit trust becomes a superannuation fund.

Treatment as liquidated

(2) The company is treated as liquidated immediately before the date on which the scheme becomes a superannuation fund.

Defined in this Act: company, liquidation, superannuation fund, superannuation scheme

Compare: 2004 No 35 s HH 1(9)

CD 13 Notional distributions of producer boards and co-operative companies

Notional distributions of producer boards

(1) A notional distribution of a statutory producer board is a dividend if the board determines to attach an imputation credit to the notional distribution under section OB 74 (Statutory producer boards attaching imputation credits to notional distributions).

Calculation: section OB 75

(2) The amount of the dividend is calculated under section OB 75 (Statutory producer boards' notional distributions that are dividends).

Notional distributions of co-operative companies

(3) A notional distribution of a co-operative company is a dividend if the company determines to attach an imputation credit to the notional distribution under section OB 79 (Co-operative companies attaching imputation credits to notional distributions).

Calculation: section OB 80

(4) The amount of the dividend is calculated under section OB 80 (Co-operative companies' notional distributions that are dividends).

Corresponding payments not dividends

(5) Section CD 33 means that a payment that corresponds to a notional distribution may not be a dividend.

Defined in this Act: amount, co-operative company, dividend, imputation credit, pay, statutory producer board

Compare: 2004 No 35 s CD 8

CD 14 Notional distributions of emigrating companies

Dividend

(1) A notional distribution of an emigrating company under section FL 2 or FL 3 (which relate to the treatment of emigrating companies and their shareholders) is a dividend for a shareholder of the company.

Amount of dividend

(2) The amount of the dividend is determined by a shareholder's entitlement in the circumstances set out in section FL 2 or FL 3, as applicable.

Defined in this Act: amount, dividend, emigrating company, shareholder

Compare: 2004 No 35 s FCB 2(b)

Section CD 14(1): amended (with effect on 30 August 2022), on 31 March 2023, by section 11(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 14(2): amended (with effect on 30 August 2022), on 31 March 2023, by section 11(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CD 15 Tax credits linked to dividends

Imputation credits and withholding taxes

(1) The amount of a dividend includes—

(a) an imputation credit attached to the dividend subject to any limitation to the imputation credit made under section LE 5 where the person is a beneficiary:

(b) an amount of RWT or NRWT, as applicable, withheld from or paid in relation to the dividend.

Relationship with sections CD 16 and CD 17

(2) Subsection (1) is overridden by sections CD 16 and CD 17.

When subsection (1) does not apply

(3) Subsection (1) does not apply in—

(a) Part L (Tax credits and other credits), except for subpart LP (Tax credits for supplementary dividends); or

(b) Part M (Tax credits paid in cash); or

(c) Part O (Memorandum accounts); or

(d) Part R (General collection rules).

Beneficiary income

(3B) Despite subsection (1)(b) and for the purposes of section HC 6 (Beneficiary income), an amount excluded from beneficiary income under section HC 6(2)(c) is not included in the amount of a dividend.

Arrangement for dividend from another company

(4) Section GB 37 (Arrangements for payment of dividend by other companies) may apply to treat an imputation credit as not being included in the amount of a dividend.

Defined in this Act: amount, arrangement, dividend, imputation credit, income, NRWT, pay, RWT, RWT substitution payment, tax, tax credit

Compare: 2004 No 35 s CD 9

Section CD 15(1) heading: replaced, on 29 March 2018, by section 10(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15(1): replaced, on 29 March 2018, by section 10(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15(1)(a): amended (with effect on 1 April 2008), on 31 March 2023, by section 12(1) (and see section 12(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 15(3B) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 10(2) (and see section 10(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15(3B): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 10(2) (and see section 10(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 17(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 15 list of defined terms **NRWT**: inserted, on 29 March 2018, by section 10(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15 list of defined terms **pay**: inserted, on 29 March 2018, by section 10(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15 list of defined terms **RWT**: inserted, on 29 March 2018, by section 10(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15 list of defined terms **RWT substitution payment**: inserted, on 29 March 2018, by section 10(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 15 list of defined terms **tax credit**: inserted, on 29 March 2018, by section 10(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CD 16 Certain dividends not increased by tax credits

When this section applies

(1) This section applies when a unit trust manager, in the ordinary course of their management activities for a unit trust,—

(a) acquires units from unit holders under the terms on which the units were offered to potential unit holders; and

(b) derives a dividend from the redemption or other cancellation of units in the unit trust.

Credit not included

(2) For the purposes of Parts B, C, E, and F, the dividend derived does not include an amount of imputation credit attached to it to the extent to which the dividend (exclusive of the imputation credit) recovers the price paid by the unit trust manager to acquire the units.

Relationship with section FA 3

(3) To the extent to which subsection (2) applies, section FA 3 (Recharacterisation of certain dividends: recovery of cost of shares held on revenue account) does not apply.

Some definitions

(4) In this section,—

unit trust manager includes—

(a) a person nominated by the unit trust manager; or

(b) a trustee or a manager of a group investment fund that derives category A income; or

(c) a person nominated by the trustee or the manager of the group investment fund.

Defined in this Act: amount, cancellation, dividend, imputation credit, pay, tax, unit trust, unit trust manager

Compare: 2004 No 35 s CD 10

Section CD 16(4) **imputation credit**: repealed, on 1 April 2017, by section 18(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 16 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 18(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CD 17 Credit transfer notice

When this section applies

(1) This section applies when a share user under a share-lending arrangement—

(a) derives a dividend for the original share, with an imputation credit attached; and

(b) issues a credit transfer notice for the dividend.

Credit not included

(2) The dividend derived by the share user does not include the amount of the imputation credit.

Income

(3) The amount of the imputation credit is income derived by the share supplier when the credit transfer notice is issued.

Meaning of imputation credit

[Repealed]

(4) *[Repealed]*

Defined in this Act: amount, credit transfer notice, dividend, imputation credit, original share, share-lending arrangement, share supplier, share user

Compare: 2004 No 35 s CD 10B

Section CD 17(4) heading: repealed, on 1 April 2017, pursuant to section 19(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 17(4): repealed, on 1 April 2017, by section 19(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 17 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 19(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CD 18 Dividend reduced if foreign tax paid on company's income

When this section applies

(1) This section applies when a person—

(a) derives a dividend from a company that is a foreign company; and

(b) has a liability under the laws of a country or territory outside New Zealand for income tax on income of the company corresponding to the liability that the person would have under the laws of New Zealand for income tax on income of the company if the company were a partnership in which the person were a partner; and

(c) pays the income tax; and

(d) provides to the Commissioner upon request, in the time allowed by the Commissioner, sufficient information to satisfy the Commissioner as to the amount of income tax paid.

Amount of dividend reduced

(2) The amount of the dividend is reduced by the greater of zero and the amount calculated using the formula—

total tax paid − earlier reductions.

Definition of items in formula

(3) In the formula,—

(a) **total tax paid** is the total amount of income tax on income of the company that the person has paid in the country or territory by the time that the person derives the dividend:

(b) **earlier reductions** is the total amount of reductions under this section that, by the time that the person derives the dividend, have affected other dividends derived by the person from the company.

Defined in this Act: Commissioner, company, dividend, foreign company, income, income tax, New Zealand, pay, request

Compare: 2004 No 35 s CD 10C

Section CD 18(3)(a): amended, on 24 February 2016, by section 73 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 18 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

CD 19 Foreign tax credits and refunds linked to dividends

Foreign tax credits

(1) If a double tax agreement gives a person a tax credit in a foreign country when they derive a dividend from that country, the amount of the dividend is increased by the tax credit.

Foreign tax refunds

(2) When a person who has derived a dividend from outside New Zealand also derives a refund of income tax of a foreign country, the refund is treated as a dividend if—

(a) the company paying the dividend was entitled to deduct the tax from the dividend; and

(b) the person was not personally liable to pay the tax.

Defined in this Act: amount, company, dividend, double tax agreement, income tax, New Zealand, pay, tax

Compare: 2004 No 35 s CD 11

CD 20 Benefits of shareholder-employees or directors

Unclassified fringe benefits

(1) A non-cash benefit provided by a company to an employee is a dividend if—

(a) the benefit is an unclassified benefit; and

(b) the employee is a shareholder in the company; and

(c) the company chooses, under section CX 17(2) (Benefits provided to employees who are shareholders or investors), to treat the benefit as a dividend.

Non-executive directors' non-cash benefits

(2) A non-cash benefit provided by a company to a non-executive director of the company is a dividend if the director is a shareholder in the company, even if the benefit is provided solely because the director is a non-executive director.

Other shareholder-employee benefits

(3) In any other case of a non-cash benefit provided by a company to a person who is both an employee and a shareholder, the benefit is not a dividend if—

(a) the application of section CX 17(2) means it is a fringe benefit; and

(b) section CD 32 accordingly excludes it from being a dividend.

Meaning of non-executive director

(4) In this section, **non-executive director** means a person whose only services to the company as an employee are the formal occupation of the role of director and compliance with the associated statutory obligations.

Defined in this Act: company, director, dividend, employee, fringe benefit, non-executive director, shareholder, unclassified benefit

Compare: 2004 No 35 s CD 12

CD 21 Attributed repatriations from controlled foreign companies

[Repealed]

Section CD 21: repealed (with effect on 30 June 2009), on 6 October 2009, by section 14(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

What is not a dividend?

CD 22 Returns of capital: off-market share cancellations

When this section applies

(1) This section applies when a company pays an amount to a shareholder because of the off-market cancellation of a share in the company, other than on liquidation of the company.

Ordering rule

(2) The amount is not a dividend to the extent to which it is less than or equal to the available subscribed capital per share calculated under the ordering rule, if—

(a) 1 of the bright line tests in subsection (3) is met; and

(b) the company is not an unlisted trust that has chosen the slice rule for the share under subsection (4); and

(c) the anti-avoidance rule in subsection (6) does not apply.

Bright line tests

(3) The bright line tests referred to in subsection (2)(a) are as follows:

(a) the cancellation is part of a pro rata cancellation that results in a fifteen percent capital reduction for the company:

(b) the cancellation is part of a pro rata cancellation that results in a ten percent capital reduction for the company and the Commissioner has given a notice under subsection (8):

(c) the cancellation is not part of a pro rata cancellation and results in the shareholder suffering a fifteen percent interest reduction:

(d) the company is an unlisted trust and the cancellation is not part of a pro rata cancellation:

(e) the share is a non-participating redeemable share.

Unlisted trusts choosing slice rule

(4) If the company is an unlisted trust, it may issue a share on terms that the ordering rule does not apply and that instead the slice rule applies to the cancellation. If this happens, the amount paid is not a dividend to the extent to which it is less than or equal to the available subscribed capital per share calculated under the slice rule (but still subject to the anti-avoidance rule in subsection (6)).

Calculation concessions for foreign unlisted widely-held trusts

(5) If a company is an unlisted widely-held trust not resident in New Zealand and a shareholder cannot obtain sufficient information to calculate the available subscribed capital per share under the ordering rule,—

(a) the share is treated as if it were issued under subsection (4) on terms that the slice rule applies; and

(b) the available subscribed capital under the slice rule is—

(i) the amount paid for the issue of the share, if subparagraph (ii) does not apply; or

(ii) the value of the money or property in which a beneficial interest would have vested in the shareholder had the share not been issued, if the share is a taxable bonus issue under paragraph (d) of the definition of the term.

Overriding anti-avoidance rule

(6) Neither subsection (2) nor (4) excludes an amount paid by a company on cancellation of a share from being a dividend if any part of the payment is in lieu of the payment of a dividend.

Factors relevant in applying anti-avoidance rule

(7) For the purposes of applying subsection (6), the following factors must be considered:

(a) the nature and amount of dividends paid by the company before or after the cancellation; and

(b) the issue of shares in the company after the cancellation; and

(c) the expressed purpose or purposes of the cancellation; and

(d) any other relevant factor.

Commissioner notifying view

(8) If no part of a payment on cancellation of a share is in lieu of the payment of a dividend, the Commissioner may give notice to the company that subsection (6) does not apply to the cancellation.

Some definitions

(9) In this section,—

counted associate means—

(a) a person associated with the shareholder other than merely by virtue of being a relative; or

(b) a spouse, civil union partner or de facto partner, or minor child of the shareholder, or a trustee of a trust under which a spouse, civil union partner or de facto partner, or minor child of the shareholder has benefited or is eligible to benefit

fifteen percent capital reduction means the circumstance in which the total amount paid by the company on account of the cancellation (or on account of any other pro rata cancellation of participating shares in the company occurring at the same time) is at least 15% of the market value of all participating shares in the company at the time the company first gave notice to shareholders of the cancellation

fifteen percent interest reduction means the circumstance in which, immediately after and as a result of the cancellation (together with any other cancellation of participating shares in the company occurring at the same time),—

(a) the total direct voting interests in the company of the shareholder and any counted associates is 85% or less of their total direct voting interests in the company immediately before the cancellation; and

(b) if at the time of the cancellation a market value circumstance exists, the total direct market value interests in the company of the shareholder and any counted associates is 85% or less of their total direct market value interests immediately before the cancellation

non-participating redeemable share means a share that meets the following conditions

(a) the share is issued, under the company's constitution or establishing legislation, on terms that involve the share being required or allowed to be redeemed or repaid before the company is liquidated; and

(b) the share is—

(i) a redeemable share under section 68 of the Companies Act 1993 or an equivalent provision of foreign law; or

(ii) issued under 1 of New Zealand's Acts relating to co-operative companies; or

(iii) subject to sections FA 2 (Recharacterisation of certain debentures) and FZ 1 (Treatment of interest payable under debentures issued before certain date) or section FA 2B(2) (Stapled debt securities); or

(iv) a unit in a unit trust that is not a widely-held trust; and

(c) the share is either a fixed-rate share or a share for which the amount payable on cancellation is no more than the available subscribed capital per share calculated under the slice rule; and

(d) the shareholder does not have shareholder decision-making rights in relation to the share except—

(i) a protective right; or

(ii) if the company is subject to 1 of New Zealand's Acts relating to co-operative companies

participating share means a share that is not a non-participating redeemable share

protective right means a shareholder decision-making right that—

(a) arises only if the shareholder's position may be altered to the shareholder's detriment or if the company defaults on its obligations under the terms of the share; and

(b) is granted to the shareholder only to assist the shareholder to prevent the alteration or to remedy the default; and

(c) when the share is issued is not expected to arise

ten percent capital reduction means the circumstance in which the total amount paid by the company on account of the cancellation, or paid on account of any other pro rata cancellation of participating shares in the company occurring at the same time, is at least 10% of the market value of all participating shares in the company at the time the company first gave notice to shareholders of the cancellation

unlisted trust means a unit trust or group investment fund, the units or interests in which are not quoted on the official list of a recognised exchange.

Defined in this Act: amount, associated person, available subscribed capital, cancellation, Commissioner, company, co-operative company, counted associate, direct market value interest, direct voting interest, dividend, fifteen percent capital reduction, fifteen percent interest reduction, fixed-rate share, group investment fund, liquidation, market value circumstance, New Zealand, non-participating redeemable share, notice, off-market cancellation, ordering rule, participating share, pay, pro rata cancellation, protective right, recognised exchange, relative, resident in New Zealand, share, shareholder, shareholder decision-making right, slice rule, taxable bonus issue, ten percent capital reduction, trustee, unit trust, unlisted trust, unlisted widely-held trust, widely-held trust

Compare: 2004 No 35 s CD 14

Section CD 22(9) **counted associate** paragraph (b): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 15(1)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 22(9) **non-participating redeemable share** paragraph (b)(iii): amended (with effect on 1 April 2008), on 6 October 2009, by section 15(1)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 23 Ordering rule and slice rule

Ordering rule

(1) Under the **ordering rule**, the available subscribed capital per share is calculated for a share using the formula—

available subscribed capital of class ÷ shares being cancelled of class.

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **available subscribed capital of class** is the available subscribed capital, of all shares of the same class as the share, at the relevant time for the calculation:

(b) **shares being cancelled of class** is the number of shares of the same class as the share, including the share, being cancelled at the time.

Slice rule

(3) Under the **slice rule**, the available subscribed capital per share is calculated for a share using the formula—

available subscribed capital of class ÷ shares of class.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **available subscribed capital of class** is the available subscribed capital, of all shares of the same class as the share, at the relevant time for the calculation:

(b) **shares of class** is the number of shares of the same class as the share, including the share, on issue at the time.

Amount when foreign company information inadequate

(5) Despite subsections (2) to (4), the available subscribed capital per share calculated under the ordering rule is zero if—

(a) the company is not resident in New Zealand; and

(b) the relevant shareholder cannot obtain sufficient information to calculate the actual available subscribed capital per share using the relevant rule.

Defined in this Act: available subscribed capital, cancellation, foreign company, ordering rule, resident in New Zealand, share, shareholder, shares of the same class, slice rule

Compare: 2004 No 35 s CD 15

CD 23B Returns of capital: shares repurchased under profit distribution plans

When this section applies

(1) This section applies when a company has issued a share to a shareholder under a profit distribution plan and the shareholder exercises the option to have the share repurchased by the company.

Amount paid

(2) The amount paid by the company to repurchase the share is not a dividend.

Defined in this Act: amount, company, dividend, pay, profit distribution plan, share, shareholder

Section CD 23B: inserted (with effect on 1 October 2012), on 2 November 2012, by section 9 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

CD 24 Returns of capital: on-market share cancellations

Companies acquiring own shares

(1) An amount paid by a company in acquiring any of its shares in an on-market cancellation is not a dividend.

When excess amount relevant

(2) Despite subsection (1), any excess of the amount paid over the available subscribed capital per share calculated under the ordering rule—

(a) is treated as a dividend and not a return of capital when applying—

(i) section CD 40:

(ii) section CD 43(2)(c):

(iii) section GA 1(4) (Commissioner's power to adjust); and

(b) gives rise to an imputation credit account debit under section OB 42 (ICA on-market cancellation).

Defined in this Act: amount, available subscribed capital, company, dividend, imputation credit account, on-market cancellation, ordering rule, pay, share

Compare: 2004 No 35 s CD 16

Section CD 24(2)(a)(i): amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 28(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

CD 25 Treasury stock acquisitions

Treasury stock generally

(1) An amount paid by a company in acquiring any of its shares is not a dividend if—

(a) the shares acquired by the company are held by the company in itself, including shares acquired by the company as the result of the application of section CE 6 (Trusts are nominees) and, in the case of shares acquired other than as the result of the application of section CE 6, section 67A(1) of the Companies Act 1993 or section 24 of the Co-operative

Companies Act 1996 apply to provide that the shares are not deemed to be cancelled; and

(b) the acquisition is not part of a pro rata cancellation or something that is in substance a pro rata cancellation.

Reversion to on-market cancellation treatment

(2) Subsections (4) to (6) apply in the case of an acquisition of a share to which subsection (1) or section CD 17(1) of the Income Tax Act 2004 or section CF 3(1)(d) or (da) of the Income Tax Act 1994 applies if,—

(a) before the first anniversary of the acquisition, the company cancels the share; or

(b) at the first anniversary, the company has failed to transfer a share of the same class in an arm's length transfer and has failed to allocate a share or right to a share, of the same class to an employee share scheme beneficiary under an employee share scheme, except if the company is established under New Zealand co-operative company legislation; or

(c) after the first anniversary, the company, which is established under New Zealand co-operative company legislation, cancels the share.

Requirement for arm's length transfers

(3) When subsection (2)(b) is applied,—

(a) a transfer is arm's length only if it is—

(i) to a person not associated with the company; or

(ii) in a transaction that occurs on a recognised exchange, through a broker or some other agent independent of the company, and that is not preceded by any arrangement between the transferee and the company for the transfer; and

(b) each arm's length transfer of a share is taken into account only in relation to a single share acquisition to which subsection (1) has applied.

Reduction of available subscribed capital

(4) If subsection (2) applies, then, with effect from the cancellation or the first anniversary, depending on which first causes subsection (2) to apply, the available subscribed capital of the class of the share is reduced by the lesser of—

(a) the amount paid to the shareholder on the acquisition; and

(b) the available subscribed capital per share calculated under the ordering rule and, in the case of the first anniversary, calculated as if the share and any other shares to which this subsection applies on that date were cancelled on that date.

Imputation credit account debit

(5) If subsection (2) applies, then, with effect from the date of the acquisition by the company, section OB 42 (ICA on-market cancellation) applies as if the

original acquisition were an on-market cancellation but item "ASC per share excess" of the formula in section OB 42 were equal to only the excess of the amount received by the shareholder over the reduction described in subsection (4).

Relief from imputation penalty tax

(6) No imputation penalty tax is imposed under section 140B of the Tax Administration Act 1994 (nor any late payment penalty imposed under that Act in relation to the imputation penalty tax) if it would not have arisen had subsection (5) applied only with effect from the date of cancellation or first anniversary, depending on which first causes subsection (2) to apply.

Employee share schemes

(7) For the purposes of subsection (2), if the company has, before the first anniversary, allocated a share or right to a share to an employee share scheme beneficiary under an employee share scheme but subsequently the allocation is cancelled, the shares acquired under subsection (1) by the company are treated as acquired by the company on the date of cancellation for the amount the company paid for their acquisition under subsection (1).

Defined in this Act: agent, amount, arrangement, associated person, available subscribed capital, cancellation, company, co-operative company, dividend, employee share scheme, employee share scheme beneficiary, imputation credit account, imputation penalty tax, New Zealand, on-market cancellation, ordering rule, pay, pro rata cancellation, recognised exchange, share, shareholder

Compare: 2004 No 35 s CD 17

Section CD 25(1)(a): replaced, on 29 September 2018, by section 11(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 25(2)(b): replaced, on 29 September 2018, by section 11(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 25(4): substituted (with effect on 1 April 2008), on 6 October 2009, by section 16(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 25(7) heading: inserted, on 29 September 2018, by section 11(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 25(7): inserted, on 29 September 2018, by section 11(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 25 list of defined terms **employee share scheme**: inserted, on 29 September 2018, by section 11(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 25 list of defined terms **employee share scheme beneficiary**: inserted, on 29 September 2018, by section 11(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CD 26 Capital distributions on liquidation or emigration

When this section applies

(1) This section applies when a shareholder—

(a) is paid an amount in relation to a share on the liquidation of the company:

(b) is treated under section FL 2 or FL 3 (which relate to the treatment of emigrating companies and their shareholders) as being paid an amount in relation to a share in the company.

Return of subscribed capital or capital gains

(2) The amount paid is a dividend only to the extent to which it is more than—

(a) the available subscribed capital per share calculated under the ordering rule; and

(b) the available capital distribution amount calculated under section CD 44.

Statutory producer board capital levies

(3) If the company is a statutory producer board, the amount is not a dividend to the extent to which it is a return of a levy charged specifically for capital development.

Non-deductible capital

(4) An amount that is not a dividend as a result of subsection (3) is nevertheless treated as a return of capital for the purposes of the capital limitation.

Defined in this Act: amount, available capital distribution amount, available subscribed capital, capital limitation, company, dividend, emigrating company, levy, liquidation, ordering rule, pay, share, shareholder, statutory producer board

Compare: 2004 No 35 s CD 18

Section CD 26(1)(b): amended (with effect on 30 August 2022), on 31 March 2023, by section 13 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CD 27 Property made available intra-group

When this section applies

(1) This section applies when—

(a) a transfer of company value is made by a company (the **first company**) to another company (the **associated company**); and

(b) in the absence of this section, the transfer would be a dividend under section CD 6(1)(a)(ii) because the associated company is associated with a shareholder in the first company.

Intra-group property arrangements worth $10,000 or less

(2) The transfer of company value is not a dividend if—

(a) the transfer consists of making property available for less than market value; and

(b) the transfer is not a loan; and

(c) in the income year of the first company in which the transfer occurs, the total amount of transfers of company value by the first company to the

associated company that would be dividends for the year in the absence of this section, is $10,000 or less.

Downward transfers of company value

(3) The transfer of company value is also not a dividend if—

(a) either—

(i) the first company has a voting interest in the associated company; or

(ii) the first company is associated with a company (the **parent company**) that has a voting interest in the associated company and that could have received the transfer of company value without the transfer being assessable income or non-resident passive income; and

(b) the associated company does not have a voting interest in the first company; and

(c) no person, other than the parent company, has both—

(i) a voting interest or, if there is a market value circumstance in relation to either the first company or the associated company, a market value interest in the first company; and

(ii) a voting interest or, if there is a market value circumstance in relation to either the first company or the associated company, a market value interest in the associated company, of more than 10%.

Relationship with section FA 3

(4) Subsection (3) does not apply to a transfer of company value that is subject to section FA 3 (Recharacterisation of certain dividends: recovery of cost of shares held on revenue account).

Rules for identifying voting interests

(5) For the purposes of subsection (3)(a) and (b),—

(a) for the purposes of determining if a company has a voting interest in another company, the look-through rule in section YC 4 (Look-through rule for corporate shareholders) does not apply to treat the initial company's voting interest as held by its shareholders or anyone else; and

(b) a zero voting interest is not a voting interest.

Rules for identifying voting and market value interests

(6) For the purposes of subsection (3)(c),—

(a) for the purposes of determining the extent to which a person, other than the parent company, has a voting interest or market value interest in the first company or the associated company, the look-through rule in section YC 4 does not apply to treat the person's voting interest or

market value interest as held by the person's shareholders or anyone else unless the person treated as holder is the parent company; and

(b) for the purposes of determining the extent to which a person, other than the parent company, has a voting interest or market value interest of more than 10% in the associated company, the look-through rule in section YC 4 does not apply to treat a voting interest or market value interest of the first company or the parent company in the associated company as held by their respective shareholders or anyone else; and

(c) a zero voting interest is not a voting interest and a zero market value interest is not a market value interest.

Defined in this Act: amount, assessable income, associated person, company, dividend, income year, loan, market value circumstance, market value interest, non-resident passive income, shareholder, tax year, transfer of company value, trustee, voting interest

Compare: 2004 No 35 s CD 19

Section CD 27(1)(a): amended, on 23 March 2020, by section 91(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27(1)(b): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 17(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 27(2): amended, on 23 March 2020, by section 91(2)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27(2)(c): amended, on 23 March 2020, by section 91(2)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27(3) heading: amended, on 23 March 2020, by section 91(3)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27(3): amended, on 23 March 2020, by section 91(3)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27(3)(a)(ii): substituted (with effect on 30 June 2009), on 6 October 2009, by section 17(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 27(3)(a)(ii): amended, on 23 March 2020, by section 91(3)(c) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27(4): amended, on 23 March 2020, by section 91(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 17(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 27 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 91(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 27 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 91(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CD 28 Transfers of certain excepted financial arrangements within wholly-owned groups

When section ED 2 (Transfers of certain excepted financial arrangements within wholly-owned groups) applies to a transfer of an excepted financial

arrangement within a wholly-owned group of companies, the transfer does not give rise to a dividend.

Defined in this Act: dividend, excepted financial arrangement, wholly-owned group of companies

Compare: 2004 No 35 s CD 20

CD 29 Non-taxable bonus issues

A non-taxable bonus issue is not a dividend.

Defined in this Act: dividend, non-taxable bonus issue

Compare: 2004 No 35 s CD 21

CD 29B Issues to shareholders of rights to subscribe for or sell back shares

Issue of rights to subscribe for shares

(1) The issue by a company to a shareholder of a right to subscribe for a share, or to sell or otherwise dispose of a share in the company to the company, is not a dividend.

Issue of shares under rights to subscribe for shares

(2) The issue by a company of a share to a person for consideration less than the market value, immediately before the issue, of a share in the same class of shares, is not a dividend if—

(a) the person subscribes for the share under a right (a **subscription right**) issued by the company to a shareholder holding shares before the issue of the right; and

(b) the company does not, as part of the issue of the subscription right, give the person a right to dispose of the share to the company.

Premiums from issue of rights to subscribe for shares

(3) A distribution by a company to a shareholder is not a dividend if—

(a) the company issues to the shareholder a right (the **shareholder right**) to subscribe for, or dispose of to the company, a share in the company at a given price (the **shareholder price**); and

(b) the shareholder fails or is ineligible to exercise the shareholder right; and

(c) another person pays to the company an amount—

(i) for the shareholder right:

(ii) greater than the shareholder price, for the issue of a share under the shareholder right; and

(d) the distribution is from the amount of the payment that does not increase the company's available subscribed capital.

Defined in this Act: available subscribed capital, bonus issue in lieu, company, consideration, dividend, pay, share, shareholder

Section CD 29B: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 17 July 2013, by section 8(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CD 29B(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CD 29C Transfers to shareholders by ASX-listed Australian company of shares in subsidiary

A transfer of company value is not a dividend to the extent to which it is a transfer of value that is not a dividend under section ED 2B(7) (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary).

Defined in this Act: dividend, transfer of company value

Section CD 29C: replaced (with effect on 1 April 2016), on 18 March 2019, by section 131(1) (and see section 131(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CD 29C: amended, on 23 March 2020, by section 92(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 29C list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 92(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 29C list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 92(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CD 30 Transfer by unit trust of legal interest after beneficial interest vests

If money or property of a unit trust is a dividend under section CD 9 for a unit holder, a transfer to the unit holder of the legal interest in the money or property is not a dividend.

Defined in this Act: dividend, unit holder, unit trust

Compare: 2004 No 35 s CD 21B

CD 31 Flat-owning companies

Occupation rights

(1) If a flat-owning company makes residential property available to a person, that is not a dividend.

Meaning of flat-owning company

(2) In this section, **flat-owning company** means a company—

(a) whose constitution provides that every registered shareholder is entitled to the use of a specific residential property in New Zealand owned by the company; and

(b) whose only significant assets are residential properties available for use by specific shareholders and funds reserved for meeting the company's costs.

Defined in this Act: company, dividend, flat-owning company, New Zealand, shareholder

Compare: 2004 No 35 s CD 22

CD 32 Employee benefits

FBT rules

(1) A benefit provided to an employee is not a dividend if—

(a) it is a fringe benefit subject to fringe benefit tax; or

(b) it would be a fringe benefit subject to fringe benefit tax if an election had not been made under section CX 17(4B) (Benefits provided to employees who are shareholders or investors).

Board

(2) An amount that is employment income under section CE 1B (General rule: accommodation provided by employers) is not a dividend.

Defined in this Act: amount, dividend, employee, employment income, FBT rules, fringe benefit, fringe benefit tax

Compare: 2004 No 35 s CD 23

Section CD 32(1): replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 65(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CD 32(2): amended, on 1 April 2015, by section 12 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CD 32 list of defined terms **employee**: inserted (applying for the 2017–18 and later income years), on 1 April 2017, by section 65(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

CD 33 Payments corresponding to notional distributions of producer boards and co-operative companies

Statutory producer board payments

(1) An amount paid by a statutory producer board to a person in relation to an income year is not a dividend if—

(a) the person was a member of the board at some time during the income year; and

(b) unless the Commissioner allows otherwise, the amount is calculated on the basis of the member's share of—

(i) the total produce transactions of members with the board during the income year; or

(ii) the total levies payable by members to the board for the income year; and

(c) the amount corresponds to a notional distribution amount treated as a dividend under section CD 13(1).

Co-operative company payments

(2) An amount paid by a co-operative company to a person in relation to an income year is not a dividend if—

(a) the person was a shareholder of the company at some time during the income year; and

(b) the amount is calculated on the basis of the shareholder's share of the total produce transactions of shareholders with the company during the income year; and

(c) the amount corresponds to a notional distribution amount treated as a dividend under section CD 13(3).

Non-deductible capital

(3) An amount that is not a dividend as a result of this section is nevertheless treated as a return of capital for the purposes of the capital limitation.

Defined in this Act: amount, capital limitation, Commissioner, co-operative company, dividend, income year, levy, member, pay, produce transactions, producer board, shareholder, statutory producer board

Compare: 2004 No 35 s CD 24

CD 34 Distribution to member of co-operative company based on member's transactions

[Repealed]

Section CD 34: repealed (with effect on 1 April 2010), on 7 September 2010, by section 8 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CD 34B Distributions to members of co-operative companies

What this section applies to

(1) This section applies to a distribution by a co-operative company, or by a company (a **subsidiary**) in which the co-operative company has a voting interest of 100%, if—

(a) the distribution is made after the co-operative company has notified the Commissioner that they have elected to apply this section; and

(b) the election has not been revoked.

Exclusion

(1B) Despite subsection (1), this section does not apply to a distribution to which section CZ 41 (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) applies.

General rule: co-operative company distributions not dividends

(2) If the requirements in subsection (4) are met, a distribution by a co-operative company, or by a subsidiary, to a member of the co-operative company is not a dividend, to the extent to which the distribution is for their—

(a) transaction shares:

(b) projected transactions shareholding:

(c) limited non-transaction shares.

Exception: distributions for excess shareholdings

(3) Subsection (2)(c) is ignored,—

(a) for a distribution to a member, if the member holds shares in the co-operative company that—

(i) are not transaction shares, are not their projected transactions shareholding, and are not limited non-transaction shares; and

(ii) may entitle members to enter trading transactions:

(b) for all distributions to all members, if the constitution of the co-operative company permits any member to hold shares that—

(i) are not transaction shares, are not their projected transaction shareholding, and are not limited non-transaction shares; and

(ii) may entitle members to enter trading transactions.

Requirements

(4) For the purposes of subsection (2), the requirements are—

(a) the co-operative company is resident in New Zealand for the period to which the distribution relates; and

(b) the company making the distribution is resident in New Zealand for the period to which the distribution relates; and

(c) the co-operative company believes on reasonable grounds that the member at the time of the distribution—

(i) is resident in New Zealand:

(ii) has a fixed establishment in New Zealand.

Meaning of transaction shares

(5) In this section, **transaction shares** means the number of shares in the co-operative company that the member holds for trading transactions that occurred in the period to which the distribution relates. The number of shares must determine the value of the trading transactions.

Meaning of limited non-transaction shares

(6) In this section, **limited non-transaction shares** means the member's shares that are not the member's transaction shares or their projected transactions shareholding, and that may entitle the member to enter trading transactions, if the number of those shares is less than or equal to the greater of the following:

(a) 20% of the member's transaction shares on the date of entitlement for the distribution under section 125 of the Companies Act 1993:

(b) 20% of the member's projected transactions shareholding on the date of entitlement for the distribution under section 125 of that Act.

Meaning of projected transactions shareholding

(7) In this section, **projected transactions shareholding** means the number of shares in the co-operative company that the member would have had to hold if the trading transactions actually had occurred that the member had projected, using reasonable assumptions, would occur in the period to which the distribution relates. The number of shares must determine the value of the trading transactions.

Meaning of trading transactions

(8) In this section, **trading transactions** means transactions between the member and the co-operative company or subsidiary that are—

(a) the disposal and acquisition of trading stock of the vendor that is not intangible property; and

(b) not subject to section CB 2 (Amounts received on disposal of business assets that include trading stock).

Companies Act 1993

(9) The 20 working day rule for fixing a date in section 125(2) of the Companies Act 1993 does not apply to members' entitlements to receive distributions that are for transaction shares, projected transaction shareholdings, limited non-transaction shares, or shares described in subsection (3), if—

(a) the co-operative company or the subsidiary, as the case may be, has given a copy of the election described in subsection (1) to the Registrar of Companies before the relevant distributions are paid; and

(b) for the purposes of section 125(1) of the Companies Act 1993, the co-operative company or the subsidiary, as the case may be, fixes a date in relation to members' entitlements to receive distributions before the entitlements arise, and that date is within the year or period to which the distributions relate.

Defined in this Act: Commissioner, company, co-operative company, dividend, limited non-transaction shares, notify, projected transaction shareholding, resident in New Zealand, share, trading stock, trading transactions, transaction shares

Section CD 34B: inserted (with effect on 1 April 2010), on 7 September 2010, by section 9 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CD 34B(1)(a): replaced, on 2 June 2016, by section 7(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CD 34B(1B) heading: inserted (with effect on 1 July 2022), on 28 March 2024, by section 14 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CD 34B(1B): inserted (with effect on 1 July 2022), on 28 March 2024, by section 14 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CD 34B(8)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 34B list of defined terms **notify**: inserted, on 2 June 2016, by section 7(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

CD 35 Resident's restricted amalgamations

An amount derived by an amalgamated company on a resident's restricted amalgamation from an amalgamating company that ends its existence on the amalgamation is not a dividend if it arises from—

(a) the amalgamated company acquiring property of the amalgamating company; or

(b) the amalgamated company being relieved of an obligation owed to the amalgamating company.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, dividend, resident's restricted amalgamation

Compare: 2004 No 35 s CD 25

CD 36 Foreign investment fund income

Amount not dividend

(1) An amount paid by a company to a person is not a dividend if,—

(a) at the time the person derives the amount, the person's interest in the company is an attributing interest, or would have been if the company had not been liquidated; and

(b) the person calculates their foreign investment fund (FIF) income or loss in relation to the interest and the period in which the amount is paid under—

(i) the comparative value method:

(ii) the deemed rate of return method:

(iii) the cost method:

(iv) the fair dividend rate method; and

(c) *[Repealed]*

(d) the amount is excluded income under section CX 57B (Amounts derived during periods covered by calculation methods).

Exclusion for interests in FIFs resident in Australia

(2) Subsection (1)(b)(iv) does not apply if the person's interest in the company is included, at the beginning of the income year in which the payment is made, in a direct income interest of 10% or more in a FIF that, at the beginning of the income year,—

(a) meets the requirements of section EX 35(b)(i) to (iii) (Exemption for interest in FIF resident in Australia); and

(b) does not have its liability for income tax reduced by an exemption, allowance, or relief referred to in section EX 35(c)(i) or (ii); and

(c) is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company.

Application of rule for certain managed funds

(3) Subsection (2) does not apply if—

(a) the person is a portfolio investment entity, an entity eligible to be a portfolio investment entity, or a life insurance company; and

(b) the FIF is a foreign PIE equivalent.

Distribution by Australian unit trust of funds from attributing interest in a foreign investment fund

(4) An amount paid by a CFC to a person (the **CFC distribution**) is not a dividend—

(a) if the CFC—

(i) is a unit trust that is not subject under Australian law to income tax on its income in the same way as a company; and

(ii) has an interest in a foreign investment fund (the **FIF**); and

(b) if the interest of the CFC in the FIF is an attributing interest of the person (the **indirect FIF interest**) that meets the requirements of section EX 59(1) in all the time that the interest is an attributing interest of the person or of an associated person; and

(c) to the extent to which the CFC distribution is funded directly or indirectly from the indirect FIF interest.

Defined in this Act: amount, attributing interest, company, comparative value method, cost method, deemed rate of return method, direct income interest, dividend, excluded income, fair dividend rate method, FIF income, foreign investment fund, foreign PIE equivalent, income year, life insurance, liquidation, loss, pay, portfolio investment entity

Compare: 2004 No 35 s CD 26

Section CD 36(1) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 19(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36(1)(b): substituted, on 1 April 2008, by section 315(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CD 36(1)(b)(iv): amended, on 29 March 2018, by section 13(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 36(1)(c): repealed (with effect on 1 April 2008), on 6 October 2009, by section 19(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36(1)(d): inserted, on 29 March 2018, by section 13(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 36(2) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 5(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CD 36(2): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 5(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CD 36(2)(b): amended (with effect on 1 July 2014), on 31 March 2023, by section 14(1)(a) (and see section 14(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 36(2)(c): inserted (with effect on 1 July 2014), on 31 March 2023, by section 14(1)(b) (and see section 14(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 36(3) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 19(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36(3): added (with effect on 1 April 2008), on 6 October 2009, by section 19(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36(3)(b): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 19(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36(4) heading: inserted, on 1 April 2023, by section 14(2) (and see section 14(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 36(4): inserted, on 1 April 2023, by section 14(2) (and see section 14(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 36 list of defined terms **direct income interest**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 19(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36 list of defined terms **excluded income**: inserted, on 29 March 2018, by section 13(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 36 list of defined terms **foreign investment vehicle**: repealed, on 1 April 2010, by section 19(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36 list of defined terms **foreign PIE equivalent**: inserted, on 1 April 2010, by section 19(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36 list of defined terms **grey list company**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 5(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CD 36 list of defined terms **income year**: inserted, on 1 April 2008, by section 315(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CD 36 list of defined terms **life insurance**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 19(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 36 list of defined terms **portfolio investment entity**: added (with effect on 1 April 2008), on 6 October 2009, by section 19(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 36B Foreign superannuation withdrawals and pensions from foreign superannuation scheme

An amount paid to a person by a company that is a foreign superannuation scheme is not a dividend if the person derives the amount as a—

(a) foreign superannuation withdrawal:

(b) pension.

Defined in this Act: company, dividend, foreign superannuation withdrawal

Section CD 36B: inserted, on 1 April 2014, by section 6 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CD 37 Maori authority distributions

A Maori authority distribution is not a dividend except for the purposes of section CW 10 (Dividend within New Zealand wholly-owned group).

Defined in this Act: dividend, Maori authority, wholly-owned group

Compare: 2004 No 35 s HI 4(2)

Calculation rules

CD 38 General calculation rule for transfers of company value

Difference in value

(1) The amount of a dividend that is a transfer of company value from a company to a person is calculated using the formula—

value from company − value from person.

Definition of items in formula

(2) In the formula,—

(a) **value from company** is the market value of the money or money's worth that the company provides to the person:

(b) **value from person**—

(i) is the market value of the money or money's worth, if any, that the person provides to the company as consideration for the transfer. To the extent to which the person provides a loan that is cross-border related borrowing under section GC 6(3B) (Purpose and application of rules and nature of arrangements), the market value of the money or money's worth that the person provides is determined using the interest rate for a loan made on the same terms, including credit rating, as used for the adjustment to the interest made in accordance with sections GC 6 to GC 18 (which relate to transfer pricing arrangements), if any; and

(ii) excludes any amount that is attributable merely to the holding or giving up of rights as a shareholder in the company.

Relationship with sections CD 39 to CD 42

(3) This section is overridden by sections CD 39 to CD 42.

Defined in this Act: amount, company, dividend, shareholder, transfer of company value

Compare: 2004 No 35 s CD 27

Section CD 38 heading: amended, on 23 March 2020, by section 93(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 38(1): amended, on 23 March 2020, by section 93(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 38(2)(b)(i): replaced, on 1 April 2022, by section 52(1) (and see section 52(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 38 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 93(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CD 38 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 93(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CD 39 Calculation of amount of dividend when property made available

How this section applies

(1) This section applies to determine the amount of a dividend that arises under section CD 3 because a company makes property available to a person.

Amounts calculated quarterly

(2) The amount of the dividend is calculated for each quarter during which the property is made available.

Date when amounts treated as paid

(3) The amount of the dividend calculated for a quarter is treated as being paid by the company to the person and as being derived by the person 6 months after the end of the company's income year. However, if the company gives notice to the shareholder on an earlier date of the amount of the dividend for that quarter, the amount is treated as being paid and derived on that earlier date instead.

Using FBT rules

(4) Unless the property made available is a loan, the amount of the dividend for each quarter is the value of the fringe benefit for that quarter calculated under the fringe benefit tax (FBT) rules as if—

(a) making the property available were the provision of a fringe benefit by the company to an employee in relation to employment, despite anything in sections CX 6 to CX 38 (which relate to fringe benefits); and

(b) the company were not to choose to pay fringe benefit tax on an income year basis under section RD 60 (Close company option).

Using difference from benchmark rate

(5) If the property made available is a loan, the amount of the dividend for each quarter is the excess, if any, of interest, calculated for the quarter on the basis of the daily balance of the loan and the benchmark rate specified in subsections (6) to (8), over the actual amount of interest accruing on the loan in the quarter. However, the company may choose instead to calculate the dividend as the excess of the benchmark interest rate amount over the amount of income

accruing to the company in the quarter calculated under the yield to maturity method.

Benchmark rate: fringe benefit tax rate for certain loans

(6) For the purposes of subsection (5), the benchmark rate of interest is the prescribed rate of interest if—

(a) all amounts payable to the company for the loan are expressed in New Zealand dollars; and

(b) either the borrower is not a company or, if the borrower is another company, the company making the loan notifies the Commissioner that this subsection is to apply to the loan and the quarter.

Setting benchmark rate

(7) For the purposes of subsection (5), the benchmark rate is the rate set by the Commissioner if—

(a) all amounts payable to the company in relation to the loan are payable in a single currency other than New Zealand dollars; and

(b) the Commissioner has set a benchmark rate for that currency and the quarter; and

(c) either the borrower is not a company or, if the borrower is another company, the company making the loan notifies the Commissioner that this subsection is to apply to the loan and the quarter.

Default benchmark rate

(8) For the purposes of subsection (5), if neither subsection (6) nor (7) applies, the benchmark rate of interest is a market rate determined at the end of the quarter for a loan made on the same terms between persons at arm's length.

Daily loan balance: certain repayments backdated

(9) For the purposes of subsection (5), in determining the daily balance of a loan during a tax year, an amount repaid during the tax year is treated as having been applied in repayment of the loan at the start of the company's tax year or, if later, the day the loan was made, if—

(a) the amount is repaid by applying any salary, wages, extra pay, dividends, or interest payable by the company to the borrower; and

(b) the amount payable by the company is income of the borrower in the tax year or an earlier tax year; and

(c) the amount payable by the company is—

(i) payable without any amount of tax being withheld and paid under the PAYE rules, the RWT rules, or the NRWT rules:

(ii) a fully imputed dividend.

Daily loan balance: company nominating amount

(10) Subject to subsection (9), for the purposes of subsection (5), the daily balance of the loan for a tax year is treated as being equal to the notional balance chosen under subsection (11) by the company making the loan if—

(a) the borrower is a company; and

(b) the loan is a variable principal debt instrument; and

(c) the company making the loan notifies the Commissioner that this subsection applies for the loan and the tax year; and

(d) the amount of the dividend calculated as a result for the loan, the borrower, and the tax year is no more than 30% greater or less than the amount that would be calculated if this section did not apply.

Notional balance options

(11) The notional balance referred to in subsection (10) is whichever of the following is chosen by the company making the loan and notified to the Commissioner:

(a) the average of the outstanding balances of the loan at the end of each month in the company's tax year:

(b) the average of—

(i) the outstanding balance of the loan at the start of the tax year or the first time during the tax year at which the loan exists, whichever is later; and

(ii) the outstanding balance of the loan at the end of the tax year or the last time during the tax year at which the loan exists, whichever is earlier.

Notice generally by tax returns

(12) Reference in this section to a company notifying the Commissioner is a reference to—

(a) a notice given to the Commissioner with the company's return of income for the relevant tax year; or

(b) if no return is required, a notice given by the date on which a return would be required to be filed for the tax year if a return had been required.

Attributed repatriation dividends

[Repealed]

(13) *[Repealed]*

When loan disregarded

[Repealed]

(14) *[Repealed]*

Defined in this Act: accounting period, amount, amount of tax, CFC, Commissioner, company, dividend, employee, extra pay, FBT rules, fringe benefit, fringe benefit tax, fully imputed, income, income year, interest, loan, New Zealand, notice, notify, NRWT rules, pay, PAYE rules, prescribed rate of interest, quarter, return of income, RWT rules, shareholder, tax year, variable principal debt instrument

Compare: 2004 No 35 s CD 28

Section CD 39(9)(c): replaced (with effect on 1 April 2008), on 30 March 2017, by section 20(1) (and see section 20(3)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 39(9)(c)(ii): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 14(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 39(13) heading: repealed, on 24 February 2016, pursuant to section 74(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 39(13): repealed, on 24 February 2016, by section 74(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 39(14) heading: repealed, on 24 February 2016, pursuant to section 74(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 39(14): repealed, on 24 February 2016, by section 74(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 39 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 74(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 39 list of defined terms **fully-imputed dividend**: repealed, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 14(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 39 list of defined terms **fully imputed**: inserted, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 14(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 39 list of defined terms **New Zealand repatriation amount**: repealed, on 24 February 2016, by section 74(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CD 40 Adjustment if dividend recovered by company

When dividends recovered

(1) If a company recovers a dividend from a shareholder under section 56 of the Companies Act 1993 or an equivalent provision of foreign law, this section applies to the extent necessary to ensure that—

(a) the recovered dividend and any attached imputation credit are disregarded for the purposes of this Act; and

(b) the resulting refunds are made.

Amendment of assessments

(2) Section 113B of the Tax Administration Act 1994 requires the Commissioner, if given notice of the recovery of the dividend from a shareholder, to amend an assessment of the company or the shareholder in relation to income tax, or under the imputation rules, the NRWT rules, the RWT rules, or under subpart LP (Tax credits for supplementary dividends), as applicable.

Refunds

(3) If the Commissioner has been notified of the recovery and has amended an assessment as described in subsection (2), the Commissioner must refund any relevant—

(a) income tax of the shareholder; and

(b) non-resident withholding tax (NRWT) or resident withholding tax (RWT) of the company.

Relationship with subpart RM

(4) The refund is made despite sections RM 2 to RM 5 (which relate to refunds of excess tax) and RM 18 to RM 21 (which relate to limits on refunds), but subject to the other provisions of this Act.

Adjustments to accounts

(5) If the Commissioner has been notified of the recovery and has amended an assessment as described in subsection (2), a credit or debit (as applicable) arises as at the date of recovery, and must be recorded in—

(a) the imputation credit account of the company; or

(b) if the shareholder is an imputation credit account (ICA) company, the imputation credit account of the shareholder.

Defined in this Act: assessment, Commissioner, company, dividend, ICA company, imputation credit, imputation credit account, imputation rules, income tax, notice, notify, NRWT, NRWT rules, RWT, RWT rules, shareholder

Compare: 2004 No 35 s CD 29

Section CD 40(1)(a): amended, on 1 April 2017, by section 21(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 13(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CD 40(2): amended, on 1 April 2017, by section 21(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40(3): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 13(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CD 40(3)(a): replaced, on 1 April 2017, by section 21(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40(4): amended (with effect on 1 April 2013), on 17 July 2013, by section 9 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CD 40(5): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 13(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CD 40(5)(b): replaced, on 1 April 2017, by section 21(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40 list of defined terms **FDP**: repealed, on 1 April 2017, by section 21(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 21(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 21(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40 list of defined terms **FDP penalty tax**: repealed, on 1 April 2017, by section 21(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40 list of defined terms **FDP rules**: repealed, on 1 April 2017, by section 21(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40 list of defined terms **FDPA company**: repealed, on 1 April 2017, by section 21(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 40 list of defined terms **imputation rules**: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 13(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CD 40 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CD 40 list of defined terms **NRWT rules**: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 13(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CD 40 list of defined terms **RWT rules**: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 13(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CD 41 Adjustment if amount repaid later

When released debt repaid

(1) If the release by a company of a shareholder's obligation to pay money to the company has been treated as a dividend and the released amount is later repaid to the company, this section applies to the extent necessary to ensure that—

(a) the dividend is disregarded for the purposes of this Act; and

(b) the resulting refunds are made.

When close company expenditure repaid

(2) If any expenditure of a close company that shareholders in the company believed on reasonable grounds was only for the benefit of the company is nevertheless a dividend and the expenditure is later repaid to the company, this section applies to the extent necessary to ensure that—

(a) the dividend is disregarded for the purposes of this Act; and

(b) the resulting refunds are made.

Amendment of assessments

(3) Section 113B of the Tax Administration Act 1994 requires the Commissioner to amend assessments if given notice of the repayment.

Refunds

(4) If the Commissioner is given notice of the repayment, the Commissioner must refund any relevant tax of the shareholder.

Relationship with sections RM 2 to RM 5

(5) The refund is made despite sections RM 2 to RM 5 (which relate to refunds of excess tax), but subject to the other provisions of this Act.

Repayment of pre-1992 loans

(6) Subsection (1) also applies to the repayment of an amount treated as a dividend under section 4(1)(b) of the Income Tax Act 1976 (as it applied before 1 April 1992 to give the Commissioner a discretion to treat loans as dividends), as if the amount repaid were a released amount that is repaid.

Defined in this Act: amount, assessment, close company, Commissioner, company, dividend, notice, pay, shareholder, tax

Compare: 2004 No 35 s CD 30

Section CD 41(5) heading: amended (with effect on 1 April 2013), on 17 July 2013, by section 10(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CD 41(5): amended (with effect on 1 April 2013), on 17 July 2013, by section 10(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

CD 42 Adjustment if additional consideration paid

Differences from market value

(1) If a dividend from a company arises because of a difference between the market value of property provided by or to the company and the consideration paid for it, the dividend is disregarded for the purposes of this Act if the conditions in subsections (2) to (4) are met.

Market value

(2) The consideration paid must have been an amount that the company considered was the market value, having taken reasonable steps at the time of the transaction to ascertain a market value.

Difference paid

(3) The recipient of the dividend must have later paid to the company—

(a) sufficient additional consideration to reflect the actual market value of the property at the time of the transaction; or

(b) a refund of any excess consideration paid by the company.

Accounts adjusted

(4) Any necessary adjustments must have been made to the accounts of the company and the recipient for the additional consideration or refund.

Defined in this Act: amount, company, dividend, pay

Compare: 2004 No 35 s CD 31

CD 43 Available subscribed capital (ASC) amount

Formula for calculating amount of available subscribed capital

(1) For a share (the **share**) in a company at any relevant time (the **calculation time**), the amount of **available subscribed capital** is calculated using the formula—

1 July 1994 balance + subscriptions − returns − look-through company returns.

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **1 July 1994 balance** is,—

(i) if the company existed before 1 July 1994, the amount calculated under subsection (3); and

(ii) in any other case, zero:

(b) **subscriptions**, subject to subsections (6) to (21), is the total amount of consideration that the company received, after 30 June 1994 and before the calculation time, for the issue of shares of the same class (the **class**) as the share, ignoring section HB 1 (Look-through companies are transparent), and including consideration for the issue of shares by the company as a result of the application of section CE 6 (Trusts are nominees):

(c) **returns**, subject to subsections (22) to (25), is the total amount of consideration that the company paid, after 30 June 1994 and before the calculation time, on the cancellation of shares in the relevant class and that was not a dividend because of section CD 22, CD 23B, or CD 24 or a corresponding provision of an earlier Act:

(d) **look-through company returns** is the total amount of consideration that the company paid, before the calculation time, on the cancellation or buyback of shares in the relevant class while the company was a look-through company, ignoring section HB 1.

1 July 1994 balance

(3) The 1 July 1994 balance is calculated using the formula—

((paid-up capital + premiums) ÷ all shares issued) × 30 June 1994 shares.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **paid-up capital**, subject to subsection (5) relating to bonus issues, is the total amount of capital paid up before 1 July 1994 for shares in the class:

(b) **premiums** is the total amount of qualifying share premium paid to the company before 1 July 1994 for shares in the class, but not including amounts applied before 1 July 1994 in paying up capital:

(c) **all shares issued** is the number of shares in the class ever issued at the end of 30 June 1994:

(d) **30 June 1994 shares** is the number of shares in the class on issue at the end of 30 June 1994.

1 July 1994 balance: bonus issues after 30 September 1988

(5) The capital amount included in calculating the 1 July 1994 amount does not include an amount paid up by way of a bonus issue made after 30 September 1988, unless—

(a) the bonus issue was a taxable bonus issue; or

(b) the amount was paid up by application of an amount of qualifying share premium.

Subscriptions amount: taxable bonus issues and debt capitalisations

(6) The subscriptions amount includes,—

(a) in the case of a bonus issue in lieu, the amount offered as an alternative to the bonus issue; and

(ab) in the case of a share issued under a profit distribution plan, the amount offered by the company for the repurchase of the share; and

(b) in the case of a taxable bonus issue that is not a bonus issue in lieu or a share issued under a profit distribution plan, the amount of the dividend arising from the taxable bonus issue; and

(c) in the case of shares issued on conversion of, or as consideration for the release of, a debt claim against the company, the amount of debt converted or released.

When subsection (6D) applies

(6B) Subsection (6D) applies for a company (the **calculation company**) for which the calculation in subsection (1) is being performed if—

(a) section EW 46C(1)(a) or (b) (Consideration when debt remitted within economic group) applies to a creditor and debtor that are in the same wholly-owned group of companies as the calculation company; and

(b) *[Repealed]*

(c) section EW 46C(3) does not apply; and

(d) the calculation company is the debtor, or the calculation company holds, before section YC 4 (Look-through rule for corporate shareholders) is applied to the calculation company, voting interests or, if a market value

exists for a company that is part of the wholly-owned group of companies, market value interests, in the debtor.

When subsection (6D) applies

(6C) Subsection (6D) also applies if section EW 46C(1)(c) applies to a creditor or single creditor group under that section, and the company for which the calculation in subsection (1) is being performed (the **calculation company**)—

(a) is the creditor's debtor, to whom section EW 46C(1)(c) applies:

(b) has, before the application of section YC 4, either voting interests in the creditor's debtor, to whom section EW 46C(1)(c) applies, or market value interests in the creditor's debtor, to whom section EW 46C(1)(c) applies, if a market value circumstance exists for the debtor.

Subscriptions amount: debt remitted within economic group

(6D) For the calculation company, the subscriptions amount is treated as including the amount of debt to which section EW 46C(5) applies for the creditor, for the class of shares that the creditor has the most voting interests for, or, if the creditor is the single creditor group under section EW 46C(1)(c), for the class of shares for which a member has the most voting interests. The maximum subscriptions amount included for an amount of debt for a calculation company is—

(a) if the calculation company is the debtor, the amount of debt:

(b) if the calculation company is not the debtor, the amount of debt multiplied by 1 of the following interests, determined before the application of section YC 4:

(i) the calculation company's voting interests in the creditor's debtor; or

(ii) the calculation company's market value interest in the creditor's debtor, if there is a market value circumstance.

Subscriptions amount increase: employee share scheme

(6E) Unless subsection (6F) applies, when the company is part of an employee share scheme, the subscriptions amount includes, in addition to any amount under subsection (2)(b), the following amounts:

(a) if the company has a deduction under section DV 27(6) (Employee share schemes) (the **employer company**) for the employee share scheme and employee, then the subscriptions amount includes the positive amount calculated using the formula in subsection (6G), and the subscriptions amount is—

(i) for shares of the same class as the shares issued under the employee share scheme by the employer company; or

(ii) if the employer company does not issue shares under the employee share scheme, for shares of the class most similar to the shares issued under the employee share scheme:

(b) the subscriptions amount for shares of the same class as the shares issued by the company under the employee share scheme (the **issuer company**) includes the amount of the employer company's deduction under section DV 27(6) for the employee share scheme and employee, if,—

(i) the issuer company is not the employer company; and

(ii) the company is a member of a wholly-owned group of companies of which the employer company is a member; and

(iii) before the application of section YC 4 (Look-through rule for corporate shareholders), no member of the wholly-owned group has a voting interest in the issuer company.

Exception to subsection (6E) by election

(6F) Subsection (6E) does not apply if—

(a) the shares issued under the employee share scheme are issued for market value or a reasonable estimate of market value; and

(b) the company elects to apply this subsection.

Formula: employer companies

(6G) For the purposes of subsection (6E)(a), the amount is calculated using the formula—

subscription amount − consideration paid.

Definition of items in formula

(6H) In the formula in subsection (6G),—

(a) **subscription amount** is the amount of the company's deduction under section DV 27(6) for the employee share scheme and employee:

(b) **consideration paid** is the amount of consideration paid by the company to another company that is a member of the same wholly-owned group of companies (the **payee company**) for the issue of the shares to the employee under the employee share scheme.

Employer companies' negative amounts

(6I) If the amount calculated using the formula in subsection (6G) is negative, then the absolute value of the amount is subtracted from the company's subscriptions amount for the issue of shares of the class most similar to the shares issued under the employee share scheme.

Formula: employer companies' negative amounts

(6J) If the amount calculated using the formula in subsection (6G) is negative, then a positive amount calculated using the formula in this subsection is a dividend paid by the company to the payee company—

formula amount − ASC.

Definition of items in formula

(6K) In the formula in subsection (6J),—

(a) **formula amount** is the absolute value of the amount calculated using the formula in subsection (6G):

(b) **ASC** is the amount of available subscribed capital under this section, before the application of subsection (6I), for shares of the class most similar to the shares issued under the employee share scheme.

Subscriptions amount: exclusions for bonus issues

(7) The subscriptions amount does not include—

(a) an amount for a bonus issue if none of subsection (6)(a), (ab), or (b) applies:

(ab) an amount for an imputation credit attached to the dividend arising from a taxable bonus issue if subsection (6)(b) applies:

(b) an amount for a taxable bonus issue made to a shareholder to whom the bonus issue was exempt income under section CW 9 (Dividend derived by company from overseas) or CW 10 (Dividend within New Zealand wholly-owned group), or under a corresponding repealed provision, except to the extent to which the taxable bonus issue is fully credited.

Subscriptions amount: reinvested exempt dividends

(8) The subscriptions amount does not include—

(a) an amount received by the company that is mainly attributable, directly or indirectly, to the company paying a dividend to a shareholder,—

(i) if the dividend was exempt income of the shareholder under section CW 9 or CW 10, or a corresponding provision of an earlier Act; and

(ii) *[Repealed]*

(iii) to the extent to which the dividend is not fully credited; or

(b) an amount received by the company if the amount is mainly attributable, directly or indirectly, to the payment by the company of a dividend to a controlled foreign company at a time when the company is also a controlled foreign company, regardless of whether either company is a grey list company or non-attributing Australian CFC.

Subscriptions amount: share-for-share exchanges

(9) Subsection (10) applies if—

(a) the company receives an amount, directly or indirectly, for the issue of shares in the class that is in the form of shares in another company; and

(b) immediately after the issue there are 1 or more persons whose common voting interests (or common market value interests), as measured in section IC 3(3) to (5) (Common ownership: group of companies), in the company and the other company total 10% or greater; and

(c) the receipt is not on an amalgamation.

Subscriptions amount: no uplift for share-for-share exchanges

(10) If subsection (9) applies, the subscriptions amount does not include the amount received to the extent to which it is more than the total available subscribed capital per share, calculated under the slice rule and calculated after deducting any ineligible capital amount described in subsections (13) and (14) of the shares in the other company at the date on which the amount is received.

Subscriptions amount: company share capital reorganisation

(11) Subsection (12) applies if a company receives an amount for the issue of shares in the class in the form of—

(a) a shareholder giving up rights of membership in the company; or

(b) a shareholder giving up rights of membership in a company associated with the company or that is in substance the same company.

Subscriptions amount: no uplift for share capital reorganisation

(12) If subsection (11) applies, the subscriptions amount does not include the amount received to the extent to which it is more than the total available subscribed capital per share of the rights given up at the date they are given up, calculated—

(a) under the slice rule; and

(b) after deducting any ineligible capital amount described in subsections (13) and (14); and

(c) as if the rights given up were shares, if they are not shares.

Subscriptions amount: when ineligible capital arises

(13) For the purposes of subsections (10) and (12), an ineligible capital amount arises if—

(a) a company (the **acquiring company**) issues shares in consideration for acquiring, directly or indirectly, shares in another company (the **acquired company**); and

(b) the acquired company has issued shares in anticipation of the shares being acquired by the acquiring company; and

(c) those shares issued in anticipation are not a fully credited taxable bonus issue; and

(d) the acquiring company pays an amount in consideration for acquiring the shares in the acquired company in addition to issuing shares in the acquiring company.

Subscriptions amount: amount of ineligible capital

(14) The ineligible capital amount is the lesser of—

(a) the total of the available subscribed capital per share calculated under the slice rule of the shares in the acquired company that is attributable to the shares issued in anticipation, except to the extent to which the shares issued in anticipation are a fully credited taxable bonus issue; and

(b) the total additional amount paid by the acquiring company referred to in subsection (13)(d).

Subscriptions amount: amalgamated company

(15) The subscriptions amount for a company that is an amalgamated company resulting from an amalgamation—

(a) includes an amount, as if it were consideration received at the time of the amalgamation for the issue of the amalgamated company's shares, equal to the available subscribed capital, at the time of the amalgamation, of all shares in the amalgamating companies that are—

(i) of an equivalent class to the class; and

(ii) not held directly or indirectly by an amalgamating company; and

(iii) not shares in the amalgamated company:

(b) does not include any other amount for the agreement of shareholders of an amalgamating company to the amalgamation and the resulting property acquisitions by the amalgamated company.

Subscriptions amount: emigrating company

(16) If a company has been treated under section FL 2 or FL 3 (which relate to the treatment of emigrating companies and their shareholders) as paying a distribution to shareholders, the subscriptions amount includes the amount of the distribution that is a dividend.

Subscriptions amount: Maori authority

(17) If the company is a Maori authority, the subscriptions amount includes the taxable income derived by the Maori authority in the 2003–04 tax year or an earlier tax year.

Subscriptions amount: no double counting

(18) The subscriptions amount does not include amounts included in calculating the 1 July 1994 balance.

Subscriptions amount: treasury stock disposals excluded

(19) The subscriptions amount does not include the amount of consideration received by a company for disposing of a share if the disposal is taken into account under section CD 25 to determine that the amount paid by the company on a previous share acquisition is not subject to section CD 25(4) to (6).

Subscriptions amount: superannuation fund's interest in GIF

(20) The subscriptions amount of a company that is a group investment fund includes the value of the interest of a superannuation fund in the group investment fund at the end of 31 March 1999.

Subscriptions amount exclusion: employee share scheme

(20B) The subscriptions amount does not include an amount of consideration that the company received for the issue of shares, if the payer of the consideration for the issue of shares is a member of the same wholly-owned group of companies as the company, and the company has, before the application of section YC 4 to the company, voting interests in the payer.

1 July 1994 and subscriptions amount: foreign currency conversions

(21) If an amount of consideration that a company receives for the issue of shares is payable in a foreign currency, the amount paid is treated, for the purposes of this section, as if it were converted into New Zealand currency at the calculation time.

Returns amount: on-market cancellations by associate

(22) If the acquisition of a share by an associate of the company is within the meaning of an acquisition under paragraph (d) of the definition of **on-market cancellation**, it is treated in the same way for the purposes of calculating the returns amount.

Returns amount: recovered amounts

(23) The returns amount does not include any amount recovered by the company before the calculation time under section 56 of the Companies Act 1993 or an equivalent provision of foreign law.

Returns amount: shares cancelled on amalgamation

(24) If shares in an amalgamated company held by an amalgamating company are cancelled on the amalgamation, the returns amount included in calculating the available subscribed capital amount of a share in the amalgamated company that is of the same class as the cancelled shares is increased by the amount calculated using the formula—

cancelled shares × asc per share.

Definition of items in formula

(25) In the formula in subsection (24),—

(a) **cancelled shares** is the number of cancelled shares:

(b) **asc per share** is the available subscribed capital per share calculated under the slice rule of each cancelled share immediately before the amalgamation.

Meaning of fully credited

(26) In this section, the part of a dividend that is **fully credited** is the part that is calculated using the formula—

dividend excluding credits × actual ratio ÷ maximum ratio.

Definition of items in formula

(27) In the formula in subsection (26),—

(a) **dividend excluding credits** is the dividend excluding any attached imputation credit:

(b) **actual ratio** is the imputation ratio of the dividend (section OZ 13 (Fully credited dividends: modifying actual ratio) may apply to modify this paragraph):

(c) **maximum ratio** is the maximum imputation ratio specified in section OA 18 (Calculation of maximum permitted ratios).

Meaning of qualifying share premium

(28) In this section, **qualifying share premium** means an amount of premium paid to a company for the issue of a share by the company if—

(a) the amount was credited to a share premium account in the company's books; and

(b) the issue of shares was not in consideration for the acquisition, directly or indirectly, of shares in another company.

Subscriptions amount decrease: employee share scheme

(29) An amount equal to the amount of the company's income under section CV 20 (Employee share schemes) or equal to the amount of income under section CV 20 for another company in the same wholly-owned group of companies, as the case may be, is subtracted from the subscriptions amount—

(a) for shares of the same class as the shares issued under the employee share scheme by the company; or

(b) if the company does not issue shares under the employee share scheme, for shares of the class most similar to the shares issued under the employee share scheme.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, associated person, available subscribed capital, bonus issue, bonus issue in lieu, cancellation, common market value interest, common voting interest, company, consideration, controlled foreign company, deduction, dividend, employee, employee share scheme, exempt income, fully credited, grey list company, group investment fund, imputation credit, imputation ratio, look-through company, market value circumstance, market value interest, Maori authority, New Zealand, non-attributing Australian CFC, non-resident company, on-market cancellation, pay, profit distribution plan, qualifying share premium, share, shareholder, shares of the same class, slice rule, superannuation fund, tax year, taxable bonus issue, taxable income, voting interest, wholly-owned group of companies

Compare: 2004 No 35 s CD 32

Section CD 43(1) formula: amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 29(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CD 43(2)(b): amended, on 30 March 2021, by section 16 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CD 43(2)(b): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 29(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CD 43(2)(c): amended (with effect on 1 April 2008), on 29 March 2025, by section 11(1) (and see section 11(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CD 43(2)(c): amended (with effect on 1 October 2012), on 2 November 2012, by section 10(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CD 43(2)(c): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 29(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CD 43(2)(d): added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 29(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CD 43(6)(ab): inserted (with effect on 1 October 2012), on 2 November 2012, by section 10(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CD 43(6)(b): amended (with effect on 1 October 2012), on 2 November 2012, by section 10(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CD 43(6B) heading: inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(1) (and see section 22(10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(6B): inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(1) (and see section 22(10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(6B)(a): amended (with effect on 1 April 2008), on 30 March 2022, by section 53(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 43(6B)(b): repealed (with effect on 30 March 2017), on 30 March 2022, by section 53(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 43(6C) heading: inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(1) (and see section 22(10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(6C): inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(1) (and see section 22(10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(6D) heading: inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(1) (and see section 22(10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(6D) heading: amended (with effect on 1 April 2008), on 30 March 2022, by section 53(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 43(6D): inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(1) (and see section 22(10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(6E) heading: inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6E): inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6F) heading: inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6F): inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6G) heading: inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6G): inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6H) heading: inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6H): inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6I) heading: inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6I): inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6J) heading: inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6J): inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6K) heading: inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(6K): inserted, on 29 September 2018, by section 15(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(7) heading: replaced, on 30 March 2017, by section 22(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(7)(a): amended, on 30 March 2017, by section 22(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(7)(a): amended (with effect on 1 October 2012), on 2 November 2012, by section 10(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CD 43(7)(ab): inserted, on 30 March 2017, by section 22(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(8)(a)(ii): repealed, on 1 April 2017, by section 22(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(8)(b): substituted (with effect on 30 June 2009), on 6 October 2009, by section 20(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 43(9)(b): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 10(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CD 43(16): amended (with effect on 30 August 2022), on 31 March 2023, by section 15 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CD 43(19) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 43(20B) heading: inserted, on 29 September 2018, by section 15(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(20B): inserted, on 29 September 2018, by section 15(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(27)(a): amended, on 1 April 2017, by section 22(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(27)(b): replaced, on 1 April 2017, by section 22(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43(29) heading: inserted, on 29 September 2018, by section 15(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43(29): inserted, on 29 September 2018, by section 15(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43 list of defined terms **consideration**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 20(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 43 list of defined terms **deduction**: inserted, on 29 September 2018, by section 15(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43 list of defined terms **employee**: inserted, on 29 September 2018, by section 15(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43 list of defined terms **employee share scheme**: inserted, on 29 September 2018, by section 15(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 43 list of defined terms **FDP**: repealed, on 1 April 2017, by section 22(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 22(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43 list of defined terms **FDP ratio**: repealed, on 1 April 2017, by section 22(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43 list of defined terms **look-through company**: inserted, on 1 April 2011, by section 29(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CD 43 list of defined terms **market value circumstance**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43 list of defined terms **market value interest**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43 list of defined terms **non-attributing Australian CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 20(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 43 list of defined terms **non-resident company**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43 list of defined terms **profit distribution plan**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 10(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CD 43 list of defined terms **voting interest**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 22(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 43 list of defined terms **wholly-owned group of companies**: inserted, on 29 September 2018, by section 15(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CD 44 Available capital distribution amount

Formula for calculating amount of available capital distribution

(1) For a share (the **share**) on the liquidation of the company, the **available capital distribution amount** is calculated using the formula—

$$(\text{receipt} - \text{asc per share}) \times (\text{capital gains} + (\text{capital property distributed} - \text{cost}) - \text{capital losses}) \div (\text{total receipts} - \text{total asc}).$$

Definition of items in formula

(2) In the formula,—

(a) **receipt** is the amount received by the shareholder on the liquidation for the share:

(b) **asc per share** is the available subscribed capital per share calculated under the ordering rule for the share at the time of the liquidation:

(c) **capital gains** is the total of the capital gain amounts available for distribution to shareholders in the company on the liquidation, but excluding any gain occurring when the company distributes property to a shareholder on the liquidation:

(d) **capital property distributed** is the total market value of capital property of the company distributed to shareholders on the liquidation:

(e) **cost** is the total cost to the company of the capital property included in the **capital property distributed** item:

(f) **capital losses** is the total of capital loss amounts of the company arising in the 1992–93 tax year or a later tax year, but excluding any loss occurring when the company distributes property to shareholders on the liquidation:

(g) **total receipts** is the total of all amounts received by shareholders on the liquidation:

(h) **total asc** is the total of the available subscribed capital of all shares in the company at the time of the liquidation.

Positive amounts

(3) Despite subsection (1), the available capital distribution amount per share is zero if either multiplier in the formula is negative.

When foreign company information inadequate

(4) Despite subsection (1), the available capital distribution amount is zero if—

(a) the company is not resident in New Zealand; and

(b) the shareholder cannot obtain sufficient information to calculate the actual available capital distribution amount.

Capital gain amount: bonus issued capital gains

(5) A capital gain amount is treated as still being available for distribution to the extent to which—

(a) it has been applied to pay up a bonus issue made after 30 September 1988; and

(b) the bonus issue is a non-taxable bonus issue; and

(c) the bonus issued share is still on issue at the time of the company's liquidation.

This subsection is overridden by subsection (6).

Capital gain amount: capital gains after 31 March 1988 and before 1992–93

(6) A capital gain amount, derived after 31 March 1988 and before the 1992–93 tax year, is not available for distribution to the extent to which a capital loss amount has arisen for the company in the tax year in which the capital gain amount was derived or in a later tax year before the 1992–93 tax year. Capital loss amounts are offset against capital gain amounts in the chronological order in which each arose and, to the extent offset, are then disregarded for the purposes of this subsection.

Capital gain amount: when capital gain amounts arise

(7) For the purposes of this section, a company derives a capital gain amount if,—

(a) after 31 March 1988, it disposes of capital property for an amount of consideration that is more than the cost of the property to the company, including a disposal that the company is treated as making under section DB 26 (Amount from profit-making undertaking or scheme and not already in income) or DB 27 (Amount from major development or division and not already in income); the capital gain amount is the excess; or

(b) after 31 March 1988, it receives a capital gain, including a gift, and no part is assessable income of the company; the capital gain amount is the amount of the capital gain; or

(c) an amount is derived by the company from another company on liquidation of the other company that is excluded from being a dividend as a result of section CD 26(2)(b) and this section; or

(d) an amount is derived by the company that is attributable to a revaluation of livestock in the 1992–93 tax year or a later tax year under section 86D of the Income Tax Act 1976 or section EC 16 (Valuation under herd scheme) or EC 20 (Herd livestock disposed of before values determined); or

(db) an amount is derived by the company that is attributable to the difference between the consideration for disposal or acquisition of livestock and the value of that livestock under section EC 4C (Value and timing of transfers); or

(dc) an amount is derived by the company that is subject to section HC 38(3) (Beneficiary income of certain close companies), in which case the capital gain amount is this amount less the tax paid by the trustee in respect of the amount under section HC 24 (Trustees' obligations); or

(e) the amount is described in section CZ 9(1) (Available capital distribution amount: 1965 and 1985–1992).

Disposal of shares received in a share-for-share exchange

(7B) A company that sells or transfers to a person that is not associated, for consideration, shares that are capital property, and the shares were received by the company in a share-for-share exchange to which section CD 43(9) and (10) (Available subscribed capital (ASC) amount) apply, has a capital gain amount, in addition to any other capital gain amount, equal to the subscriptions amount not included, because of the application of section CD 43(10), for the relevant issue of the company's shares in the share-for-share exchange.

Capital gain amount: amalgamated company inheriting gain

(8) An amalgamated company is treated as deriving a capital gain amount at the time of the amalgamation equal to a capital gain amount of an amalgamating company to the extent to which—

(a) the amalgamating company ends its existence on the amalgamation; and

(b) the amalgamating company's capital gain amount was available for distribution at the time and was not distributed to anyone other than the amalgamated company.

Capital gain amount: consideration when debt remitted within economic group

(8B) The amount of a debt to which section EW 46C (Consideration when debt remitted within economic group) applies does not give rise to a capital gain amount if section CD 43(6D) does not apply to it.

Capital gain amount: FIF income calculated using fair dividend rate or cost methods

(8C) A company derives a capital gain amount for the purposes of this section in relation to an attributing interest in a FIF for which the company uses the fair dividend rate method or the cost method to calculate their FIF income for a period. The capital gain amount is an amount equal to the greater of—

(a) the total amount of dividends and gains on disposal derived from the interest in the period that is excluded income under section CX 57B (Amounts derived during periods covered by calculation methods) reduced by the total amount of FIF income the company has from that interest for the same period; and

(b) zero.

Gains on disposal

(8D) For the purposes of subsection (8C)(a), a gain on disposal is the difference between the consideration on disposal of the interest and the cost of acquisition of the interest.

When capital losses arise

(9) For the purposes of this section, a company incurs a capital loss if it disposes of capital property for an amount of consideration that is less than—

(a) for property that is a building for which no depreciation loss arises under section EE 48(2) and (3) (Effect of disposal or event), the adjusted tax value of the property at the date of disposal, if the property is an item of depreciable property; or

(b) the cost of the property to the company at the date of disposal, if the property is not an item of depreciable property.

Capital loss amount

(9BA) The capital loss amount for a disposal referred to in subsection (9) is equal to the deficit referred to in that subsection for the disposal.

Capital losses amount: herd scheme

(9B) For the purposes of this section, a company incurs a capital loss if it incurs a loss that is attributable to the difference between the consideration for disposal or acquisition of livestock and the value of that livestock under section EC 4C.

Capital losses amount: company existing before 1 April 1988

(10) In the case of a company that existed before 1 April 1988, the capital losses amount cannot be more than the total of—

(a) the amount of the **capital gains** item in the formula in subsection (1) to the extent derived after 31 March 1988; and

(b) the amount of the **capital property distributed** item, minus the amount of the **cost** item, in the formula.

Company common interest transactions

(10B) An amount derived or incurred by a company (**company A**) on disposing of property (the **property**) to another company (**company B**) is not a capital gain amount or a capital loss amount if—

(a) at the time of the disposal, a group of persons holds, for companies A and B,—

(i) common voting interests that add up to at least 85%; and

(ii) if a market value circumstance exists for company A or company B, common market value interests that add up to at least 85%; and

(b) on the liquidation of company A, the aggregate total given by applying the formula in subsection (10C) for all companies that own part of the property (**owning companies**) is 85% or more.

Formula

(10C) For the purposes of subsection (10B)(b), for an owning company, the formula is—

commonality interest × ownership interest.

Definition of items in formula

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

(a) **commonality interest** is, if the owning company is company A, 100%, or, if the owning company is not company A, the percentage of common holding by a group of persons, for the owning company and company A, of—

(i) common voting interests; or

(ii) if a market value circumstance exists for the owning company or company A, common market value interests, if they are greater than the common voting interests:

(b) **ownership interest** is the percentage ownership of the property, by market value, for the owning company.

Relationship between subsections

(10E) Subsection (10B) is overridden by subsection (7)(c).

Related person transactions

[Repealed]

(11) *[Repealed]*

Close companies liquidations

[Repealed]

(12) *[Repealed]*

Reinvested exempt dividends

(13) When a capital gain amount, a capital loss amount, or the cost of capital property is determined, the cost of any shares subscribed for by the company in another company does not include any consideration for the subscribed shares that is excluded from the available subscribed capital of the other company under section CD 43(7)(b) or (8).

Amounts written up

(14) When a capital gain amount, a capital loss amount, or the cost of capital property is determined, the cost of the relevant capital property is increased to the extent to which—

(a) the value of the property is written up in the company's books; and

(b) because it was attributed to the write-up,—

(i) an amount paid before 11 June 1965 is treated as described in section CZ 9(2)(a); or

(ii) an issue of a share before 1 April 1988 is treated as described in section CZ 9(2)(b).

Relationship with section CZ 9B

[Repealed]

(14B) *[Repealed]*

Meaning of related person

[Repealed]

(15) *[Repealed]*

Look-through relatives and nominees

[Repealed]

(16) *[Repealed]*

Look-through interposed companies

[Repealed]

(17) *[Repealed]*

Meaning of capital property

(18) In this section, **capital property** means property of the company that is not revenue account property, and includes an attributing interest in a FIF for which income is calculated using either the fair dividend rate method or the cost method.

Defined in this Act: adjusted tax value, amalgamated company, amalgamating company, amalgamation, amount, assessable income, attributing interest, available capital distribution amount, available subscribed capital, bonus issue, capital property, close company, company, cost method, depreciable property, dividend, fair dividend rate method, FIF, FIF income, group of persons, income, liquidation, market value circumstance, market value interest, non-taxable bonus issue, ordering rule, pay,

relative, resident in New Zealand, revenue account property, share, shareholder, tax year, trustee, voting interest

Compare: 2004 No 35 s CD 33

Section CD 44(7)(b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 4(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CD 44(7)(db): inserted (with effect on 28 March 2012), on 24 February 2016, by section 75(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 44(7)(dc): replaced (with effect on 1 April 2024), on 29 March 2025, by section 12(1) (and see section 12(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CD 44(7B) heading: inserted, on 30 March 2022, by section 54(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 44(7B): inserted, on 30 March 2022, by section 54(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 44(8B) heading: inserted (with effect on 1 April 2008), on 30 March 2017, by section 23(1) (and see section 23(8)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(8B) heading: amended (with effect on 1 April 2008), on 30 March 2022, by section 54(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 44(8B): inserted (with effect on 1 April 2008), on 30 March 2017, by section 23(1) (and see section 23(8)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(8B): amended (with effect on 1 April 2008), on 30 March 2022, by section 54(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CD 44(8C) heading: inserted, on 29 March 2018, by section 16(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44(8C): inserted, on 29 March 2018, by section 16(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44(8D) heading: inserted, on 29 March 2018, by section 16(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44(8D): inserted, on 29 March 2018, by section 16(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44(9) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 23(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(9): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 23(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(9)(a): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 16(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44(9BA) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 23(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(9BA): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 23(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(9B) heading: inserted (with effect on 28 March 2012), on 24 February 2016, by section 75(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 44(9B): inserted (with effect on 28 March 2012), on 24 February 2016, by section 75(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CD 44(10B) heading: replaced, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10B): amended (with effect on 1 April 2010), on 30 March 2017, by section 23(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10B): replaced, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10C) heading: replaced, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10C): replaced, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10D) heading: inserted, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10D): inserted, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10E) heading: inserted, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(10E): inserted, on 30 March 2017, by section 23(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(11) heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), pursuant to section 21(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(11): repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 21(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(12) heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), pursuant to section 21(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(12): repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 21(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(14B) heading: repealed, on 30 March 2017 (applying for the 2008–09 and later income years), pursuant to section 23(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(14B): repealed, on 30 March 2017 (applying for the 2008–09 and later income years), by section 23(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44(15) heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), pursuant to section 21(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(15): repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 21(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(16) heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), pursuant to section 21(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(16): repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 21(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(17) heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), pursuant to section 21(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(17): repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 21(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44(18): amended, on 29 March 2018, by section 16(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44 list of defined terms **adjusted tax value**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 23(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44 list of defined terms **assessable income**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 4(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CD 44 list of defined terms **attributing interest**: inserted, on 29 March 2018, by section 16(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44 list of defined terms **cost method**: inserted, on 29 March 2018, by section 16(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44 list of defined terms **depreciable property**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 23(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44 list of defined terms **fair dividend rate method**: inserted, on 29 March 2018, by section 16(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44 list of defined terms **FIF**: inserted, on 29 March 2018, by section 16(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44 list of defined terms **FIF income**: inserted, on 29 March 2018, by section 16(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CD 44 list of defined terms **group of persons**: inserted, on 30 March 2017, by section 23(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44 list of defined terms **market value circumstance**: inserted, on 30 March 2017, by section 23(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44 list of defined terms **market value interest**: inserted, on 30 March 2017, by section 23(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 44 list of defined terms **related person**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 44 list of defined terms **voting interest**: inserted, on 30 March 2017, by section 23(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Attributed repatriation calculation rules

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 45 When does a person have attributed repatriation from a controlled foreign company?

[Repealed]

Section CD 45: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 46 New Zealand repatriation amount

[Repealed]

Section CD 46: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 47 New Zealand property amount

[Repealed]

Section CD 47: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 48 Cost of tangible property

[Repealed]

Section CD 48: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 49 Cost of associated party equity

[Repealed]

Section CD 49: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 50 Outstanding balances of financial arrangements

[Repealed]

Section CD 50: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 51 Property transfers between associated persons

[Repealed]

Section CD 51: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CD 52 Unrepatriated income balance

[Repealed]

Section CD 52: repealed (with effect on 30 June 2009), on 6 October 2009, by section 22(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Prevention of double taxation

CD 53 Prevention of double taxation of share cancellation dividends

When this section applies

(1) This section applies when—

(a) a person derives an amount from the cancellation of a share in a company; and

(b) the amount is income of the person under 1 of the following provisions (the **other rules**):

(i) section CB 1 (Amounts derived from business); or

(ii) section CB 3 (Profit-making undertaking or scheme); or

(iii) section CB 4 (Personal property acquired for purpose of disposal); or

(iv) section CB 5 (Business of dealing in personal property); or

(v) any other provision of this Act outside this subpart.

Treatment of amount

(2) For the purposes of the other rules, the amount derived by the person from the company is treated as if it were reduced, but not below zero, by the amount of any dividend derived by the person in relation to the cancellation, excluding any attached imputation credit.

Non-taxable dividends

(3) Subsection (2) does not apply to the extent to which the dividend is exempt income of the person under sections CW 9 and CW 10 (which relate to income from equity).

Subsection (3)(b): formula

[Repealed]

(4) *[Repealed]*

Definition of items in formula

[Repealed]

(5) *[Repealed]*

Relationship of dividend exclusions to other provisions

(6) Subject to subsection (2), the amount derived by the person from the company may be income of the person despite the fact that the amount is excluded from being a dividend by any of sections CD 22 to CD 27.

Relationship with section FA 3

(7) This section is overridden by section FA 3 (Recharacterisation of certain dividends: recovery of cost of shares held on revenue account).

Defined in this Act: amount, cancellation, company, dividend, exempt income, imputation credit, income, income tax, share, tax year

Compare: 2004 No 35 s CD 42

Section CD 53(2): amended, on 1 April 2017, by section 24 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CD 53(3) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 23(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 53(3): substituted (with effect on 30 June 2009), on 6 October 2009, by section 23(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 53(3): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 6(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CD 53(4) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 23(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 53(4): repealed (with effect on 30 June 2009), on 6 October 2009, by section 23(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 53(5) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 23(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 53(5): repealed (with effect on 30 June 2009), on 6 October 2009, by section 23(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 53(5)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CD 53(5)(b): amended, on 1 April 2008, by section 318 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CD 53 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 23(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CD 53 list of defined terms **FDP credit**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 23(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Returning share transfers

CD 54 Replacement payments

The amount of a replacement payment derived by a person under a returning share transfer is income of the person when it is paid to the person.

Defined in this Act: income, pay, replacement payment, returning share transfer

Compare: 2004 No 35 s CD 43

Subpart CE—Employee or contractor income

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Employment income

CE 1 Amounts derived in connection with employment

Income

(1) The following amounts derived by a person in connection with their employment or service are income of the person:

(a) salary or wages or an allowance, bonus, extra pay, or gratuity:

(b) expenditure on account of an employee that is expenditure on account of the person:

(bb) the value of accommodation referred to in sections CE 1B to CE 1E:

(c) *[Repealed]*

(d) a benefit received under an employee share scheme:

(e) directors' fees:

(f) compensation for loss of employment or service:

(g) any other benefit in money.

Benefit of accommodation

[Repealed]

(1B) *[Repealed]*

Unrepaid overpayments

(1C) A person who receives an amount that is an unrepaid PAYE income overpayment is treated as deriving the amount in connection with their employment or service—

(a) for the income year in which they receive the amount, if paragraph (b) does not apply; or

(b) on the payday for which the employment income information of the employer who paid the amount to the person includes an upwards adjustment for the amount under regulations made under section 23N of the Tax Administration Act 1994.

Repaid overpayments

(1D) An amount received by a person that is a PAYE-related overpayment is not income of the person to the extent to which—

(a) the amount has been repaid to the employer who paid the amount to the person:

(b) the amount is repayable to that employer by the person under an agreement between them and none of the following apply:

(i) the person breaches the agreement and does not remedy the breach within 2 months:

(ii) that employer considers that the person will not comply with the agreement in the future:

(c) the amount is recoverable under section 248 of the Accident Compensation Act 2001.

Meaning of accommodation

(2) For the purposes of this section, and sections CE 1B to CE 1E, CW 16B to CW 16F, CW 17CB, CW 19B, CZ 23, CZ 23B, CZ 29 to CZ 30, and FP 22 (which relate to accommodation provided in connection with employment), **accommodation**—

(a) includes—

(i) board or lodging:

(ii) the use of a house or living premises, or the use of part of a house or living premises, whether permanent or temporary:

(b) does not include—

(i) a berth, room, or other lodging provided on a mobile workplace, for example, a ship, a truck, an oil rig, or other similar workplace:

(ii) a station in Antarctica:

(iii) a room or lodging that is provided for a shift worker who is required in the performance of their employment duties periodically to sleep at their workplace when the accommodation is provided only for the duration of the performance of those duties, for example, fire-fighters, ambulance staff, care-givers, and other similar employees:

(iv) the use of a room or other dwelling provided at a remote location outside New Zealand when a person's employment duties require them to work at the location for a period and also require them to be absent from the location for a period, for example, miners in Australia who regularly fly to and from a mining camp and other similar employees.

Meaning of employer

(3) **Employer**,—

(a) in this section, in sections CE 1B, CW 16B to CW 16F, CZ 23B, CZ 29 to CZ 30, and FP 22 (which relate to accommodation provided in connection with employment), and in the definition of **employee**, paragraph (e), includes a person, whether resident or non-resident, who, in connection with the employment or service of an employee of the employer,—

(i) provides accommodation for the employee at a distant workplace; or

(ii) pays an amount for the employee's accommodation at a distant workplace:

(b) in sections CW 16B to CW 16F, CZ 23B, CZ 29 to CZ 30, and FP 22, includes a company that is part of the same group of companies as the employer.

Persons on shadow payrolls

(3B) For the treatment of PAYE income payments made to a cross-border employee who undertakes employment services in New Zealand, see section CE 1F.

Amendment of exclusions by Order in Council

(4) For the purposes of subsection (2), the Governor-General may by Order in Council make regulations to add to the types of accommodation that are excluded by paragraph (b) of the definition of **accommodation** from the rules relating to accommodation provided in connection with employment.

Application of Order in Council

(5) An Order in Council under subsection (4) may—

(a) come into force on a date that is not earlier than 1 April 2015:

(b) apply for income years that do not precede the 2015–16 income year.

Secondary legislation

(6) An Order in Council under subsection (4)—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); but

(b) commences in accordance with subsection (5), even if it is not yet published.

Defined in this Act: accommodation, amount, cross-border employee, employee share scheme, employer, employment income information, expenditure on account of an employee, extra pay, income, income year, New Zealand, non-resident, payday, PAYE income payment, PAYE-related overpayment, salary or wages, unrepaid PAYE income overpayment

Compare: 2004 No 35 s CE 1

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section CE 1(1) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 24(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CE 1(1)(bb): inserted, on 1 April 2015, by section 14(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(1)(c): repealed (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 30(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CE 1(1)(d): amended, on 29 September 2018, by section 17(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1(1B) heading: repealed, on 1 April 2015, pursuant to section 14(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(1B): repealed, on 1 April 2015, by section 14(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(1C) heading: inserted, on 1 April 2019, by section 132(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CE 1(1C): inserted, on 1 April 2019, by section 132(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CE 1(1D) heading: inserted, on 1 April 2019, by section 132(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CE 1(1D): inserted, on 1 April 2019, by section 132(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CE 1(2) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 24(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CE 1(2): replaced, on 1 April 2015, by section 14(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(2): amended, on 1 April 2025, by section 13(1)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CE 1(2): amended, on 1 April 2025, by section 13(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CE 1(2): amended (with effect on 8 January 2023), on 28 March 2024, by section 16(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CE 1(3) heading: inserted, on 1 April 2015, by section 14(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(3): inserted, on 1 April 2015, by section 14(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(3)(a): amended, on 1 April 2025, by section 13(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CE 1(3)(a): amended (with effect on 8 January 2023), on 28 March 2024, by section 16(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CE 1(3)(b): amended, on 1 April 2025, by section 13(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CE 1(3)(b): amended (with effect on 8 January 2023), on 28 March 2024, by section 16(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CE 1(3B) heading: inserted, on 1 April 2019, by section 17(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1(3B): replaced, on 1 April 2023, by section 16(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1(4) heading: inserted, on 1 April 2015, by section 14(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(4): inserted, on 1 April 2015, by section 14(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(5) heading: inserted, on 1 April 2015, by section 14(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(5): inserted, on 1 April 2015, by section 14(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1(6) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CE 1(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CE 1 list of defined terms **accommodation**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 24(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CE 1 list of defined terms **cross-border employee**: inserted, on 1 April 2023, by section 16(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1 list of defined terms **employee share scheme**: inserted, on 29 September 2018, by section 17(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1 list of defined terms **employer**: inserted, on 1 April 2019, by section 17(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 17(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1 list of defined terms **income year**: inserted, on 1 April 2019, by section 132(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CE 1 list of defined terms **New Zealand**: inserted, on 1 April 2019, by section 17(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1 list of defined terms **non-resident**: inserted, on 1 April 2019, by section 17(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1 list of defined terms **payday**: inserted, on 1 April 2019, by section 132(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CE 1 list of defined terms **PAYE income payment**: inserted, on 1 April 2019, by section 17(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1 list of defined terms **PAYE-related overpayment**: inserted, on 1 April 2019, by section 132(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CE 1 list of defined terms **share purchase agreement**: repealed, on 29 September 2018, by section 17(3)(c) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 1 list of defined terms **unrepaid PAYE income overpayment**: inserted, on 1 April 2019, by section 132(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CE 1B General rule: accommodation provided by employers

Value of accommodation

(1) The value of accommodation provided to a person is income of the person when it is provided in relation to their employment or service. The value is an amount equal to the market rental value of the accommodation.

Value of accommodation allowances

(2) The value of an accommodation allowance provided to a person is income of the person when it is provided in relation to their employment or service. The value is equal to the amount of the allowance paid to the person.

Payments and reimbursements

(3) An amount paid for or towards the provision of accommodation for a person, whether as expenditure on account of an employee or as a reimbursement, is income of the person when it is paid in relation to their employment or service.

Adjustments to values

(4) The value under subsection (1) may be adjusted as follows:

(a) when more than 1 person referred to in that subsection shares in the accommodation provided, the amount may be—

(i) apportioned equally among the number of persons referred to in that subsection who are sharing in the accommodation; or

(ii) if the persons referred to in that subsection who are sharing in the accommodation agree with the person providing the accommodation, apportioned on another reasonable basis:

(b) when the person to whom the accommodation is provided contributes towards their occupation of the accommodation, the amount may be reduced by the amount contributed:

(c) when the person to whom the accommodation is provided uses part of the accommodation wholly or mainly for work purposes related to their employment or service, the amount may be apportioned between business use and private use.

Adjustments: allowances and amounts paid

(5) Subsection (4)(b) and (c) may apply to adjust the value of an accommodation allowance or an amount paid for or towards the provision of accommodation under subsections (2) and (3).

Exceptions

(6) Sections CE 1C and CE 1E override this section.

Defined in this Act: accommodation, amount, business, employer, employment, expenditure on account of an employee, income, pay

Section CE 1B: inserted, on 1 April 2015, by section 15 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CE 1C Exception: overseas accommodation

Relevant local rental

(1) Despite section CE 1B, if accommodation is provided at or near a work location that is overseas, the value of the accommodation is an amount equal to the relevant market rental value of accommodation in New Zealand. The relevant market rental value is determined taking into account—

(a) the location where the person would be likely to work for their employer in New Zealand; and

(b) the equivalent accommodation in New Zealand that the person would be likely to occupy; and

(c) the average or median market rental value in the vicinity of the location referred to in paragraph (a).

Inclusion of allowances or payments

(1B) For the purposes of subsection (1), the provision of accommodation at or near an overseas work location includes an accommodation allowance or an amount paid for or towards the provision of the accommodation when the amount of the allowance or payment is—

(a) the actual cost to the employee for the accommodation; or

(b) a reasonable estimate of the expenditure that is likely to be incurred by the employee, or group of employees, for whom the amount is payable.

When overseas rental is less than New Zealand equivalent

(2) For the purposes of subsection (1), if the value of the accommodation in the overseas location is less than the New Zealand equivalent market rental value, the value that must be used is the value in the overseas location.

When location in New Zealand is uncertain

(3) For the purposes of subsection (1)(a), if the location where the person would be likely to work for their employer in New Zealand is uncertain, the relevant market rental value is taken as either the average market rental value or the median market rental value, as applicable, for the whole of New Zealand.

Defined in this Act: accommodation, amount, New Zealand

Section CE 1C: inserted, on 1 April 2015, by section 15 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1C(1): amended (with effect on 1 April 2015), on 24 February 2016, by section 76(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CE 1C(1B) heading: inserted (with effect on 1 April 2015), on 24 February 2016, by section 76(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CE 1C(1B): inserted (with effect on 1 April 2015), on 24 February 2016, by section 76(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CE 1D Exception: accommodation provided by Defence Force

When this section applies

(1) This section applies for the purposes of section CE 1B(1) when accommodation is provided to a person who is a member of the Defence Force by the Navy, Army, or Air Force, as those terms are defined in the Defence Act 1990.

Market rental value

(2) The market rental value of the accommodation is an amount equal to the lesser of—

(a) the market rental value for the accommodation; and

(b) the market rent payable for the national New Zealand Defence Force benchmark property for the type of accommodation provided to the person, less the discount applying to the type of accommodation.

National benchmark properties and discounts

(3) For the purposes of this section, the Commissioner and the Chief of the Defence Force, in consultation with a registered valuer, must determine—

(a) the number and location of national benchmark properties:

(b) the types of accommodation represented by the benchmark properties:

(c) a market rental value for each type of accommodation in the benchmark properties:

(d) a discount applying to each type of accommodation in the benchmark properties.

Three-yearly review

(4) A determination under subsection (3)(c) and (d) must be reviewed every 3 years. Either the Commissioner or the Chief of the Defence Force may instigate the review.

Defined in this Act: accommodation, amount, Commissioner, pay

Section CE 1D: inserted, on 1 April 2015, by section 15 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CE 1E Exception: accommodation provided to ministers of religion

Income

(1) Despite section CE 1B(1) and to the extent described in subsection (2), the value of accommodation that is provided to a person who is a minister of religion is income of the person when the property in which the accommodation is provided is supplied by the religious society or organisation of which they are a minister.

Limited amount

(2) The amount of income for an income year is calculated using the formula—

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

Definition of items in formula

(3) In the formula,—

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

(b) **adjustment** is the adjustment referred to in subsection (4), and is the part of the amount that is the value of the accommodation for the income year apportioned to work-related use, expressed as a decimal fraction of the total value of the accommodation:

(c) **excess rental** is the amount that is not less than zero that is the difference between—

(i) the market rental value for the income year of the accommodation provided; and

(ii) the market rental value for the income year of accommodation that is reasonably commensurate with the duties of the person as a minister and for the location in which they perform their duties.

Calculation of remuneration for purposes of section

(3B) For the purposes of subsection (3)(a), the calculation of the amount of the item **remuneration** excludes the value of accommodation described in subsection (1) that is provided to the person.

Adjustments

(4) An adjustment referred to in subsection (3)(b) is as follows:

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

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

Part-year

(5) For the purposes of this section, if accommodation is provided for part of an income year, the reference to income year is read as a reference to the relevant part of the income year.

Meaning of minister of religion

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

(a) means a person—

(i) who is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a

minister of a religious denomination or community that meets the charitable purpose of the advancement of religion; and

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

(iii) whose accommodation is used as an integral part of performing their duties:

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

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

Section CE 1E: inserted, on 1 April 2015, by section 15 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 1E(3B) heading: inserted (with effect on 1 April 2015), on 24 February 2016, by section 77 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CE 1E(3B): inserted (with effect on 1 April 2015), on 24 February 2016, by section 77 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CE 1F Treatment of amounts derived by cross-border employees

When this section applies

(1) This section applies in certain circumstances when an employer pays a PAYE income payment to a cross-border employee who provides services in New Zealand. For this purpose, the payment may include an amount paid to the person after they have left New Zealand that is a payment for services provided by the person while they were in New Zealand.

Amounts treated as derived 20 days after payment

(2) When the employee remains on the employer's payroll system in a country or territory outside New Zealand, the PAYE income payment is treated as derived by them on the 20th day after payment when the employer chooses to deliver their employment income information under section 23J(3) of the Tax Administration Act 1994.

Employees undertaking tax obligations

(3) When an amount of tax is not withheld or when payment is insufficient as described in section RD 21, RD 62B, or RD 71B, as applicable, and the employee must undertake the relevant tax obligations in relation to employment, they must do so as if an employer, and, for this purpose, may pay the initial amount of tax for the payment as a lump sum.

Meeting or correcting employment-related tax obligations

(3B) Subsection (3C) applies when the employer or other person that the PAYE rules apply to under section RD 2(2) has taken reasonable measures to manage their employment-related tax obligations, and—

(a) the employee is a New Zealand resident working outside New Zealand for a period, and during that period the employee receives an unexpected PAYE income payment:

(b) the employee is present in New Zealand for a period during which they—

(i) have breached a threshold under section CW 19 (Amounts derived during short-term visits):

(ii) have breached a threshold set out in a double tax agreement:

(iii) have received an unexpected PAYE income payment in the period.

Grace period

(3C) The employer or other person that the PAYE rules apply to has a 60-day period within which they must make a reasonable effort to meet or correct their tax obligations relating to the PAYE income payments, employer superannuation cash contributions, or fringe benefits made or provided to the employee for the time the employee was in New Zealand.

Timing

(3D) The 60-day period referred to in subsection (3C) starts to run from the earlier of—

(a) the date of the breach or the payment, as applicable:

(b) the date on which the employer could reasonably foresee that a breach or a payment, as applicable, will occur.

Grace period when employee has undertaken obligations

(3E) When the employee has undertaken to meet their employment-related tax obligations under subsection (3) for the period during which they are in New Zealand, the employee may be treated as the employer for the purposes of subsection (3C), making the grace period available to the employee.

Meaning of cross-border employee

(4) For the purposes of this section and sections CE 1(3B), RA 15(4B), RD 62B, RD 65, and RD 71B, and sections 23IB, 120B, and 141ED of the Tax Administration Act 1994, a **cross-border employee**—

(a) means—

(i) for a person providing a service in New Zealand, an employee of a non-resident employer:

(ii) for a person providing a service outside New Zealand, a resident employee; and

(b) includes a secondee or a person who provides a service for or on behalf of a person who is not resident in New Zealand.

Defined in this Act: amount of tax, cross-border employee, double tax agreement, employee, employer, employment income information, fringe benefit, New Zealand, non-resident, pay, PAYE income payment, resident

Section CE 1F: inserted, on 1 April 2023, by section 17 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3B) heading: inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3B): inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3C) heading: inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3C): inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3D) heading: inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3D): inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3E) heading: inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F(3E): inserted, on 1 April 2024, by section 18(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CE 1F list of defined terms **double tax agreement**: inserted, on 1 April 2024, by section 18(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CE 2 Benefits under employee share schemes

Benefit

(1) A person who is an employee share scheme beneficiary described in section CE 7(a)(i) or (ii) receives a benefit for the purposes of section CE 1(1)(d) in relation to shares or related rights under the employee share scheme equal to the positive amount calculated on the share scheme taxing date using the formula—

share value − consideration paid + consideration received − previous income.

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **share value** is the market value of the shares or related rights owned by an employee share scheme beneficiary on the share scheme taxing date, if the share scheme taxing date is not triggered by a transfer or cancellation of the shares or related rights:

(b) **consideration paid** is the amount of consideration paid or payable by an employee share scheme beneficiary in relation to the transfer of the shares or related rights under the employee share scheme:

(c) **consideration received** is the amount of consideration paid or payable to an employee share scheme beneficiary in relation to a transfer or cancellation of the shares or related rights under the employee share scheme, not including relevant shares or related rights under a replacement employee share scheme:

(d) **previous income** is the total amount of income under section CE 1(1)(d) that the employee share scheme beneficiary has in relation to the shares or related rights before the date that is 6 months after the date of Royal assent for the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018.

Negative amount: deduction

(3) A negative amount calculated using the formula in subsection (1) is a deduction of the person.

Positive and negative amount: cost of revenue account property

(4) A positive or negative amount calculated using the formula in subsection (1) is added to the consideration paid by the person for acquiring the shares, for the purposes of section DB 23 (Cost of revenue account property).

Apportionment

(5) For the person's benefit under subsection (1), the portion of that benefit calculated using the formula is treated as non-residents' foreign-sourced income—

benefit before reduction × offshore period ÷ earning period.

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **benefit before reduction** is the amount of the benefit under subsection (1):

(b) **offshore period** is the number of days in the item **earning period** on which—

(i) the person is not resident in New Zealand; and

(ii) any services the person performs for the relevant employer give rise to an amount of income that is a foreign-sourced amount:

(c) **earning period** is the period ending with the vesting of shares or relevant rights in the employee share scheme beneficiary and starting with the earlier of—

(i) the first date used to measure the person's right in relation to the vesting of shares or relevant rights:

(ii) the first date that the person has a right in relation to the vesting of shares or relevant rights.

When subsection (8) applies

(7) Subsection (8) applies when an employer is required to provide employment income information under sections RD 22(3) (Providing employment income information to Commissioner) and 23E to 23H of the Tax Administration Act 1994, as modified by section 23K of that Act, in relation to a benefit received under an employee share scheme.

Deferral of income recognition

(8) Despite section CE 1(1)(d), the employee share scheme beneficiary is treated as deriving employment income in relation to the benefit on the ESS deferral date.

Meaning of ESS deferral date

(9) For the purposes of this section and sections RD 6 and RD 7B (which relate to employee share schemes), the **ESS deferral date** is the 20th day after the share scheme taxing date for the employee share scheme beneficiary.

Defined in this Act: amount, amount of tax, consideration, deduction, employee, employee share scheme, employee share scheme beneficiary, employer, employment income, employment income information, ESS deferral date, foreign-sourced amount, income, market value, non-residents' foreign-sourced income, pay, replacement employee share scheme, resident in New Zealand, share, share scheme taxing date

Section CE 2: replaced, on 29 September 2018, by section 19 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2(7): replaced, on 1 April 2019, by section 20(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2(8): amended, on 1 April 2019, by section 20(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2(9) heading: inserted, on 1 April 2019, by section 20(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2(9): inserted, on 1 April 2019, by section 20(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2 list of defined terms **employer monthly schedule**: repealed, on 1 April 2019, by section 20(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 20(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2 list of defined terms **ESS deferral date**: inserted, on 1 April 2019, by section 20(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 2 list of defined terms **PAYE income payment form period**: repealed, on 1 April 2019, by section 20(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CE 3 Restrictions on disposal of shares under share purchase agreements

[Repealed]

Section CE 3: repealed, on 29 September 2018, by section 19 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CE 4 Adjustments to value of benefits under share purchase agreements

[Repealed]

Section CE 4: repealed, on 29 September 2018, by section 19 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Definitions

CE 5 Meaning of expenditure on account of an employee

Meaning

(1) **Expenditure on account of an employee** means a payment made by an employer relating to expenditure incurred by an employee or to be incurred by an employee.

Inclusion

[Repealed]

(2) *[Repealed]*

Exclusions

(3) **Expenditure on account of an employee** does not include—

(a) expenditure for the benefit of an employee, or a payment made to reimburse an employee, under section CW 17 (Expenditure on account, and reimbursement, of employees):

(b) an amount paid under—

(i) sections CW 16B to CW 16F (which relate to accommodation expenditure):

(ii) section CW 17B (Relocation payments):

(iii) section CW 17C (Payments for overtime meals and certain other allowances):

(iv) section CW 17CB (Payments for certain work-related meals):

(v) section CW 17CC (Payments for distinctive work clothing):

(vb) section CW 17D (Payments related to health or safety):

(vi) section CW 18 (Allowance for additional transport costs):

(bb) *[Repealed]*

(c) expenditure, other than an amount to which paragraph (a) applies, that an employee pays in connection with their employment or service to the extent to which—

(i) the amount of the expenditure is incurred by or on behalf of their employer; and

(ii) the employee pays the amount on their employer's behalf:

(d) expenditure on an employment-related loan to which the fringe benefit tax (FBT) rules apply:

(e) an employer's superannuation contribution:

(f) *[Repealed]*

(g) *[Repealed]*

(h) *[Repealed]*

(i) *[Repealed]*

(j) a premium for income protection insurance that an employer is liable to pay or make a contribution towards for the benefit of an employee.

Defined in this Act: additional transport costs, amount, contribution, employee, employer, employer's superannuation contribution, employment, employment-related loan, expenditure on account of an employee, FBT rules, pay, premium

Compare: 2004 No 35 s CE 5

Section CE 5(1): replaced (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 11(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CE 5(2) heading: repealed, on 30 March 2017, pursuant to section 25(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CE 5(2): repealed, on 30 March 2017, by section 25(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CE 5(3)(b): replaced, on 1 April 2015, by section 16(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 5(3)(b)(vb): inserted, on 1 April 2025, by section 14 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CE 5(3)(bb): repealed, on 1 April 2015, by section 16(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 5(3)(c): replaced, on 1 April 2015, by section 16(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 5(3)(f): repealed, on 30 March 2017, by section 25(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CE 5(3)(g): repealed, on 30 March 2017, by section 25(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CE 5(3)(h): repealed, on 30 March 2017, by section 25(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CE 5(3)(i): repealed, on 30 March 2017, by section 25(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CE 5 list of defined terms **amount**: inserted, on 1 April 2015, by section 16(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 5 list of defined terms **associated person**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 5 list of defined terms **close company**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 5 list of defined terms **dividend**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 5 list of defined terms **employment**: inserted, on 1 April 2015, by section 16(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CE 5 list of defined terms **life insurance policy**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 5 list of defined terms **superannuation category 1 scheme**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 5 list of defined terms **superannuation category 2 scheme**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 5 list of defined terms **superannuation category 3 scheme**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 5 list of defined terms **trustee**: repealed, on 29 March 2018, by section 21 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CE 6 Trusts are nominees

A trustee is treated as the nominee of a company (**company A**) to the extent to which the trustee's activities relate to an employee share scheme or an exempt ESS and—

(a) shares or related rights in company A are issued or transferred under the scheme:

(b) shares or related rights are issued or transferred to company A's employees, shareholder-employees, or associates of them, under the scheme.

Defined in this Act: associated person, company, employee, employee share scheme, exempt ESS, share, shareholder-employee, trustee

Section CE 6: replaced, on 29 September 2018, by section 22 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CE 6: amended, on 30 March 2021, by section 17(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CE 6 list of defined terms **exempt ESS**: inserted, on 30 March 2021, by section 17(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

CE 7 Meaning of employee share scheme

Employee share scheme means—

(a) an arrangement with a purpose or effect of issuing or transferring shares in a company (**company A**) to a person—

(i) who will be, is, or has been an employee of company A or of another company that is a member of the same group of companies as company A, if the arrangement is connected to the person's employment or service:

(ii) who will be, is, or has been a shareholder-employee in relation to company A or in relation to another company that is a member of the same group of companies as company A, if the arrangement is connected to the person's employment or service:

(iii) who is an associate of a person described in subparagraph (i) or (ii) (**person A**), if the arrangement is connected to person A's employment or service; but

(b) does not include an arrangement that—

(i) is an exempt ESS:

(ii) requires market value consideration to be paid by a person described in paragraph (a) for the transfer of shares in the company on the share scheme taxing date:

(iii) requires a person described in paragraph (a) to put shares, acquired by them for market value consideration, at risk, if the arrangement provides no protection against a fall in the value of the shares and none of the consideration for acquiring the shares is provided to the person under an agreement that it is used for acquiring the shares.

Defined in this Act: arrangement, associated person, company, consideration, employee, employment, exempt ESS, group of companies, market value, share, share scheme taxing date, shareholder-employee

Section CE 7: replaced, on 29 September 2018, by section 22 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CE 7B Meaning of share scheme taxing date

Meaning

(1) **Share scheme taxing date** means, in relation to shares or related rights under an employee share scheme, the earlier of the following dates:

(a) the first date when the shares are held by or for the benefit of an employee share scheme beneficiary (**beneficial ownership**) and after which, under the provisions of the scheme,—

(i) there is no material risk that beneficial ownership may change or that a right or requirement in relation to the transfer or cancellation of the shares may operate; and

(ii) there is no benefit accruing to the employee share scheme beneficiary in relation to a fall in value of the shares; and

(iii) there is no material risk that there will be a change in the terms of the shares affecting the value of the shares:

(b) the date when the shares or related rights of an employee share scheme beneficiary are cancelled or are transferred to a person who is not associated with a beneficiary described in section CE 7(a)(i) or (ii).

Exclusions

(2) For the purposes of applying subsection (1), the following requirements and rights are ignored:

(a) a right or requirement in relation to transfer by the employee share scheme beneficiary for market value consideration at the time of the transfer:

(b) a right or requirement that is not contemplated by the employee share scheme's provisions:

(c) a right or requirement that, at the time it came into existence, had no material risk of operating or no material commercial significance:

(d) a right or requirement in relation to the transfer of shares, if the right or requirement is 1 that also applies to shares not under the employee share scheme.

Example 1 – Simple vesting period

Acme Limited transfers shares worth $10,000 to a trustee on trust for an employee, Alice, of Acme Limited. Under the terms of the trust, Alice forfeits, for no consideration, any contingent interest or beneficial ownership in the shares if she leaves the employ of Acme Limited within 3 years of the transfer of the shares to the trustee. Alice stays for 3 years, and, under the terms of the trust, the shares are transferred absolutely to her on her 3rd anniversary of employment. It is a material risk, for the 3 years after the transfer to the trustee, that the terms of the trust will operate to forfeit any contingent interest or beneficial ownership in the shares. Consequently, the share scheme taxing date for Alice's shares is her 3rd anniversary of employment.

Example 2 – Vesting subject to misconduct

Acme Limited transfers shares worth $10,000 to a trustee on trust for an employee, Bob, of Acme Limited. Under the terms of the trust, Bob forfeits, for no consideration, any contingent interest or beneficial ownership in the shares if he leaves the employ of Acme Limited because he is dismissed for serious misconduct within 3 years of the transfer of the shares to the trustee. It is not a material risk that the terms of the trust will operate to forfeit any contingent interest or beneficial ownership in the shares. The risk that Bob will be dismissed for serious misconduct within 3 years is not material. Consequently, the share scheme taxing date for Bob's shares is the date when the shares are transferred to the trustee.

Defined in this Act: associated person, consideration, employee share scheme, employee share scheme beneficiary, market value, share

Section CE 7B: inserted, on 29 September 2018, by section 22 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CE 7C Meaning of employee share scheme beneficiary

Employee share scheme beneficiary means, for an employee share scheme,—

(a) a person (**person A**) who is described in section CE 7(a):

(b) a person who is an associate of person A.

Defined in this Act: associated person, employee share scheme

Section CE 7C: inserted, on 29 September 2018, by section 22 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CE 7CB Meaning of market value

Market value, for an employee share scheme—

(a) has the same meaning as in section YA 1 (Definitions), definition of **market value**, paragraphs (a) and (b); and

(b) includes, for a share or option quoted on the official list of a recognised exchange, at the time, an amount equal to the 5-day volume weighted average price or any other method that is accepted by the Commissioner or is comparable to the 5-day volume weighted average price, for such shares or options.

Section CE 7CB: inserted (with effect on 29 September 2018), on 23 March 2020, by section 94 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CE 7D Meaning of replacement employee share scheme

Replacement employee share scheme means, for an employee share scheme (the **old scheme**), another employee share scheme to which members of the old scheme are transferred.

Defined in this Act: employee share scheme

Section CE 7D: inserted, on 29 September 2018, by section 22 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Attributed income

CE 8 Attributed income from personal services

When this section applies

(1) This section applies when, under sections GB 27 to GB 29 (which relate to the attribution rule), a person is required to attribute an amount to another person.

Income

(2) The amount attributed is income of the person to whom it is attributed.

Timing of income

(3) The amount is allocated to the income year in which it is attributed.

Defined in this Act: amount, income, income year

Compare: 2004 No 35 s CE 8

Restrictive covenants and exit inducement payments

CE 9 Restrictive covenants

When this section applies

(1) This section applies when—

(a) a person (**person A**) gives an undertaking that restricts, or is intended to restrict, their ability to perform services as an employee, office holder, or independent contractor, whether or not the undertaking is legally enforceable; and

(b) a person, whether or not person A, derives an amount for the undertaking.

Income

(2) The amount is income of person A.

Exclusion

(3) Subsection (2) does not apply if—

(a) person A derives the amount because person A or an associated person sells a business to another person (**person B**); and

(b) person A or the associated person and person B agree in writing that the transaction is the sale of a business; and

(c) person A derives the amount as consideration for an undertaking by person A not to provide goods or services in competition with the goods or services that person B provides from the business; and

(d) person A does not provide services to person B after the sale of the business, other than temporarily providing services incidental to the sale.

Sale of all shares in company

(4) For the purposes of subsection (3),—

(a) the sale of a business includes the sale of shares in a company, but only if the sale is of all the shares in the company held by person A or an associated person and the company—

(i) carries on a business; or

(ii) directly or indirectly wholly owns another company that carries on a business; and

(b) in that case, the words "person B" in subsection (3)(c) and (d) mean the company that carries on the business, whether the company referred to in paragraph (a)(i) or the company referred to in paragraph (a)(ii).

Sale of part of business

(5) For the purposes of subsection (3), the sale of a business includes the sale of part of a business, if the part can be operated separately.

Avoidance arrangements

(6) Section GB 30 (Arrangements to avoid taxation of restrictive covenant payments) may apply to treat an amount as income under this section.

Defined in this Act: amount, arrangement, associated person, business, company, employee, income, share

Compare: 2004 No 35 s CE 9

Section CE 9(4)(a): amended, on 30 March 2025, by section 15(1) (and see section 15(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CE 10 Exit inducements

An amount is income of a person if they derive it for—

(a) the loss of a vocation; or

(b) the loss of a position; or

(c) leaving a position; or

(d) loss of status.

Defined in this Act: amount, income

Compare: 2004 No 35 s CE 10

Income protection insurance

CE 11 Proceeds from claims under policies of income protection insurance

When this section applies

(1) This section applies when an employer is liable to pay, or contribute to the payment of, a premium under a policy of income protection insurance for the benefit of a person who is their employee.

Income

(2) An amount that is or would be derived under the policy is income of the person.

Defined in this Act: amount, employee, employer, income, pay

Compare: 2004 No 35 s CE 11

Tax credits

CE 12 Tax credits for personal service rehabilitation payments

When this section applies

(1) This section applies when a person has a tax credit in a tax year under section LB 7 (Tax credits related to personal service rehabilitation payments: providers).

Income

(2) An amount equal to the credit is income of the person in the corresponding income year.

Defined in this Act: amount, corresponding income year, income, income year, personal service rehabilitation payment, tax credit, tax year

Compare: 2004 No 35 s CE 12

Section CE 12: substituted, on 1 July 2008, by section 319 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subpart CF—Income from living allowances, foreign superannuation, compensation, and government grants

Subpart CF heading: amended, on 1 April 2014, by section 7 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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CF 1 Benefits, pensions, compensation, and government grants

Income

(1) The following amounts are income:

(a) an accident compensation payment:

(b) an education grant:

(c) a payment of a main benefit:

(d) *[Repealed]*

(e) a New Zealand superannuation payment:

(f) a parental leave payment or preterm baby payment paid under Part 7A of the Parental Leave and Employment Protection Act 1987:

(fb) a payment of earnings compensation under the Compensation for Live Organ Donors Act 2016:

(g) a pension:

(h) a veteran's pension:

(i) a retirement lump sum paid under Part 5, subpart 7 of the Veterans' Support Act 2014:

(j) weekly income compensation paid under Part 3, subpart 4 of that Act:

(k) weekly compensation paid under Part 4, subpart 5 of that Act:

(l) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of that Act.

Some definitions

(2) In this section,—

accident compensation payment means—

(a) a payment under the Accident Compensation Act 1982 of earnings-related compensation that is not recovered or recoverable by, or refunded to, the chief executive of the administering department:

(b) a payment under section 80(4) of the Accident Compensation Act 1982 that is not recovered or recoverable by, or refunded to, the chief executive of the administering department:

(c) a payment of any of the following kinds under the Accident Rehabilitation and Compensation Insurance Act 1992, none of which is recovered or recoverable:

(i) a vocational rehabilitation allowance under section 25; or

(ii) compensation for loss of earnings under any of sections 38, 39, and 43; or

(iii) compensation for loss of potential earning capacity under section 45 or 46; or

(iv) weekly compensation under any of sections 58, 59, and 60; or

(v) continued compensation under section 138:

(d) a payment under the Accident Insurance Act 1998 of weekly compensation that is not recovered or recoverable:

(e) a payment under a policy of personal accident or sickness insurance under section 188(1)(a) of the Accident Insurance Act 1998, as it was immediately before its repeal by section 7 of the Accident Insurance Amendment Act 2000, of compensation for loss of earnings or loss of potential earning capacity as it relates to work-related personal injury:

(f) a payment under the Accident Compensation Act 2001 paid by the Corporation as defined in that Act, of weekly compensation that is not recovered or recoverable under section 248 of that Act:

(g) a payment under section 81(1)(b) of the Accident Compensation Act 2001 paid by the Corporation as defined in that Act, for attendant care as defined in schedule 1, clause 12 of that Act:

(h) a personal service rehabilitation payment for a person under the Accident Compensation Act 2001

(i) *[Repealed]*

education grant means a basic grant or an independent circumstances grant under regulations made under section 645 of the Education and Training Act 2020

pension—

(a) includes a gratuitous payment made to a person in return for services that the person, or their parent, child, spouse, civil union partner or de facto partner, former spouse, civil union partner or de facto partner, or dependant, provided to the payer when the payment would not have been made if the services had not been provided; and

(b) does not include a payment made to the person because of, and within 1 year after, the death of that parent, child, spouse, civil union partner or

de facto partner, former spouse, civil union partner or de facto partner, or dependant.

Defined in this Act: accident compensation payment, amount, chief executive of the administering department, education grant, income, main benefit, New Zealand superannuation, pay, pension, personal service rehabilitation payment, veteran's pension, year

Compare: 2004 No 35 s CF 1

Section CF 1(1)(c): replaced, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CF 1(1)(d): repealed, on 2 September 2013 (applying for the 2011–12 tax year and later tax years), by section 16(1) of the Social Assistance (Living Alone Payments) Amendment Act 2013 (2013 No 11).

Section CF 1(1)(f): amended, on 1 April 2016, by section 83 of the Parental Leave and Employment Protection Amendment Act 2016 (2016 No 8).

Section CF 1(1)(fb): inserted, on 5 December 2017, by section 30 of the Compensation for Live Organ Donors Act 2016 (2016 No 96).

Section CF 1(1)(h): replaced (with effect on 7 December 2014), on 31 March 2015, by section 11(1) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CF 1(1)(i): replaced, on 31 March 2015, by section 11(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CF 1(1)(j): inserted, on 31 March 2015, by section 11(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CF 1(1)(k): inserted, on 31 March 2015, by section 11(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CF 1(1)(l): inserted, on 31 March 2015, by section 11(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CF 1(2) **accident compensation payment** paragraph (a): amended (with effect on 1 April 2008), on 7 December 2009, by section 7 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section CF 1(2) **accident compensation payment** paragraph (b): amended (with effect on 1 April 2008), on 7 December 2009, by section 7 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section CF 1(2) **accident compensation payment** paragraph (f): substituted (with effect on 1 April 2008), on 6 October 2009, by section 26 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CF 1(2) **accident compensation payment** paragraph (f): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CF 1(2) **accident compensation payment** paragraph (g): substituted (with effect on 1 April 2008), on 6 October 2009, by section 26 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CF 1(2) **accident compensation payment** paragraph (g): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CF 1(2) **accident compensation payment** paragraph (h): added (with effect on 1 April 2008), on 6 October 2009, by section 26 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CF 1(2) **accident compensation payment** paragraph (h): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CF 1(2) **accident compensation payment** paragraph (i): repealed, on 31 March 2015, by section 11(3) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CF 1(2) **education grant**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section CF 1 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CF 1 list of defined terms **living alone payment**: repealed, on 2 September 2013 (applying for the 2011–12 tax year and later tax years), by section 16(1) of the Social Assistance (Living Alone Payments) Amendment Act 2013 (2013 No 11).

Section CF 1 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CF 1 list of defined terms **personal service rehabilitation payment**: inserted, on 1 July 2008, by section 320(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

CF 2 Remission of specified suspensory loans

When this section applies

(1) This section applies when a public authority—

(a) grants a loan to a person for a business that the person carries on; and

(b) designates the loan as a specified suspensory loan.

Income

(2) An amount remitted on the specified suspensory loan is income of the person.

Timing of income

(3) The amount is allocated in equal parts to the income year of remission and the following 2 income years. However, the person may choose to allocate some or all of the amount in the following 2 income years to an earlier income year that is 1 of the 3 income years.

Business ceasing

(4) If the person stops carrying on the business for which the specified suspensory loan was granted, an amount remitted that is allocated to a later income year is allocated to the income year in which the person stops carrying on the business.

Defined in this Act: amount, business, income, income year, public authority

Compare: 2004 No 35 s CF 2

CF 3 Withdrawals from foreign superannuation scheme

When this section applies

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

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

(i) when the person is a non-resident or is treated under a double tax agreement as being resident in a foreign country or territory:

(ii) in a transaction referred to in subsection (21)(b) or (d) from a person who acquired the interest in the scheme when being a non-resident or when treated under a double tax agreement as being resident in a foreign country or territory:

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

Income

(2) The foreign superannuation withdrawal is income of the person if the benefit is in the form of—

(a) an amount derived by the person as a member or beneficiary of the scheme:

(b) an interest of the person in the scheme, withdrawn for reinvestment as an interest of the person in a superannuation scheme in New Zealand:

(c) an interest of the person in the scheme, outside Australia, withdrawn for reinvestment as an interest of the person in a superannuation scheme in Australia:

(d) an interest of the person in the scheme withdrawn for reinvestment as an interest of another person in a superannuation scheme.

Exception

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

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

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

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

(b) immediately before the death or the relationship cessation, the person is a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory; and

(c) the interest withdrawn is immediately reinvested as an interest, in a foreign superannuation scheme outside Australia, of another person who is—

(i) a spouse, civil union partner, or de facto partner of the person immediately before the death or the relationship cessation; and

(ii) a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory.

Amounts within other provisions

(4) A foreign superannuation withdrawal derived by a resident is subject to—

(a) section CW 28B (Foreign superannuation withdrawal in initial period of residency), if the person—

(i) is a resident under section YD 1; and

(ii) derives the foreign superannuation withdrawal in the exemption period referred to in subsection (6):

(b) section CW 28C (Foreign superannuation withdrawal exceeding given amount), if the foreign superannuation withdrawal is derived in the person's assessable period referred to in subsection (8), to the extent to which the foreign superannuation withdrawal exceeds—

(i) the amount referred to in subsection (10) as the assessable withdrawal amount, if the person uses the schedule method; or

(ii) the amount referred to in subsection (16) as the assessable withdrawal amount, if the person uses the formula method.

Eligibility for exemption period

(5) A person has an exemption period referred to in subsection (6) for an interest in the scheme, other than a low-value FIF superannuation interest, if the person—

(a) does not have, before acquiring the interest, an exemption period for an interest in a foreign superannuation scheme; and

(b) acquires the interest as a non-resident; and

(c) owns the interest as a non-resident until a date (the **exemption commencement**), whether before or after the commencement of this Act, when the person becomes a New Zealand resident.

Exemption period

(6) The period (the **exemption period**) in which a foreign superannuation withdrawal may be exempt income of the person under section CW 28B is the period from the exemption commencement to the earlier of—

(a) the end of the period of 48 months beginning after the month in which the person meets the requirements of section YD 1(2) or (3) ignoring the rule in section YD 1(4):

(b) the date on which the person becomes a non-resident again.

Assessable withdrawal amount

(7) The part (the **assessable withdrawal amount**) of a foreign superannuation withdrawal that is treated as not being exempt income of the person depends

on the total period (the **assessable period**) referred to in subsection (8) for the person and the interest in the scheme.

Assessable period

(8) The assessable period for the person and a foreign superannuation withdrawal arising from an interest in the foreign superannuation scheme—

(a) if the person is a non-resident when they acquire the interest, begins on the later of—

(i) the date when the person becomes, for the first time after acquiring the interest in the scheme, a New Zealand resident who owns the interest in the scheme:

(ii) the end of the person's exemption period:

(ab) if the person is a resident who is treated under a double tax agreement as being resident in a foreign country or territory when they acquire the interest in the scheme, begins on the date when the person becomes, for the first time after acquiring the interest, a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory and who owns the interest in the scheme:

(ac) if the person is a resident when they acquire the interest and paragraph (ab) does not apply, begins when they acquire the interest:

(b) ends on the date when the person derives the foreign superannuation withdrawal (the **distribution time**):

(c) does not include a period in which the person is a non-resident.

Methods for determining assessable withdrawal amount

(9) The assessable withdrawal amount for a foreign superannuation withdrawal derived by the person is calculated for—

(a) the schedule method under subsection (10), if paragraph (b) does not apply; or

(b) the formula method under subsection (16), if—

(i) the scheme is a foreign defined contribution scheme; and

(ib) the interest is not a low-value FIF superannuation interest; and

(ii) the person has the information required for the application of the formula method; and

(iii) the person derives no withdrawal, other than a pension or annuity, from the scheme before 1 April 2014; and

(iv) the person has not used the schedule method for the interest in the scheme; and

(v) for a person who acquires the interest in the scheme of a spouse, civil union partner, or de facto partner by a transfer referred to

in subsection (21)(d), the other person did not use the schedule method for the interest in the scheme; and

(vi) the person chooses to use the formula method for the interest in the scheme.

Schedule method: assessable withdrawal amount

(10) The assessable withdrawal amount under the schedule method is calculated using the formula—

(super withdrawal − contributions left) × schedule year fraction.

Definition of items in formula in subsection (10)

(11) In the formula in subsection (10),—

(a) **super withdrawal** is the amount of the foreign superannuation withdrawal:

(b) **contributions left** is the lesser of the amount of the item super withdrawal and the total amount of recognised contributions under subsection (19) made in the assessable period before the distribution time, reduced, for each withdrawal (the **earlier withdrawal**), other than a pension or annuity, made in the assessable period before the distribution time, by an amount equal to the lesser of—

(i) the amount of the earlier withdrawal:

(ii) the value of the item contributions left, immediately before the time of the earlier withdrawal:

(c) **schedule year fraction** is the fraction given in schedule 33 (Default fractions of foreign superannuation withdrawals), column 2 of the row for which the entry in column 1 corresponds to the greater of 1 and the number of income years beginning—

(i) in the assessable period under subsection (8); and

(ii) before the distribution time.

Formula method: distributed gain

(12) Under the formula method, the part (the **distributed gain**) of a foreign superannuation withdrawal that is treated as consisting of gains made by the scheme during the assessable period is calculated using the formula—

(super withdrawal × calculated gains fraction) − other gains.

Definition of items in formula in subsection (12)

(13) In the formula in subsection (12),—

(a) **super withdrawal** is the amount of the foreign superannuation withdrawal:

(b) **other gains** is the total amount of distributed gains referred to in subsection (12) for foreign superannuation withdrawals in the assessable period before the distribution time.

Formula method: calculated gains fraction

(14) In the formula in subsection (12), **calculated gains fraction** is the greater of zero and the amount calculated using the formula—

(predistribution + withdrawals − value − contributions) ÷ predistribution.

Definition of items in formula in subsection (14)

(15) In the formula in subsection (14),—

(a) **predistribution** is the value of the interest in the scheme immediately before the distribution time:

(b) **withdrawals** is the total amount of foreign superannuation withdrawals from the interest in the scheme in the assessable period before the distribution time:

(c) **value** is the value of the interest in the scheme at the beginning of the assessable period:

(d) **contributions** is the amount of recognised contributions under subsection (19) made to the interest in the scheme in the assessable period before the distribution time.

Formula method: assessable withdrawal amount

(16) The assessable withdrawal amount under the formula method is the amount calculated using the formula—

gain × (grow rate − 1) × tax rate × (assessable years − 1) + gain.

Formula method: grow rate

(17) In the formula in subsection (16), **grow rate** is the amount calculated using the formula—

$$(\text{accrued total} \div \text{value})^{(1 \div \text{assessable years})}.$$

Definition of other items in formulas in subsections (16) and (17)

(18) In the formulas in subsections (16) and (17),—

(a) **gain** is the amount of the distributed gain referred to in subsection (12) for the foreign superannuation withdrawal:

(b) **tax rate** is the tax rate referred to in schedule 6, table 1, row 1 (Prescribed rates: PIE investments and retirement scheme contributions):

(c) **assessable years** is the greater of 1 and the number of tax years beginning in the assessable period and before the distribution time:

(d) **accrued total** is the value of the interest in the scheme immediately before the distribution time, increased by the value of foreign superannuation withdrawals from the interest in the scheme in the assessable period before the distribution time, and reduced by the value of recognised contributions under subsection (19) made to the interest in the scheme in the assessable period before the distribution time:

(e) **value** is the value of the interest in the scheme at the beginning of the assessable period.

Recognised contributions

(19) The value of a payment to the scheme is taken into account in the formulas in subsections (10), (14), and (17) as a contribution (a **recognised contribution**) if the payment—

(a) is made when the person is a New Zealand resident who is treated as a New Zealand resident under all applicable double tax agreements; and

(b) is made by the person, by the person's employer, or for the benefit of the person; and

(c) is required by the rules of the scheme; and

(d) is subject to employer superannuation contribution tax or fringe benefit tax if made by the person's employer.

Interests in superannuation scheme

(20) For the purposes of this section, if a person acquires, under an arrangement with a foreign superannuation scheme that provides for contributions to the superannuation scheme by or for the person, rights (**benefit rights**) in the foreign superannuation scheme to benefit as a member or beneficiary from distributions by the superannuation scheme, the person holds an interest in the foreign superannuation scheme under the arrangement for the period beginning when the person acquires benefit rights under the arrangement and ending when the arrangement ends.

When person acquires rights

(21) In determining when a person who acquires rights in a foreign superannuation scheme acquires an interest in the foreign superannuation scheme,—

(a) if none of paragraphs (b) to (d) apply, the person is treated as acquiring the rights when the first contribution is made to the superannuation scheme, in relation to the rights, by or for the person; or

(b) if the person is converting existing rights of the person in another foreign superannuation scheme (the **former scheme**) to corresponding rights of the person in the superannuation scheme, the person is treated as acquiring the corresponding rights when the person acquired the rights in the former scheme; or

(c) if the person is acquiring existing rights in the superannuation scheme from another person, other than by a transaction to which paragraph (d) applies, the person is treated as acquiring the existing rights when the person acquires the rights; or

(d) if the person is acquiring existing rights in the superannuation scheme of a New Zealand resident (the **former owner**) as a surviving spouse, civil union partner, or de facto partner of the deceased former owner,

or as a former spouse, civil union partner, or de facto partner of the former owner under a relationship agreement arising from the end of the marriage, civil union, or de facto relationship, the person is treated as—

(i) having owned the existing rights from the time the former owner acquired the existing rights; and

(ii) having made all payments to the scheme that were made by or for the former owner; and

(iii) having derived all distributions from the scheme that the former owner derived; and

(iv) having been a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory and as having owned the existing rights during the assessable period of the former owner, at the time of the transfer, for the interest consisting of the rights; and

(v) continuing to own the existing rights from the time of the transfer.

Relationship with rest of Act

(22) If the assessable period for a person and an interest begins before 1 April 2014, this section overrides any provision of this Act that would otherwise quantify and allocate income of the person, from the part of the interest unaffected by withdrawals derived before 1 April 2014,—

(a) for the period of ownership before 1 April 2014; and

(b) not assessed for tax before 1 April 2014.

Defined in this Act: amount, de facto partner, double tax agreement, FIF superannuation interest, foreign defined contribution scheme, foreign superannuation scheme, foreign superannuation withdrawal, income, income year, New Zealand resident, non-resident, relationship agreement, superannuation scheme, transitional resident

Section CF 3: inserted, on 1 April 2014, by section 8 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CF 3(1): replaced (with effect on 1 April 2015), on 24 February 2016, by section 78(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(1): replaced (with effect on 1 April 2014), on 24 February 2016, by section 78(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(3): replaced (with effect on 1 April 2014), on 24 February 2016, by section 78(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(5): amended (with effect on 1 April 2015), on 24 February 2016, by section 78(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(8)(a): amended (with effect on 1 April 2014), on 24 February 2016, by section 78(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(8)(ab): inserted (with effect on 1 April 2014), on 24 February 2016, by section 78(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(8)(ac): inserted (with effect on 1 April 2015), on 24 February 2016, by section 78(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(9)(b)(ib): inserted (with effect on 1 April 2015), on 24 February 2016, by section 78(8) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(20): replaced (with effect on 1 April 2014), on 24 February 2016, by section 78(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21) heading: replaced (with effect on 1 April 2014), on 24 February 2016, by section 78(10) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21): amended (with effect on 1 April 2014), on 24 February 2016, by section 78(11) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21)(a): amended (with effect on 1 April 2014), on 24 February 2016, by section 78(12) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21)(b): amended (with effect on 1 April 2014), on 24 February 2016, by section 78(13) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21)(c): amended (with effect on 1 April 2014), on 24 February 2016, by section 78(14) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21)(d)(i): replaced (with effect on 1 April 2014), on 24 February 2016, by section 78(15) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21)(d)(iv): replaced (with effect on 1 April 2014), on 24 February 2016, by section 78(16) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CF 3(21)(d)(v): amended (with effect on 1 April 2014), on 24 February 2016, by section 78(17) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Subpart CG—Recoveries

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CG 1 Amount of depreciation recovery income

An amount of depreciation recovery income that a person has is income of the person.

Defined in this Act: amount, depreciation recovery income, income

Compare: 2004 No 35 s CG 1

CG 2 Remitted amounts

When this section applies

(1) This section applies when—

(a) a person is allowed a deduction in an income year of an amount that the person is liable to pay; and

(b) the person's liability for the amount is later remitted or cancelled, wholly or partly; and

(c) the remission or cancellation is not a dividend; and

(d) the person is not required to calculate a base price adjustment by section EW 29 (When calculation of base price adjustment required).

Income

(2) The amount to which the remission or cancellation applies is income of the person.

Timing of income

(3) The income is allocated to the income year in which the remission or cancellation occurs.

How remission or cancellation occurs

(4) Remission or cancellation occurs, for the purposes of this section, in 1 of the following ways:

(a) a liability is remitted to the extent to which the person is discharged from it without fully adequate consideration in money or money's worth:

(ab) a liability is cancelled to the extent to which the person is released from it under the Insolvency Act 2006, except by—

(i) being discharged from bankruptcy:

(ii) being released under Part 5, other than subpart 1, of the Insolvency Act 2006 from liability for each debt that is a provable debt under that Act and is not a debt of a type for which the person's liability is specifically preserved by that Act:

(b) a liability is cancelled to the extent to which the person is released from it under the Companies Act 1993 or the laws of a country or territory other than New Zealand:

(c) a liability is cancelled to the extent to which the person is released from it by a deed or agreement of composition with the person's creditors:

(d) a liability is cancelled to the extent to which it is irrecoverable or unenforceable through lapse of time.

Relationship with sections CG 2C to CG 2E

(5) Sections CG 2C to CG 2E override this section.

Defined in this Act: amount, deduction, dividend, income, income year, New Zealand, pay

Compare: 2004 No 35 s CG 2

Section CG 2(4)(ab): inserted, on 30 March 2017, by section 26(1) (and see section 26(4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CG 2(4)(b): amended, on 30 March 2017, by section 26(2) (and see section 26(4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CG 2(5) heading: replaced, on 30 March 2017), by section 26(3) (and see section 26(4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CG 2(5): replaced, on 30 March 2017, by section 26(3) (and see section 26(4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CG 2B Remitted amounts on discharge from bankruptcy

[Repealed]

Section CG 2B: repealed, on 30 March 2017, by section 27 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CG 2C Remitted and other amounts: companies in liquidation

When this section applies

(1) This section applies when—

(a) a company that is part of a group of companies (**company A**) is allowed a deduction for an amount that it is liable to pay; and

(b) company A's liability for the amount is later remitted or cancelled, wholly or partly; and

(c) company A includes some or all of the amount of the deduction in the calculation of a net loss for a tax year; and

(d) the net loss is a tax loss component included in a tax loss of company A for a tax year under section IA 2(2) or (3) (Tax losses); and

(e) after the inclusion of the amount of the deduction in its net loss, company A makes some or all of the tax loss available to another company in the group (**company B**) to subtract from its net income for a tax year; and

(f) after making the tax loss available to company B, and at a time when company A and company B are in the same group of companies, company A is liquidated, struck off, or otherwise removed from the register of companies.

Income of profit company

(2) An amount equal to the amount remitted or cancelled is income of company B.

Timing of income

(3) Company B is treated as deriving the income on the date on which company A is liquidated, struck off, or otherwise removed from the register of companies.

No application to financial arrangements

(4) This section does not apply to a liability that is a financial arrangement, whether or not the liability has been remitted or cancelled.

Relationship with other provisions

(5) This section—

(a) overrides section CG 2:

(b) is modified by section FM 5(4) (Liability when company leaves consolidated group):

(c) does not apply to a company to which section FO 4 (Rights and obligations of amalgamating companies) applies, except to the extent to which paragraph (d) applies in relation to the company:

(d) is modified by section FO 5 (Amalgamations and remitted liabilities) in relation to the treatment of liabilities assumed by an amalgamated company in an amalgamation:

(e) is overridden by sections IC 11 and IC 12 (which relate to the tax losses of certain group companies) but only to the extent to which sections IC 11 and IC 12 apply to reduce a tax loss component arising in an earlier tax year that would otherwise be subject to this section.

Defined in this Act: amount, company, deduction, financial arrangement, group of companies, income, liquidation, net income, net loss, pay, tax loss, tax loss component, tax year

Section CG 2C: inserted (with effect on 22 November 2013 and applying when an event, listed in the following paragraphs, occurs after this date: (a) company A is removed from the register of companies; (b) company C is insolvent and leaves the group of companies; (c) company D leaves the group of companies), on 30 June 2014, by section 18(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CG 2D Remitted and other amounts: companies leaving groups

When this section applies

(1) This section applies when—

(a) a company that is part of a group of companies (**company C**) is allowed a deduction for an amount that it is liable to pay; and

(b) company C includes some or all of the amount of the deduction in the calculation of a net loss for a tax year; and

(c) the net loss is a tax loss component included in a tax loss of company C for the tax year under section IA 2(2) or (3) (Tax losses); and

(d) after the inclusion of the amount of the deduction in the calculation of its net loss, company C makes some or all of the tax loss available to another company in the group (**company D**) to subtract from its net income for a tax year; and

(e) after the tax loss is made available to company D,—

(i) either company C or company D, or both, leave the group; and

(ii) at the date of the departure, company C is in liquidation, receivership, or does not satisfy the solvency test set out in section 4 of the Companies Act 1993; and

(f) the liability referred to in paragraph (a) remains unpaid at the date on which either company C or company D, or both, leaves the group.

Income of profit company

(2) An amount equal to the amount of the unpaid liability referred to in subsection (1)(f) is income of company D.

Timing of income

(3) Company D is treated as deriving the income immediately before the date on which either company C or company D, or both, leaves the group.

When subsection (5) applies

(4) Subsection (5) applies for the purposes of subsection (1)(e)(ii) when—

(a) a transaction results in an amount being received by a creditor of company C within a period of 2 years before either company C or company D, or both, leaves the group; and

(b) the payment of the amount reduces, in whole or in part, the liability of company C so that company C satisfies the solvency test set out in section 4 of the Companies Act 1993.

Commissioner's discretion

(5) The Commissioner may treat company C as not satisfying the solvency test set out in section 4 of the Companies Act 1993 if the Commissioner considers—

(a) the amount is paid when company C is insolvent; and

(b) the payment has allowed the creditor to receive more towards the satisfaction of a debt owed by company C than the creditor would receive or would be likely to receive if company C were placed in liquidation on the day on which company C or company D, or both, leaves the group.

No application to financial arrangements

(6) This section does not apply to a liability that is a financial arrangement, whether or not the liability has been remitted or cancelled.

Relationship with other provisions

(7) This section—

(a) overrides section CG 2:

(b) is modified by section FM 5(4) (Liability when company leaves consolidated group):

(c) is overridden by sections IC 11 and IC 12 (which relate to the tax losses of certain group companies) but only to the extent to which sections IC 11 and IC 12 apply to reduce a tax loss component arising in an earlier tax year that would otherwise be subject to this section.

Defined in this Act: amount, arrangement, Commissioner, company, deduction, financial arrangement, group of companies, income, liquidation, net income, net loss, pay, tax loss, tax loss component, tax year

Section CG 2D: inserted (with effect on 22 November 2013 and applying when an event, listed in the following paragraphs, occurs after this date: (a) company A is removed from the register of companies; (b) company C is insolvent and leaves the group of companies; (c) company D leaves the group of companies), on 30 June 2014, by section 18(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CG 2E Remitted and other amounts: income apportionment

When this section applies

(1) This section applies when—

(a) an amount of income is treated as having been derived by a company under section CG 2C or CG 2D; and

(b) in relation to the income, some or all of a tax loss of a company that is part of a group of companies has been made available to more than 1 company in the group.

Apportionment

(2) The company that is treated as deriving the income may choose to apportion the income among other companies in the group.

Limited amount

(3) The amount of the income referred to in subsection (2) must be no more than the total tax loss referred to in section CG 2C(1)(e) or CG 2D(1)(d), as applicable, for all previous tax years.

Default apportionment

(4) If the company that is treated as deriving the income does not make an apportionment under subsection (2), the income must be divided equally among the companies in the group.

Companies in group

(5) For the purposes of subsections (2) and (4),—

(a) the company that made the tax loss available is treated as excluded from the group:

(b) the company must be part of the group of companies at the date on which section CG 2C(3) or CG 2D(3) applies.

Application to consolidated groups

(6) This section does not apply to a company that is part of a consolidated group of companies, for which, *see* section FM 5(3) to (5) (Liability when company leaves consolidated group).

Defined in this Act: amount, company, consolidated group, group of companies, income, tax loss, tax year

Section CG 2E: inserted (with effect on 22 November 2013 and applying when an event, listed in the following paragraphs, occurs after this date: (a) company A is removed from the register of companies; (b) company C is insolvent and leaves the group of companies; (c) company D leaves the group of companies), on 30 June 2014, by section 18(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CG 3 Bad debt repayment

An amount received by a person for a bad debt for which the person has been allowed a deduction is income of the person.

Defined in this Act: amount, deduction, income

Compare: 2004 No 35 s CG 3

CG 4 Receipts for expenditure or loss from insurance, indemnity, or otherwise

When this section applies

(1) This section applies when—

(a) a person is allowed a deduction for expenditure or loss; and

(b) the person derives an amount relating to the expenditure or loss, whether through insurance, indemnity, or otherwise; and

(c) the amount, to the extent of the deduction, is not income of the person under any other provision of this Act.

Income

(2) The amount derived is, to the extent of the deduction, income of the person.

Timing of income

(3) The income is allocated to the later of—

(a) the income year in which the expenditure or loss is incurred:

(b) the income year in which the amount is derived.

Defined in this Act: amount, deduction, income year, loss

Section CG 4: replaced (with effect on 4 September 2010), on 2 November 2012, by section 12(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

CG 5 Recoveries or receipts by employers from superannuation schemes

When this section applies

(1) This section applies when—

(a) an employer makes an employer's superannuation contribution to a superannuation scheme for their employee's benefit; and

(b) the employer is allowed a deduction for the contribution; and

(c) the employer—

(i) recovers the contribution from the superannuation scheme; or

(ii) receives a benefit in money or money's worth from the superannuation scheme, other than an amount paid to the employer under the scheme in return for contributions made by or for the employer in a personal capacity.

Income

(2) The amount recovered or received is, to the extent of the deduction, income of the employer.

Timing of income

(3) The income is allocated to the income year in which the amount is recovered or received.

Defined in this Act: amount, deduction, employee, employer, employer's superannuation contribution, income, income year, pay, superannuation scheme

Compare: 2004 No 35 s CG 5

CG 5B Receipts from insurance, indemnity, or compensation for interruption or impairment of business activities

When this section applies

(1) This section applies when a person receives an amount of insurance, indemnity, or compensation for an interruption or impairment of business activities resulting from an event.

Income

(2) The amount is income of the person to the extent to which it is attributable to income (the **replaced income**) that—

(a) the person would have derived if not for the event:

(b) another person, who assigned the right to receive the amount to the person, would have derived if not for the event.

Timing of income

(3) The income is allocated to the later of—

(a) the income year to which the replaced income relates:

(b) the earlier of—

(i) the income year in which the amount is received:

(ii) the income year in which the amount is reasonably able to be estimated.

Defined in this Act: amount, business, income, income year

Section CG 5B: inserted (with effect on 4 September 2010), on 29 August 2011, by section 5 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CG 5B(2): replaced (with effect on 1 April 2011), on 26 June 2019, by section 45(1) (and see section 45(2) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section CG 5B(3): replaced (with effect on 4 September 2010), on 2 November 2012, by section 13(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

CG 6 Receipts from insurance, indemnity, or compensation for trading stock

When this section applies

(1) This section applies when a person receives an amount of insurance, indemnity, or compensation for the loss or destruction of, or damage to,—

(a) trading stock:

(b) anything acquired, manufactured, or produced for a purpose ancillary to a business of manufacturing or producing goods for sale or exchange.

Income

(2) The part of the insurance, indemnity, or compensation that is attributable to the asset is income if—

(a) the person is allowed a deduction in an income year for the cost of the asset; and

(b) the deduction is not for an amount of depreciation loss.

Timing of income

(3) The income is allocated to the income year in which the amount is received.

Defined in this Act: amount, business, deduction, depreciation loss, income, income year, trading stock

Compare: 2004 No 35 s CG 6

CG 7 Recoveries after deduction of payments under lease

When this section applies

(1) This section applies, for the purposes of section FA 5 (Assets acquired and disposed of after deduction of payments under lease) when—

(a) a person leases, rents, or hires an asset that is—

(i) plant, machinery, or other equipment; or

(ii) a motor vehicle; or

(iii) a temporary building; and

(b) they are allowed a deduction for the rental payments; and

(c) they acquire the asset and later dispose of it for an amount that is more than the amount paid to acquire the asset.

Income

(2) The amount described in subsection (3) is income of the person.

Consideration less payments or total deductions

(3) The amount is the lesser of the amount by which the consideration on disposal is more than—

(a) the sum of the payments made; or

(b) the total amount of the deductions referred to in subsection (1)(b).

Timing of income

(4) The income is allocated to the income year of the disposal of the asset.

Defined in this Act: amount, deduction, dispose, income, income year, motor vehicle, pay, temporary building

Compare: 2004 No 35 s FC 5(1)

CG 7B Disposals or applications after earlier deductions

When this section applies

(1) This section applies when a person—

(a) has a deduction under section DB 19, DB 37, or DB 40BA (which relate to expenditure on abortive or failed applications) for expenditure; and

(b) acquires property (the **application property**) as a result of the expenditure; and

(c) disposes of the application property for consideration or uses the application property in the lodging of a patent application with a complete specification or a design registration application, or in obtaining the grant of a resource consent or plant variety rights.

Income: affecting cost in section EE 25, base value in section EE 57

(2) The person has income of the amount described in—

(a) subsection (3), if the application property is disposed of for consideration, in the income year of the disposal; or

(b) subsection (4), if the application property is used in the lodging of a patent application with a complete specification or a design registration application, or in obtaining the grant of a resource consent or plant variety rights, in the income year of the lodgement or grant.

Lesser of total deductions and consideration from disposal

(3) The amount is—

(a) the amount of the consideration derived for the disposal that is not income under another provision of this Act, if that amount is less than the total amount of deductions referred to in subsection (1)(a); or

(b) the total amount of deductions referred to in subsection (1)(a), if paragraph (a) does not apply.

Deductions in acquiring property

(4) The amount is the total amount of deductions referred to in subsection (1)(a) for expenditure incurred in acquiring the application property.

Defined in this Act: deduction, design registration application, dispose, income, plant variety rights

Section CG 7B: inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 19(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CG 7B(1)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 79(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CG 7B(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 79(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CG 7B list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 79(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CG 7C Disposal or rerecognition of derecognised non-depreciable assets

When this section applies

(1) This section applies when, for a non-depreciable intangible asset, a person has been allowed a deduction under section DB 34 (Research or development) because section DB 34(3) applies and—

(a) the intangible asset is disposed of in an income year for consideration that is not income under another provision of this Act:

(b) the intangible asset is rerecognised for financial reporting purposes in an income year.

Disposal for consideration

(2) If subsection (1)(a) applies, an amount equal to the deduction described in subsection (1) is income of the person for the income year, unless subsection (3) applies.

Special case: disposal for consideration less than deduction

(3) If subsection (1)(a) applies and the consideration is less than the deduction described in subsection (1), then, despite subsection (2), an amount equal to the consideration is income of the person for the income year.

Rerecognition

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

Relationship with subpart EE

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

Defined in this Act: deduction, dispose, income, income year

Section CG 7C: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 80(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CG 8 Capital contributions

When this section applies

(1) This section applies for the income year (the **first year**) in which a person derives a capital contribution and for the 9 income years after that first year.

Income

(2) For an income year, the amount given by the following formula is income of the person derived in that income year:

capital contribution ÷ 10.

Definition of item in formula

(3) In the formula, **capital contribution** is the capital contribution that the person derives in the first year.

Exception

(4) This section does not apply for the capital contribution if the person has chosen, in accordance with section DB 64(1)(c) (Capital contributions), to apply section DB 64 instead.

Defined in this Act: amount, capital contribution, income, income year, return of income

Section CG 8: added (with effect on 20 May 2010), on 28 May 2010 (applying for capital contributions derived after 20 May 2010), by section 75(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

CG 8B Recoveries after deductions for high-priced bloodstock removed from New Zealand

When this section applies

(1) This section applies when—

(a) high-priced bloodstock is removed from New Zealand before being—

(i) first raced in New Zealand:

(ii) used for breeding in New Zealand; and

(b) a person who is a prospective bloodstock breeder has been allowed a deduction in relation to the high-priced bloodstock; and

(c) the high-priced bloodstock is expected, at the time of its removal from New Zealand, to be able to be used for future breeding.

Income

(2) The person has an amount of income to the extent to which the greater of the high-priced bloodstock's market value on the day on which it is removed from New Zealand and the total amount of deductions the person has been allowed in relation to the high-priced bloodstock exceeds the total of any amounts of income the person has derived in relation to the high-priced bloodstock.

Timing of income

(3) The income is allocated to the income year in which the high-priced bloodstock is removed from New Zealand.

Defined in this Act: amount, deduction, high-priced bloodstock, income, income year, New Zealand, prospective bloodstock breeder

Section CG 8B: inserted (with effect on 1 January 2019), on 18 March 2019, by section 133(1) (and see section 133(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CG 8C Recoveries after deductions for high-priced bloodstock disposed of to non-residents

When this section applies

(1) This section applies when—

(a) a person who is a prospective bloodstock breeder (**person A**) disposes of high-priced bloodstock to a non-resident (**person B**) for consideration before the high-priced bloodstock has been—

(i) first raced in New Zealand:

(ii) used for breeding in New Zealand:

(iii) removed from New Zealand; and

(b) person A has been allowed a deduction in relation to the high-priced bloodstock; and

(c) the high-priced bloodstock is expected, at the time of the disposal, to be able to be used for future breeding.

Income

(2) The amount described in subsection (3) is income of person A.

Amount of income

(3) The amount is the greater of—

(a) the amount of consideration receivable by person A for disposing of the high-priced bloodstock; and

(b) the amount given by the formula in subsection (4).

Formula

(4) For the purposes of subsection (3)(b), the amount is calculated using the formula—

ownership disposal percentage × total deductions.

Definition of items in formula

(5) In the formula,—

(a) **ownership disposal percentage** is the percentage of person A's total share or interest in the high-priced bloodstock that they have disposed of to person B:

(b) **total deductions** is the amount equal to the total amount of deductions person A has been allowed in relation to the high-priced bloodstock.

Timing of income

(6) The income is allocated to the income year in which the high-priced bloodstock is disposed of.

Relationship with section CB 2

(7) This section overrides section CB 2(2).

Defined in this Act: amount, deduction, dispose, high-priced bloodstock, income, income year, New Zealand, prospective bloodstock breeder

Section CG 8B: inserted (with effect on 1 January 2019), on 18 March 2019, by section 133(1) (and see section 133(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CG 9 Recovery of deductions for aircraft engine overhaul

An amount of recovery income that a person has under section EJ 27 (Disposal of aircraft engine or aircraft) is income of the person.

Section CG 9: inserted, on 1 April 2017, by section 28 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart CH—Adjustments

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Matching rules: revenue account property, prepayments, and deferred payments

CH 1 Adjustment for closing values of trading stock, livestock, and excepted financial arrangements

When this section applies

(1) This section applies when a person has some or all of the following at the end of an income year:

(a) trading stock valued under subpart EB (Valuation of trading stock (including dealer's livestock)):

(b) livestock valued under subpart EC (Valuation of livestock):

(c) excepted financial arrangements that are revenue account property valued under subpart ED (Valuation of excepted financial arrangements):

(d) a share supplier's share-lending right, if the original shares that relate to the right are excepted financial arrangements described in paragraph (c).

Income: closing value of trading stock

(2) The value of the trading stock, calculated under section EB 3 (Valuation of trading stock), is income of the person in the income year.

Income: closing value of livestock

(3) The value of the livestock, calculated under section EC 2 (Valuation of livestock), is income of the person in the income year.

Income: closing value of excepted financial arrangements

(4) The value of the excepted financial arrangements or share-lending right, calculated under section ED 1 (Valuation of excepted financial arrangements), is income of the person in the income year.

Defined in this Act: excepted financial arrangement, income, income year, original share, revenue account property, share-lending right, share supplier, trading stock

Compare: 2004 No 35 s CH 1

CH 2 Adjustment for prepayments

When this section applies

(1) This section applies when a person has, under section EA 3 (Prepayments), an unexpired amount of expenditure at the end of an income year.

Income

(2) The unexpired amount is income of the person in the income year.

Defined in this Act: amount, income, income year

Compare: 2004 No 35 s CH 2

CH 3 Adjustment for deferred payment of employment income

When this section applies

(1) This section applies when a person has, under section EA 4 (Deferred payment of employment income), an unpaid amount of expenditure on employment income that is to be treated as income in an income year.

Income

(2) The unpaid amount is income of the person in the income year.

Defined in this Act: amount, employment income, income, income year, pay

Compare: 2004 No 35 s CH 3

Change to accounting practice

CH 4 Adjustment for change to accounting practice

When this section applies

(1) This section applies when a person has, under section EG 2(2)(a) or (3)(a) (Adjustment for changes to accounting practice), an amount owing to them or an amount owed by them as quantified in those paragraphs.

Income

(2) An amount quantified and allocated under section EG 2(2)(a) or (3)(a) is income of the person.

Defined in this Act: amount, income

Compare: 2004 No 35 s CH 4

Goods and services tax (GST)

CH 5 Adjustment for GST

Income

(1) An adjustment taken into account under section 20(3)(e) of the Goods and Services Tax Act 1985 relating to the application of goods and services is income of a person.

Exclusion

(2) This section does not apply to an adjustment made in relation to a capital asset.

Timing of income

(3) The income is allocated to the income year in which the amount is calculated.

Defined in this Act: amount, income, income year

Compare: 2004 No 35 s CH 5

Section CH 5(1): amended, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 31(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CH 5(2): substituted, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 31(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CH 5(3) list of defined terms **taxable supply**: repealed, on 1 April 2011, by section 31(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

CH 5B Adjustments for certain flat-rate credits under platform economy rules

Who this section applies to

(1) This section applies to a person who, under the Goods and Services Tax Act 1985,—

(a) is an underlying supplier of goods and services; and

(b) has an amount of a flat-rate credit, as defined in section 2(1) of that Act, that they include in their assessable income for an income year.

Income

(2) The amount of the credit received by the person is income of the person for the income year.

Defined in this Act: amount, assessable income, income, income year

Section CH 5B: inserted (with effect on 1 April 2024), on 29 March 2025, by section 17(1) (and see section 17(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Finance leases

CH 6 Adjustments for certain finance and operating leases

When this section applies

(1) This section applies when an adjustment is made under section FA 11 or FA 11B (which relate to adjustments for leases that become finance leases and certain operating leases).

Income: leases that become finance leases

(2) The amount of a positive adjustment under section FA 11 is income of the lessor or the lessee, as applicable, in the income year in which the lease becomes a finance lease.

Income: operating leases entered into before 20 June 2007

(3) The amount of the adjustment under section FA 11B is income of the lessor in the income year after the income year in which 20 June 2007 falls.

Defined in this Act: amount, finance lease, income, income year, lease, operating lease

Compare: 2004 No 35 ss FC 8H(6), FC 8I(6)

Section CH 6: substituted, on 1 April 2008, by section 321 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Avoidance and non-market transactions

CH 7 Adjustment for avoidance arrangements

An amount treated as income of a person under any of the following sections is income of the person:

(a) section GA 1 (Commissioner's power to adjust):

(b) section GB 23 (Excessive remuneration to relatives):

(c) section GB 26 (Arrangements involving repatriation of commercial bills):

(d) section GB 29 (Attribution rule: calculation):

(e) section GB 46 (Deferral of surplus deductions from arrangements).

Defined in this Act: amount, arrangement, Commissioner, income, relative

CH 8 Market value substituted

Transfer pricing arrangements

(1) An amount treated as income of a person under section GC 8 (Insufficient amount receivable by person) is income of the person.

Disposal at below market value

(2) A person may be treated as deriving an amount—

(a) on disposal of trading stock under section GC 1 (Certain disposals of trading stock at below market value):

(b) on the lease of a property under section GC 5 (Leases for inadequate rent).

Defined in this Act: amount, income, lease, trading stock

Section CH 8(1): amended (with effect on 1 April 2008), on 28 March 2024, by section 17(1) (and see section 17(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CH 8(2)(a): amended, on 1 April 2024, by section 17(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Interest apportionment on thin capitalisation

CH 9 Interest apportionment: excess debt entity

When this section applies

(1) This section applies when an excess debt entity is required under section FE 6 (Apportionment of interest by excess debt entity) to apportion its interest expenditure.

Income

(2) The amount calculated under section FE 6(2) is treated as income of the excess debt entity for the income year.

Defined in this Act: amount, excess debt entity, income, income year, interest

Compare: 2004 No 35 s FG 8(1)

CH 10 Interest apportionment: reporting bank

When this section applies

(1) This section applies when a reporting bank is required under section FE 7 (Apportionment of interest by reporting bank) to apportion its interest expenditure.

Income

(2) The amount calculated under section FE 7(2) is treated as income of the reporting bank for the income year in which the measurement period falls.

Defined in this Act: amount, income, income year, interest, measurement period, reporting bank

Compare: 2004 No 35 s FG 8B(1)

CH 10B Interest apportionment: public project debt

When this section applies

(1) This section applies when an excess debt entity is required under section FE 7B (Interest on public project debt for certain excess debt entities) to apportion its interest expenditure arising from public project debt.

Income

(2) The amount calculated under section FE 7B(3) is income of the excess debt entity for the income year.

Defined in this Act: amount, excess debt entity, income, income year, interest, public project debt

Section CH 10B: inserted, on 1 July 2018, by section 5(1) (and see section 5(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Expenditure other than for entities' purposes

Heading: inserted, on 21 March 2017, by section 26(2) of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7).

CH 11 Te Awa Tupua and Te Pou Tupua

When this section applies

(1) This section applies when Te Pou Tupua, as defined in the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, incurs an amount of expenditure in an income year for a purpose outside the scope and effect of Part 2 of that Act.

Income: amount of expenditure

(2) Te Pou Tupua is treated as deriving income for the income year of an amount equal to the amount of the expenditure.

Defined in this Act: amount, income, income year

Section CH 11: inserted, on 21 March 2017, by section 26(2) of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7).

Section CH 11(2): amended, on 29 March 2018 (with effect on 21 March 2017), by section 23(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CH 11 list of defined terms **amount**: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 23(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CH 11 list of defined terms **income**: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 23(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CH 11 list of defined terms **income year**: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 23(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CH 11B Te Kāhui Tupua and Te Tōpuni Kōkōrangi

When this section applies

(1) This section applies when Te Tōpuni Kōkōrangi (as defined in Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025) incurs an amount of expenditure in an income year for a purpose outside the scope and effect of Part 3 of that Act.

Income: amount of expenditure

(2) Te Tōpuni Kōkōrangi is treated as deriving income for the income year of an amount equal to the amount of the expenditure.

Section CH 11B: inserted, on 2 February 2025, by section 57(2) of the Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 (2025 No 1).

CH 11C Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 asset management company

When this section applies

(1) This section applies when the asset management company (as defined in Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025) incurs an amount of expenditure in an income year for a purpose outside the purpose of the company set out in Part 4 of that Act.

Income: amount of expenditure

(2) The asset management company is treated as deriving income for the income year of an amount equal to the amount of the expenditure.

Section CH 11C: inserted, on 2 February 2025, by section 57(2) of the Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 (2025 No 1).

Financial instruments and hybrid mismatches

Heading: inserted, on 1 July 2018, by section 6(1) (and see section 6(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

CH 12 Income from hybrid mismatch arrangement

An amount is assessable income if it is treated as assessable income under subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements).

Defined in this Act: amount, assessable income

Section CH 12: inserted, on 1 July 2018, by section 6(1) (and see section 6(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Feasibility expenditure clawback

Heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 18(1) (and see section 18(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

CH 13 Feasibility expenditure clawback

When this section applies

(1) This section applies when a person—

(a) has deducted an amount under section DB 66(3) (Feasibility expenditure: spread deduction) for property in relation to which they abandoned further progress, with the result that the property was not completed, created, or acquired; and

(b) subsequently completes or creates the property, or acquires the property or similar property.

When this section does not apply

(2) Despite subsection (1), this section does not apply for an income year that is more than 7 years after the last income year for which a person has deducted an amount under section DB 66(3).

Income

(3) The person has, in the income year in which they subsequently complete, create, or acquire the property or similar property, income equal to the amount of the total deductions under section DB 66(3) for the property.

Defined in this Act: amount, deduction, income, income year, person

Section CH 13: inserted (with effect on 1 April 2020), on 30 March 2021, by section 18(1) (and see section 18(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Subpart CO—Income from voluntary activities

Subpart CO: inserted (with effect on 1 April 2009), on 6 October 2009, by section 27(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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CO 1 Income from voluntary activities

Income

(1) An amount derived by a person in undertaking a voluntary activity is income of the person.

Relationship with section CW 62B

(2) This section is overridden by section CW 62B (Voluntary activities).

Defined in this Act: amount, income

Section CO 1: inserted (with effect on 1 April 2009), on 6 October 2009, by section 27(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart CP—Income from portfolio investment entities

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CP 1 Attributed income of investors in multi-rate PIEs

When this section applies

(1) This section applies when a multi-rate PIE attributes an amount of income for an income year calculated under sections HM 35, HM 35C, and HM 36 (which relate to the attribution of amounts to investors) to a person who is an investor in the PIE.

Income

(2) The amount is income of the person in the income year of the person in which the PIE's income year ends.

Defined in this Act: amount, income, income year, investor, multi-rate PIE, PIE

Compare: 2007 No 97 s CP 1

Section CP 1: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 28(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CP 1(1): amended, on 29 August 2011, by section 6 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Subpart CQ—Attributed income from foreign equity

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Attributed controlled foreign company income

CQ 1 Attributed controlled foreign company income

Attributed controlled foreign company (CFC) income of a person is income.

Defined in this Act: attributed CFC income, controlled foreign company, income

Compare: 2004 No 35 s CQ 1

CQ 2 When attributed CFC income arises

General rule

(1) A person has **attributed CFC income** from a foreign company in an income year if—

(a) the foreign company is a CFC at any time during 1 of its accounting periods, under sections EX 1 to EX 7 (which relate to the definition of a controlled foreign company); and

(b) the accounting period ends during the income year; and

(bb) the person is not a portfolio investment entity; and

(c) the person has an income interest in the foreign company for the accounting period, under sections EX 8 to EX 13 (which relate to calculating a person's income interest); and

(d) at any time in the accounting period, the person is a New Zealand resident who is not a transitional resident; and

(e) the person's income interest is 10% or more for the part of the accounting period during which the person is a New Zealand resident who is not a transitional resident, under sections EX 14 to EX 17 (which relate to the 10% threshold); and

(f) either—

(i) the CFC has net attributable CFC income for the accounting period under section EX 20C (Net attributable CFC income or loss); or

(ii) the special rule in section EX 19 (Taxable distribution from non-complying trust) applies because the CFC gets a distribution from a non-complying trust; and

(g) *[Repealed]*

(h) the CFC is not a non-attributing active CFC for the accounting period, under section EX 21B (Non-attributing active CFCs); and

(i) the CFC is not a non-attributing Australian CFC for the accounting period, under section EX 22 (Non-attributing Australian CFCs).

Special rule: taxable distributions under the attributable FIF income method

(2) A person also has **attributed CFC income** if section EX 50(5) (Attributable FIF income method) applies because—

(a) the person has an attributing interest in a foreign investment fund (FIF); and

(b) the person is using the attributable FIF income method to calculate FIF income; and

(c) the FIF receives a taxable distribution from a non-complying trust.

Special rule: attributed CFC amount from personal services

(2B) If a person and a non-attributing active CFC or non-attributing Australian CFC meet the requirements of subsection (1)(a) to (e) and the CFC derives income from personal services that is an attributable CFC amount under section EX 20B(3)(h) (Attributable CFC amount), the person has **attributed CFC income** from the CFC equal to the product of—

(a) the person's income interest in the CFC:

(b) the amount by which the CFC's income from personal services exceeds the expenditure incurred by the CFC in deriving the income from personal services.

Treated as derived while person New Zealand resident

(3) Attributed CFC income of a person who has stopped being a New Zealand resident is treated as being derived while the person was a New Zealand resident.

Dividend income can arise

[Repealed]

(4) *[Repealed]*

Defined in this Act: accounting period, attributable CFC amount, attributed CFC income, attributable FIF income method, attributing interest, CFC, distribution, dividend, FIF, FIF income, foreign company, grey list, income, income interest, income year, net attributable CFC income, New Zealand resident, non-attributing active CFC, non-attributing Australian CFC, non-complying trust, portfolio investment entity, taxable distribution, transitional resident

Compare: 2004 No 35 s CQ 2

Section CQ 2(1)(bb): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 7(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 2(1)(f)(i): substituted (with effect on 30 June 2009), on 6 October 2009, by section 29(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2(1)(g): repealed (with effect on 30 June 2009), on 6 October 2009, by section 29(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2(1)(h): added (with effect on 30 June 2009), on 6 October 2009, by section 29(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2(1)(i): added (with effect on 30 June 2009), on 6 October 2009, by section 29(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2(2) heading: replaced, on 24 February 2016, by section 81(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CQ 2(2): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 7(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 2(2)(b): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 7(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 2(2B) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 29(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2(2B): inserted (with effect on 30 June 2009), on 6 October 2009, by section 29(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2(4) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 29(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2(4): repealed (with effect on 30 June 2009), on 6 October 2009, by section 29(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2 list of defined terms **attributable CFC amount**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 29(5)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 7(4)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 2 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 81(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CQ 2 list of defined terms **branch equivalent income**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 29(5)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 7(4)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 2 list of defined terms **net attributable CFC income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 29(5)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2 list of defined terms **non-attributing active CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 29(5)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2 list of defined terms **non-attributing Australian CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 29(5)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 2 list of defined terms **portfolio investment entity**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 7(4)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CQ 3 Calculation of attributed CFC income

The amount of attributed CFC income is calculated under the rules in sections EX 18 to EX 20 (which relate to the calculation of attributed CFC income or loss).

Defined in this Act: amount, attributed CFC income

Compare: 2004 No 35 s CQ 3

Foreign investment fund income

CQ 4 Foreign investment fund income

FIF income of a person is income.

Defined in this Act: FIF income, income

Compare: 2004 No 35 s CQ 4

CQ 5 When FIF income arises

General rule

(1) A person has **FIF income** in an income year if—

(a) at any time in the year, the person has—

(i) rights in a foreign company, or a foreign superannuation scheme, or an entity listed in schedule 25, part A (Foreign investment funds); or

(ii) rights under a life insurance policy issued by a non-resident; and

(b) at that time, the rights are an attributing interest in a FIF under section EX 29 (Attributing interests in FIFs); and

(c) at that time, the rights are not exempt from being an attributing interest in a FIF under any of—

(i) the exemption for ASX-listed Australian companies in section EX 31 (Exemption for ASX-listed Australian companies):

(ii) the exemption for Australian unit trusts with 25% turnover in section EX 32 (Exemption for Australian unit trusts with 25% turnover):

(iii) the exemption for Australian regulated superannuation savings in section EX 33 (Exemption for Australian regulated superannuation savings):

(iv) the CFC rules exemption in section EX 34 (CFC rules exemption):

(v) the exemption in section EX 35 (Exemption for interest in FIF resident in Australia):

(vi) the 10-year exemption for a venture capital company emigrating to a grey list country in section EX 36 (Venture capital company emigrating to grey list country: 10-year exemption):

(vii) the 10-year exemption for a grey list company owning a New Zealand venture capital company in section EX 37 (Grey list company owning New Zealand venture capital company: 10-year exemption):

(viib) the exemption for shares in a grey list company acquired under a venture investment agreement in section EX 37B (Share in grey list company acquired under venture investment agreement):

(viii) the exemption for an employee share scheme of a grey list company in section EX 38 (Exemptions for employee share schemes):

(ix) *[Repealed]*

(x) *[Repealed]*

(xi) the foreign exchange control exemption in section EX 40 (Foreign exchange control exemption):

(xii) the exemption for a non-resident or transitional resident in section EX 41 (Income interest of non-resident or transitional resident):

(xiii) *[Repealed]*

(xiva) the exemption for an interest in a foreign superannuation scheme that is not a FIF superannuation interest in section EX 42B (Interests in foreign superannuation scheme other than FIF superannuation interests):

(xiv) the annuity or pension exemption in section EX 43 (Non-resident's pension or annuity exception):

(xv) an exemption for a non-attributing active FIF given by sections EX 50, EX 18A(2)(b)(i), and EX 21B (which relate to the attributable FIF income method and FIFs corresponding to non-attributing active CFCs); and

(d) if the person is a natural person,—

(i) the total cost, calculated under section EX 68 (Measurement of cost), of attributing interests in FIFs that the person holds at any time in the year when the person is a New Zealand resident is more than $50,000:

(ii) the person includes, in a return for the year, FIF income or loss from an attributing interest in a FIF:

(iii) the person has, in the return for 1 of the preceding 4 income years (the **earlier year**), included FIF income or loss from attributing interests in FIFs with a total cost of $50,000 or less, calculated under section EX 68, at all times in the earlier year when the person is a New Zealand resident; and

(e) if the person is acting as trustee of a trust that meets the requirements of subsection (5),—

(i) the total cost, calculated under section EX 68, of attributing interests in FIFs that the person holds at any time in the year is more than $50,000:

(ii) the person includes, in a return for the year, FIF income or loss from an attributing interest in a FIF:

(iii) the person has, in the return for 1 of the preceding 4 income years (the **earlier year**), included FIF income or loss from attributing interests in FIFs with a total cost of $50,000 or less, calculated under section EX 68, at all times in the earlier year; and

(f) at any time in the year, the person is a New Zealand resident who is not a transitional resident and holds the attributing interest; and

(g) under the relevant calculation method chosen by the person, an income amount is calculated for the year under sections EX 44 to EX 56 (which relate to the calculation of FIF income or loss), EX 60 or EX 61 (which relate to top-up FIF income).

Treatment of transaction under section EX 63, EX 65, or EX 67

(1B) If a person is treated under section EX 63(5), EX 65, or EX 67 (which relate to changes in method or application of FIF rules) as disposing of or acquiring rights in an income year, the disposal or acquisition is ignored for the purposes of subsection (1)(d) and (e).

Look-through calculation methods

(2) Despite subsection (1), if the calculation method is the attributable FIF income method,—

(a) FIF income arises in the income year only if the relevant accounting period of the FIF ends during the year; and

(b) the tests in subsection (1)(a), (b), (c), and (f) are applied on the basis that references in subsection (1)(a), (b), (c), and (f) to any time in the year are read as references to any time in the relevant accounting period.

FIF income from CFC with FIF interest

(3) **FIF income** also includes an additional amount that a person with an income interest of 10% or more in a CFC has in an income year under section EX 58 (Additional FIF income or loss if CFC owns FIF), regardless of whether the CFC is a non-attributing active CFC under section EX 21B (Non-attributing active CFCs) or a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs).

Treated as derived while person New Zealand resident

(4) FIF income of a person who has stopped being a New Zealand resident is treated as being derived while the person was a New Zealand resident.

Requirements for trustees

(5) Subsection (1)(e) applies to the trustee of a trust for an income year if—

(a) the trust is of the estate of a deceased person and the income year begins on or before the day that is 5 years after the person's death:

(b) the settlor of the trust—

(i) is a relative or legal guardian of a beneficiary of the trust, or a person associated with a relative or legal guardian of a beneficiary of the trust; and

(ii) is required by a court order to pay damages or compensation to the beneficiary:

(c) the settlor of the trust—

(i) is the estate of a deceased person; and

(ii) is required by a court order to settle on the trust the proceeds of damages or compensation for the beneficiaries of the trust:

(d) the settlor of the trust is the Accident Compensation Corporation.

Defined in this Act: accounting period, amount, associated person, attributable FIF income method, attributing interest, calculation method, CFC, employee share scheme, FIF, FIF income, FIF superannuation interest, foreign company, foreign superannuation scheme, grey list, grey list company, income, income interest, income year, life insurance policy, loss, New Zealand resident, non-attributing Australian CFC, non-resident, relative, settlor, shareholder, transitional resident, trustee, unit trust, venture investment agreement

Compare: 2004 No 35 s CQ 5

Section CQ 5(1)(c)(iii): replaced (with effect on 1 April 2014), on 24 February 2016, by section 82(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CQ 5(1)(c)(v): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 8(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5(1)(c)(viib): inserted (with effect on 1 April 2008), on 29 March 2025, by section 18(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CQ 5(1)(c)(viii): amended (with effect on 29 September 2018), on 31 March 2023, by section 19(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CQ 5(1)(c)(viii): amended, on 29 September 2018, by section 24(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CQ 5(1)(c)(ix): repealed, on 30 March 2025, by section 18(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CQ 5(1)(c)(x): repealed, on 30 March 2025, by section 18(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CQ 5(1)(c)(xiii): repealed, on 1 April 2014, by section 9 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CQ 5(1)(c)(xiva): inserted (with effect on 1 April 2014), on 29 March 2025, by section 18(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CQ 5(1)(c)(xiv): amended, on 24 February 2016, by section 82(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CQ 5(1)(c)(xiv): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 8(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5(1)(c)(xv): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 8(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5(1)(c)(xv): amended (with effect on 1 July 2011), on 30 March 2017, by section 29(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CQ 5(1)(d): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 8(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5(1)(d): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CQ 5(1)(e): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 8(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5(1B) heading: inserted, on 1 April 2008, by section 322(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CQ 5(1B): inserted, on 1 April 2008, by section 322(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CQ 5(2): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 8(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5(3) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 30(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 5(3): substituted (with effect on 30 June 2009), on 6 October 2009, by section 30(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 5(3): amended, on 24 February 2016, by section 82(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CQ 5 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 8(5)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 8(5)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 8(5)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5 list of defined terms **employee share scheme**: inserted (with effect on 29 September 2018), on 31 March 2023, by section 19(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CQ 5 list of defined terms **FIF superannuation interest**: inserted (with effect on 1 April 2014), on 29 March 2025, by section 18(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CQ 5 list of defined terms **loss**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 8(5)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CQ 5 list of defined terms **non-attributing active FIF**: repealed, on 29 September 2018, by section 24(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CQ 5 list of defined terms **non-attributing Australian CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 30(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CQ 5 list of defined terms **settlor**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CQ 5 list of defined terms **venture investment agreement**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 18(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CQ 6 Calculation of FIF income

The amount of any FIF income is calculated, using the relevant calculation method, under sections EX 44 to EX 61 (which relate to the calculation of FIF income or loss).

Defined in this Act: amount, calculation method, FIF income

Compare: 2004 No 35 s CQ 6

CQ 7 Treatment of attributing interests subject to returning share transfer

[Repealed]

Section CQ 7: repealed on 6 October 2009, by section 31 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart CR—Income from insurance

Subpart CR heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 32 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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CR 1 Policyholder base income of life insurer

If, but for this section, a life insurer has an amount of policyholder base income for an income year, and that amount is not income under this Part, the amount is income of the life insurer for the income year.

Defined in this Act: amount, income, income year, life insurer, policyholder base income

Section CR 1: substituted, on 1 July 2010, by section 33(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CR 2 Shareholder base income of life insurer

If, but for this section, a life insurer has an amount of shareholder base income for an income year, and that amount is not income under this Part, the amount is income of the life insurer for the income year.

Defined in this Act: amount, income, income year, life insurer, shareholder base income

Section CR 2: substituted, on 1 July 2010, by section 33(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CR 3 Income of non-resident general insurer

What this section applies to

(1) This section applies to a premium that is treated as having a source in New Zealand under section YD 8 (Apportionment of premiums derived by non-resident general insurers) if—

(a) an insured person pays the premium to an insurer for insurance of any of the kinds described in subsection (3); and

(b) the premium meets all 3 conditions in subsection (4); and

(c) the premium is not excluded from the application of this section by section YD 8(6).

Amount of income

(2) Ten percent of the gross premium derived by the insurer is income of the insurer.

Kinds of insurance

(3) The kinds of insurance referred to in subsection (1)(a) are—

(a) general insurance:

(b) a guarantee against risk given by an insurer to an insured person if—

(i) the insured person is liable to pay a premium to the insurer for the guarantee; and

(ii) the insured person is associated with the insurer:

(c) a guarantee against risk given by an insurer to an insured person if—

(i) the insured person is liable to pay a premium to the insurer for the guarantee; and

(ii) the risk arises from money lent to the insured person; and

(iii) the amounts the insured person is liable to pay for the money are significantly less than they would otherwise have been because of the guarantee; and

(iv) the effect of the guarantee on the amounts payable is more than an incidental effect, or comes about as more than an incidental purpose, of the insurer's giving the guarantee.

Conditions for premium

(4) The premium referred to in subsection (1)(b) is—

(a) a premium derived by an insurer who is not resident in New Zealand when they derive it:

(b) a premium that is not attributable to a fixed establishment of the insurer in New Zealand through which they carry on business in New Zealand:

(c) a premium to which at least 1 of the following applies:

(i) the insured person from whom the premium is derived is resident in New Zealand; or

(ii) the insurance contract from which the premium is derived is offered or entered into in New Zealand; or

(iii) the insurance contract from which the premium is derived is entered into for the purposes of a business carried on by the insured person in New Zealand through a fixed establishment in New Zealand.

Defined in this Act: amount, business, fixed establishment, general insurance, gross, income, insurance, insurance contract, insured person, insurer, money lent, New Zealand, non-resident, offered or entered into in New Zealand, pay, premium, resident in New Zealand, source in New Zealand

Compare: 2004 No 35 ss FC 13, FC 14(2)

Section CR 3(1): amended, on 21 December 2010, by section 32(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CR 3 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 32(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CR 3 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 32(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

CR 3B Lloyd's of London: income from life insurance premiums

What this section applies to

(1) This section applies to a premium a portion of which is treated as having a source in New Zealand under section YD 8B (Apportionment of life insurance premiums derived by Lloyd's of London) if—

(a) the policyholder pays the premium for a life insurance policy to Lloyd's of London or an agent of Lloyd's of London; and

(b) the life insurance policy is described in subsection (3); and

(c) the life insurance policy is offered or was offered or entered into within New Zealand.

Amount of income

(2) Ten percent of the gross premium derived by Lloyd's of London is income of Lloyd's of London.

Types of life insurance policies

(3) The life insurance policy referred to in subsection (1) is a life insurance policy that—

(a) is made available to the general public; and

(b) is not a profit participation policy or a savings product policy or both; and

(c) does not provide for a benefit that is an annuity.

Defined in this Act: income, life insurance policy, Lloyd's of London, offered or was offered or entered into, pay, premium, profit participation policy, savings product policy, source in New Zealand

Section CR 3B: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 25(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CR 4 Income for general insurance outstanding claims reserve

What this section applies to

(1) This section applies for—

(a) an insurer who—

(i) uses IFRS 4, Appendix D or IFRS 17 for general insurance contracts:

(ii) is a life insurer who has general insurance contracts; and

(b) general insurance contracts, excluding contracts having premiums to which section CR 3 (Income of non-resident general insurer) applies.

When this section does not apply

(1B) This section does not apply for contracts that section DZ 10 (General insurance with risk period straddling 1 July 1993) applies to.

Formula for insurer's OCR income

(2) For an income year (the **current year**), an insurer has income of the amount by which zero is less than the amount calculated using the formula—

opening outstanding claims reserve − closing outstanding claims reserve.

Definition of items in formula

(3) In the formula,—

(a) **opening outstanding claims reserve** is the total for the general insurance contracts of—

(i) the amount of the insurer's closing outstanding claims reserve for the income year before the current year (the **prior year**), for general insurance contracts to which neither of subparagraphs (ii) and (iii) apply:

(ii) the amount of the insurer's closing outstanding claims reserve, for general insurance contracts not referred to in subparagraph (iii), used by the insurer for tax purposes for the prior year, if the current year is the first year for which this section applies to the insurer, or for which the insurer adopts IFRS 17, or for which the insurer applies for the first time in a tax calculation the definition of **present value (gross)** in section EY 24(5) (Outstanding claims reserving amount: non-participation policies not annuities):

(iii) the amount calculated using the formula in section DW 4(4B) (Deductions for general insurance outstanding claims reserve), for general insurance contracts transferred to the insurer in the current year by a transfer to which section ED 3(1B) (Part-year tax calculations for transfers: general insurance OCR) applies:

(b) **closing outstanding claims reserve** is the amount of the insurer's outstanding claims reserve, calculated at the end of the current year.

Defined in this Act: amount, IFRS 4, IFRS 17, income, income year, insurer, life insurer, outstanding claims reserve, premium, present value (gross)

Section CR 4: added (with effect on 1 April 2008), on 6 October 2009, by section 34(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CR 4(1)(a)(i): amended (with effect on 1 January 2023), on 31 March 2023, by section 20(1) (and see section 20(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CR 4(3)(a)(ii): replaced (with effect on 1 January 2023), on 31 March 2023, by section 20(2) (and see section 20(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CR 4(1B) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 income year and later income years), on 17 July 2013, by section 11(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CR 4(1B): inserted (with effect on 1 April 2008 and applying for the 2008–09 income year and later income years), on 17 July 2013, by section 11(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CR 4(3)(a): replaced, on 1 April 2014, by section 10 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CR 4 list of defined terms **general insurance contract**: repealed (with effect on 1 April 2008), on 7 September 2010, by section 11(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CR 4 list of defined terms **IFRS 17**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 20(3) (and see section 20(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CR 4 list of defined terms **premium**: added (with effect on 1 April 2008), on 7 September 2010, by section 11(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CR 4 list of defined terms **present value (gross)**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 20(3) (and see section 20(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Subpart CS—Superannuation funds

[Repealed]

Subpart CS: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

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Heading: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 1 Withdrawals

[Repealed]

Section CS 1: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Exclusions

[Repealed]

Heading: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 2 Exclusions of withdrawals of various kinds

[Repealed]

Section CS 2: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 3 Exclusion of withdrawal on grounds of hardship

[Repealed]

Section CS 3: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 4 Exclusion of withdrawal to settle division of relationship property

[Repealed]

Section CS 4: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 5 Exclusion of withdrawal paid as annuity or pension

[Repealed]

Section CS 5: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 6 Exclusion of withdrawal on partial retirement

[Repealed]

Section CS 6: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 7 Exclusion of withdrawal when member ends employment

[Repealed]

Section CS 7: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 8 Exclusion of withdrawal when member ends employment: lock-in rule

[Repealed]

Section CS 8: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 9 Exclusion of withdrawal from defined benefit fund when member ends employment

[Repealed]

Section CS 9: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 10 When member treated as not ending employment

[Repealed]

Section CS 10: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 10B Exclusion of permitted withdrawals from KiwiSaver schemes and complying superannuation funds

[Repealed]

Section CS 10B: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Transfers to or from superannuation funds and superannuation schemes

[Repealed]

Heading: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 11 Transfer by superannuation fund to another superannuation fund

[Repealed]

Section CS 11: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 12 Transfer from superannuation scheme to superannuation fund

[Repealed]

Section CS 12: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 13 Investment by superannuation fund in another superannuation fund

[Repealed]

Section CS 13: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Treatment of amounts when superannuation fund becomes superannuation scheme or vice versa

[Repealed]

Heading: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 14 Superannuation fund becomes superannuation scheme

[Repealed]

Section CS 14: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 15 Superannuation fund becomes foreign superannuation scheme

[Repealed]

Section CS 15: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 16 Superannuation scheme becomes superannuation fund

[Repealed]

Section CS 16: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Treatment of distributions when superannuation fund wound up

[Repealed]

Heading: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 17 Superannuation fund wound up

[Repealed]

Section CS 17: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Treatment of loans to members

[Repealed]

Heading: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CS 18 Value of loan treated as fund income

[Repealed]

Section CS 18: repealed, on 1 April 2011, by section 12 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Subpart CT—Income from petroleum mining

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CT 1 Disposal of exploratory material or petroleum mining asset

Income: disposal of exploratory material

(1) The consideration that a petroleum miner derives from disposing of exploratory material is income of the petroleum miner.

Income: disposal of petroleum mining asset

(2) The consideration that a petroleum miner derives from disposing of a petroleum mining asset is income of the petroleum miner.

Relationship with section CX 43

(3) This section is overridden by section CX 43 (Farm-out arrangements for mining operations).

Relationship with section CZ 32

(4) Section CZ 32 (Treatment of certain petroleum storage facilities) overrides subsection (2).

Defined in this Act: consideration, dispose, exploratory material, income, petroleum miner, petroleum mining asset

Compare: 2004 No 35 s CT 1

Section CT 1(3): amended, on 1 April 2014, by section 11 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CT 1(4) heading: inserted, on 30 June 2014, by section 20 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CT 1(4): inserted, on 30 June 2014, by section 20 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CT 2 Damage to assets

The consideration that a petroleum miner derives for damage to an asset of the kind described in section CT 7(1)(b) or (c) is income of the petroleum miner.

Defined in this Act: consideration, income, petroleum miner

Compare: 2004 No 35 s CT 2

CT 3 Exploratory well used for commercial production

When this section applies

(1) This section applies when a petroleum miner uses an exploratory well for commercial production of petroleum, whether or not the well has been sealed and abandoned previously.

Income

(2) An amount equal to the amount of expenditure described in subsection (3) is treated as income of the petroleum miner.

Exploratory well expenditure

(3) The expenditure is exploratory well expenditure to which all the following apply:

(a) it is directly attributable to drilling or acquiring the exploratory well; and

(b) the petroleum miner or a holder of a previous interest in the well is or has been allowed a deduction for it as petroleum exploration expenditure; and

(c) it is incurred in relation to the permit held currently by the petroleum miner, or a previous permit surrendered in exchange for the permit currently held under section 32(3) of the Crown Minerals Act 1991.

Timing of income

(4) The amount is allocated to the income year in which commercial production from the well starts.

Part interest

(5) If the petroleum miner has a part interest in the exploratory well when that well is first used for commercial production, the amount of expenditure treated as income under this section must bear the same proportion to the exploratory well expenditure specified in subsection (3) as that part interest bears to all interests in the well.

Defined in this Act: amount, commercial production, deduction, exploratory well, exploratory well expenditure, income, income year, permit, petroleum, petroleum exploration expenditure, petroleum miner, seal and abandonment

Compare: 2004 No 35 s CT 3

CT 4 Partnership interests and disposal of part of asset

In this subpart, and in sections CX 42 (Disposal of ownership interests in controlled petroleum mining entities) and CX 43 (Farm-out arrangements for mining operations), unless the context requires otherwise,—

(a) a partner is treated as having a share or interest in a petroleum permit or other property of a partnership to the extent of their interest in the income of the partnership:

(b) references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: income, petroleum permit

Compare: 2004 No 35 s CT 4

Section CT 4: amended, on 1 April 2014, by section 12 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CT 5 Petroleum mining operations outside New Zealand

This subpart, and sections CX 42 (Disposal of ownership interests in controlled petroleum mining entities) and CX 43 (Farm-out arrangements for mining operations), apply, with any necessary modifications, to a petroleum miner who undertakes petroleum mining operations that are, or decommissioning that is—

(a) outside New Zealand and undertaken through a branch or a controlled foreign company; and

(b) substantially the same as the petroleum mining activities governed by this subpart and sections CX 42 and CX 43.

Defined in this Act: controlled foreign company, decommissioning, New Zealand, petroleum miner, petroleum mining operations

Compare: 2004 No 35 s CT 5

Section CT 5: amended, on 1 April 2018, by section 26(1) (and see section 26(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CT 5: amended, on 1 April 2014, by section 13 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CT 5 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 26(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CT 5B Resuming commercial production

When this section applies

(1) This section applies when a petroleum miner or a farm-in party undertakes commercial production in a permit area when a petroleum miner, or a farm-in party, has received a deduction under section EJ 13 (Permanently ceasing petroleum mining operations) for permanently ceasing petroleum mining operations in the permit area.

Income

(2) An amount described in subsection (3) is treated as income of the petroleum miner who, at any time after the petroleum mining operations have ceased under section EJ 13,—

(a) undertakes commercial production (the **resumed commercial production**) in the permit area:

(b) arranges for a farm-in party to undertake the resumed commercial production in the permit area.

Amount treated as income

(3) The amount referred to in subsection (2) that is treated as income is an amount that is equal to the amount of the deduction allowed under section EJ 13 to the extent to which it relates to a petroleum mining asset that is used or is to be used in the resumed commercial production.

Allocation of income

(4) The amount is allocated to the income year in which the resumed commercial production in the permit area begins.

Defined in this Act: amount, commercial production, deduction, farm-in party, farm-out arrangement, income, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining asset, petroleum mining operations, petroleum permit

Section CT 5B: inserted, on 1 April 2018, by section 27(1) (and see section 27(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Definitions

CT 6 Meaning of petroleum miner

Meaning

(1) **Petroleum miner**, for a permit area, means a person who undertakes petroleum mining operations or decommissioning in the permit area.

Exclusion

(2) **Petroleum miner** does not include a person who undertakes petroleum mining operations or decommissioning for consideration that is not in the form of, or contingent on,—

(a) the production of petroleum from the permit area; or

(b) profits from the production of petroleum from the permit area; or

(c) an interest or a right to an interest in the petroleum permit.

Activities: inclusions

[Repealed]

(3) *[Repealed]*

Activities: exclusions

[Repealed]

(4) *[Repealed]*

Defined in this Act: consideration, decommissioning, permit area, petroleum, petroleum miner, petroleum mining operations, petroleum permit

Compare: 2004 No 35 s CT 6

Section CT 6(1): substituted, on 1 April 2008, by section 326(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CT 6(1): amended, on 1 April 2018, by section 28(1) (and see section 28(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CT 6(2): amended, on 1 April 2018, by section 28(2) (and see section 28(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CT 6(3) heading: repealed, on 1 April 2008, by section 326(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CT 6(3): repealed, on 1 April 2008, by section 326(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CT 6(4) heading: repealed, on 1 April 2008, by section 326(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CT 6(4): repealed, on 1 April 2008, by section 326(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CT 6 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 28(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CT 6 list of defined terms **petroleum mining operations**: inserted, on 1 April 2008, by section 326(4)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CT 6 list of defined terms **removal or restoration operations**: repealed, on 1 April 2008, by section 326(4)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

CT 6B Meaning of petroleum mining operations

Meaning

(1) **Petroleum mining operations** means an activity included in those described in subsection (2) and not excluded by subsection (3).

Activities: inclusions

(2) The activities are those carried out in connection with—

(a) prospecting or exploring for petroleum:

(b) developing a permit area for producing petroleum:

(c) producing petroleum:

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

(e) *[Repealed]*

Activities: exclusions

(3) The activities do not include further treatment to which all the following apply:

(a) it occurs after the well stream has been separated and stabilised into crude oil, condensate, or natural gas; and

(b) it is done—

(i) by liquefaction or compression; or

(ii) for the extraction of constituent products; or

(iii) for the production of derivative products; and

(c) it is not treatment at the production facilities.

Defined in this Act: permit area, petroleum

Compare: 2004 No 35 s CT 6B.

Section CT 6B: inserted, on 1 April 2008, by section 327 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CT 6B(2)(e): repealed, on 1 April 2018, by section 29(1) (and see section 29(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CT 6B list of defined terms **removal or restoration operations**: repealed, on 1 April 2018, by section 29(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CT 7 Meaning of petroleum mining asset

Meaning

(1) **Petroleum mining asset** means—

(a) a petroleum permit:

(b) an asset that—

(i) is acquired by a petroleum miner for the purpose of carrying on an activity described in subsection (3) in a permit area or areas; and

(ii) has an estimated useful life that depends on, and is no longer than, the remaining life of the petroleum permit for the area or areas:

(c) a share or partial interest in an asset described in paragraph (a) or (b).

Exclusion

(2) **Petroleum mining asset** does not include—

(a) land:

(b) an underground gas storage facility as that term is defined in section 2 of the Crown Minerals Act 1991.

Activities: inclusions

(3) The activities are those carried out in connection with—

(a) developing a permit area for producing petroleum:

(b) producing petroleum:

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

(d) decommissioning.

Activities: exclusions

(4) The activities do not include further treatment to which all the following apply:

(a) it occurs after the well stream has been separated and stabilised into crude oil, condensate, or natural gas; and

(b) it is done—

(i) by liquefaction or compression; or

(ii) for the extraction of constituent products; or

(iii) for the production of derivative products; and

(c) it is not treatment at the production facilities.

Defined in this Act: decommissioning, land, permit area, petroleum, petroleum miner, petroleum mining asset, petroleum permit

Compare: 2004 No 35 s CT 7

Section CT 7(2): replaced, on 30 June 2014, by section 21 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CT 7(3)(d): amended, on 1 April 2018, by section 30(1) (and see section 30(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CT 7 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 30(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CT 7 list of defined terms **removal or restoration operations**: repealed, on 1 April 2018, by section 30(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart CU—Income from mineral mining

Subpart CU: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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CU 1 Mineral miner's income

An amount that a mineral miner derives from their mining operations or associated mining operations is income of the mineral miner.

Defined in this Act: amount, associated mining operations, income, mineral miner, mining operations

Section CU 1: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 2 Treatment of mining land

When this section applies

(1) This section applies when—

(a) a mineral miner acquires land or an interest in land for the purposes of current or intended mining operations or associated mining operations; and

(b) the land—

(i) constitutes a mining permit area or is land adjacent to it:

(ii) forms, or is intended to form, part of a mining permit area or land adjacent to it.

Income

(2) An amount that the mineral miner derives from disposing of the land or interest in land is income of the mineral miner for the income year of disposal.

Defined in this Act: amount, associated mining operations, income, income year, interest, land, mineral miner, mining operations, permit area

Section CU 2: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 3 Disposal of mineral mining assets

Income

(1) The consideration that a mineral miner derives from disposing of a mineral mining asset is income of the mineral miner.

Relationship with section CX 43

(2) This section is overridden by section CX 43 (Farm-out arrangements for mining operations).

Defined in this Act: income, mineral miner, mineral mining asset

Section CU 3: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 4 Recovery of certain expenditure

When this section applies

(1) This section applies when—

(a) a mineral miner incurs an amount of mining exploration expenditure in relation to their mining operations or associated mining operations; and

(b) the mineral miner is allowed a deduction for the expenditure for an income year under section DU 1(1)(b) (Mining expenditure: prospecting and exploration expenditure); and

(c) the income year is later than the 2013–14 income year; and

(d) the expenditure is incurred in an income year for which the mineral miner is required under section 22 of the Tax Administration Act 1994 to keep records; and

(e) the expenditure results in, produces, or generates an asset for the mineral miner; and

(f) the mineral miner uses the asset for, or in relation to, the commercial production of a listed industrial mineral.

Income

(2) The mineral miner is treated as deriving income to the extent of the amount of expenditure that resulted in, produced, or generated the asset. However, the amount must not be more than the amount of the deduction referred to in subsection (1)(b).

Timing

(3) The income is allocated to the income year in which the mineral miner uses the asset for, or in relation to, the commercial production of the mineral.

Defined in this Act: amount, associated mining operations, commercial production, deduction, income, income year, interest, land, listed industrial mineral, mineral, mineral miner, mining exploration expenditure, mining operations

Section CU 4: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 5 Partnership interests and disposal of part of asset

In this subpart and subpart DU (Mineral mining expenditure), and in sections CX 43 (Farm-out arrangements for mining operations), and GB 20 (Arrange-

ments involving petroleum and mineral mining) unless the context otherwise requires,—

(a) a partner is treated as having a share or interest in a mineral mining asset or other property of a partnership to the extent of their interest in the income of the partnership:

(b) references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: income, mineral mining asset, partner, partnership

Section CU 5: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Definitions

Heading: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 6 Meaning of mineral miner

Meaning

(1) **Mineral miner** means a person to which 1 of the following applies:

(a) the person's only source of income is the business described in subsection (2); or

(b) the person's main source of income is the business described in subsection (2); or

(c) the person's only activity is 1 of the activities described in subsection (3); or

(d) the person's main activity is 1 of the activities described in subsection (3); or

(e) the person proposes that their only activity or their main activity be 1 of the activities described in subsection (3).

Business

(2) The business referred to in subsection (1)(a) and (b) is the business of mining a listed industrial mineral in New Zealand.

Activities

(3) The activities referred to in subsection (1)(c), (d), and (e) are—

(a) exploring, searching, or mining for a listed industrial mineral in New Zealand; or

(b) performing development work for exploring, searching, or mining for a listed industrial mineral in New Zealand.

Service for reward

(4) An activity described in subsection (3) does not include an activity done or to be done as a service to another person for reward unless the reward—

(a) is wholly or mainly related to and dependent on the production of the listed industrial mineral; or

(b) arises wholly or mainly through participation in profits from the production of the listed industrial mineral.

Defined in this Act: business, income, listed industrial mineral, New Zealand

Section CU 6: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 7 Some definitions

Meaning of mining operations

(1) **Mining operations** means operations that—

(a) are carried on by a mineral miner in a permit area in New Zealand for the purpose of deriving income; and

(b) consist of—

(i) exploring, or searching for 1 or more listed industrial minerals; or

(ii) performing development work for exploring, searching, or mining for 1 or more listed industrial minerals; or

(iii) extracting 1 or more listed industrial minerals; or

(iv) mining or performing work directly related to mining for 1 or more listed industrial minerals.

Meaning of associated mining operations

(2) **Associated mining operations** means operations that—

(a) are carried on in New Zealand in association with mining operations; and

(b) consist of the accumulation, initial treatment, and transport of listed industrial minerals up to the stage at which the minerals—

(i) are in a saleable form and in a location suitable for a person to acquire them; or

(ii) are ready to be processed beyond the initial treatment or to be used in a manufacturing operation.

Meaning of initial treatment

(3) For the purposes of subsection (2)(b)(ii), **initial treatment**—

(a) means—

(i) breaking, cleaning, crushing, grading, grinding, leaching, screening, or sizing; or

(ii) a treatment that is applied before concentration or, for a listed industrial mineral not requiring concentration, a treatment that would have been applied before concentration if the mineral had required concentration; or

(iii) concentration; and

(b) does not include—

(i) calcining or sintering; or

(ii) the production of, or processes carried on in connection with the production of, alumina, or pellets, or other agglomerated forms of iron.

Defined in this Act: associated mining operations, income, initial treatment, listed industrial mineral, mineral, mineral miner, mining operations, New Zealand, permit area

Section CU 7: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 8 Meaning of listed industrial mineral

Meaning

(1) **Listed industrial mineral**—

(a) means alumina minerals (for example, bauxite, corundum, diaspore, and gibbsite), aluminous refractory clays containing over 30% alumina in the fired state, aluminous refractory fireclays containing over 30% alumina in the fired state, andalusite, antimony, asbestos, barite, bentonite (except bentonite mined in the area formerly known as Malvern County), bituminous shale, chromite, copper, diatomite, dolomite, feldspar, fluorite, gold, halloysite, kaolin, kyanite, lead, magnesite, manganese, mercury, mica, molybdenite, nickel, perlite, phosphate, platinum group, pyrite, silica in lump form used only in producing silicon carbide or silicon metal or ferro silicon, silica in sand form used only in producing silicon carbide, sillimanite, silver, sodium chloride, sulphur, talc, tin, titanium, titanomagnetite, tungsten, uranium, wollastonite, zeolite, zinc, and zircon:

(b) includes a mineral that is declared to be an industrial mineral in a notice given by the Minister.

Minister to consider

(2) Before giving a notice about a particular mineral, the Minister must consider whether the mineral is or is likely to be of importance—

(a) in the industrial development of New Zealand:

(b) as a means of reducing the quantity of industrial minerals or industrial rock required to be imported into New Zealand:

(c) as an item of export from New Zealand.

Secondary legislation

(3) A notice under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: listed industrial mineral, mineral, Minister, New Zealand

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section CU 8: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CU 8(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CU 8(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CU 8(3) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CU 8(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

CU 9 Some definitions

Meaning of mineral mining asset

(1) **Mineral mining asset** means—

(a) a mining or prospecting right:

(b) an exploration permit, a prospecting permit, or a mining permit:

(c) a share or partial interest in an asset described in paragraph (a) or (b).

Inclusion for particular purpose

(2) For the purposes of section GB 20 (Arrangements involving petroleum and mineral mining), a mineral mining asset also includes an asset that is acquired by a mineral miner for the purposes of their mining operations or associated mining operations.

Exclusion

(3) A mineral mining asset does not include land.

Meaning of mining or prospecting right

(4) For the purposes of this section, **mining or prospecting right**—

(a) means an authority, concession, easement, lease, licence, option, permit, privilege, right, or title relating to exploring, searching, or mining for, or carrying on an operation to recover, a listed industrial mineral; and

(b) includes a share or interest in any such authority, concession, easement, lease, licence, option, permit, privilege, right, or title.

Defined in this Act: associated mining operations, exploration permit, land, lease, listed industrial mineral, mineral miner, mineral mining asset, mining operations, mining or prospecting right, mining permit, permit, prospecting permit

Section CU 9: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 10 Mining asset used to derive income other than income from mining

[Repealed]

Section CU 10: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 11 Meaning of asset for sections CU 3 to CU 10

[Repealed]

Section CU 11: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 12 Application of sections to resident mining operators

[Repealed]

Section CU 12: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 13 Application of sections to non-resident mining operators

[Repealed]

Section CU 13: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 14 Recovery of reinvestment profit on disposal of mining shares

[Repealed]

Section CU 14: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 15 Recovery of reinvestment profit not used for mining purposes

[Repealed]

Section CU 15: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 16 Recovery of reinvestment profit on repayment of loans

[Repealed]

Section CU 16: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 17 Repayment by mining company of amount written off

[Repealed]

Section CU 17: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 18 Amount treated as repayment for purposes of section CU 17: excess

[Repealed]

Section CU 18: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 19 Amount treated as repayment for purposes of section CU 17: net income

[Repealed]

Section CU 19: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 20 Mining company or mining holding company liquidated

[Repealed]

Section CU 20: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Definitions

[Repealed]

Heading: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 21 Meaning of income from mining

[Repealed]

Section CU 21: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 22 Meaning of mining company

[Repealed]

Section CU 22: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 23 Meaning of mining development expenditure

[Repealed]

Section CU 23: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 24 Meaning of mining exploration expenditure

[Repealed]

Section CU 24: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 25 Meaning of mining operations

[Repealed]

Section CU 25: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 26 Meaning of mining venture

[Repealed]

Section CU 26: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 27 Meaning of resident mining operator

[Repealed]

Section CU 27: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 28 Meaning of specified mineral

[Repealed]

Section CU 28: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CU 29 Other definitions

[Repealed]

Section CU 29: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 14(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Subpart CV—Income specific to certain entities

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CV 1 Group companies

Income

(1) An amount that a company derives in an income year and that would not otherwise be income of the company is treated as its income if—

(a) the company is for that income year part of a wholly-owned group of companies; and

(b) had the group of companies been a single company, the amount would have been income of that single company.

Relationship with sections CB 15D and CB 15E

(2) Subsection (1) is overridden by sections CB 15D (Kāinga Ora–Homes and Communities and wholly-owned group) and CB 15E (Disposals of land subject to section CW 3C).

Defined in this Act: amount, company, income, income year, wholly-owned group of companies

Compare: 2004 No 35 s CV 1

Section CV 1(1) heading: inserted (with effect on 1 July 2017), on 18 March 2019, by section 134(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CV 1(2) heading: amended (with effect on 27 March 2021), on 29 March 2025, by section 19(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CV 1(2): inserted (with effect on 1 July 2017), on 18 March 2019, by section 134(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CV 1(2): amended (with effect on 27 March 2021), on 29 March 2025, by section 19(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CV 2 Consolidated groups: income of company in group

When this section applies

(1) This section applies for the purposes of section FM 9 (Amounts that are company's income) to an amount derived by a company that is part of a consolidated group, when the amount would be income of the group if the group were 1 company.

Income

(2) The amount is treated as income of the company.

Relationship with sections CB 15C to CB 15E

(3) Subsection (2) is overridden by sections CB 15C and CB 15D (which apply to bodies linked or associated with a local authority or companies in the same wholly-owned group as Kāinga Ora–Homes and Communities), and CB 15E (Disposals of land subject to section CW 3C).

Defined in this Act: amount, company, consolidated group, income

Compare: 2004 No 35 s HB 2(1)(e)

Section CV 2(1): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 15(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CV 2(3) heading: replaced (with effect on 1 July 2017), on 18 March 2019, by section 135 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CV 2(3) heading: amended (with effect on 27 March 2021), on 29 March 2025, by section 20(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CV 2(3): replaced (with effect on 1 July 2017), on 18 March 2019, by section 135 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CV 2(3): amended (with effect on 27 March 2021), on 29 March 2025, by section 20(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CV 2(3): amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CV 3 Consolidated groups: arrangement for disposal of shares

When this section applies

(1) This section applies for the purposes of section FM 23 (Arrangements for disposal of shares) when shares in company A that is part of a consolidated group are disposed of by another company for consideration that is less than would have been received in an arm's length transaction because of a reduction in the value of company A's assets.

Income

(2) The amount that would have been received in an arm's length transaction is treated as income derived by the other company at the time of disposal.

Defined in this Act: amount, company, consolidated group, income

Compare: 2004 No 35 s FD 10(8)

CV 4 Amalgamated companies: amount derived after amalgamation

When this section applies

(1) This section applies for the purposes of section FO 7 (Income derived after amalgamation) when an amount is derived by the amalgamated company after an amalgamation as a result of something that an amalgamating company did or did not do.

Income

(2) The amount is income of the amalgamated company in the income year in which it is derived if it would have been income of an amalgamating company but for the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amount, income, income year

Compare: 2004 No 35 s FE 4(b)

CV 5 Statutory producer boards

A levy received by a statutory producer board, other than a levy charged specifically for capital development, is income.

Defined in this Act: income, levy, statutory producer board

Compare: 2004 No 35 s OC 3(c)

CV 6 Crown Research Institutes

Income

(1) An amount that a Crown Research Institute derives is income of the institute if the amount is provided to the institute for the purposes of—

(a) any 1 or more of the activities listed in section 7 of the Research, Science, and Technology Act 2010; or

(b) producing outputs relating to public good science and technology.

Meaning

(2) In this section, **public good science and technology** means science or technology—

(a) that is likely to increase knowledge or understanding of the physical, biological, or social environment; or

(b) that is likely to develop, maintain, or increase skills or scientific or technological expertise that is of particular importance to New Zealand; or

(c) that may be of benefit to New Zealand, but is unlikely to be funded, or adequately funded, from non-governmental sources.

Defined in this Act: amount, Crown Research Institute, income

Compare: 2004 No 35 s CV 2

Section CV 6: substituted, on 1 February 2011, by section 18 of the Research, Science, and Technology Act 2010 (2010 No 131).

CV 7 Australian wine producer rebate

An amount of Australian wine producer rebate derived by a New Zealand resident wine producer is income of the wine producer.

Defined in this Act: amount, Australian wine producer rebate, income, New Zealand resident

Compare: 2004 No 35 s CV 3

CV 8 Regulations: Australian wine producer rebate

Order in Council

(1) For the purpose of enabling the Commissioner to administer the entitlement of New Zealand resident wine producers to Australian wine producer rebates for wine produced in New Zealand, the Governor-General may by Order in Council make regulations relating to—

(a) the claim by a New Zealand resident wine producer for payment of an Australian wine producer rebate for wine produced in New Zealand that is sold in Australia:

(b) the approval or verification of the entitlement of a New Zealand resident wine producer to a payment of an Australian wine producer rebate:

(c) any matter necessary to give effect to a provision relating to Australian wine producer rebates in the agreement for the time being in force

between the Government of New Zealand and the Government of Australia for the avoidance of double taxation and the prevention of fiscal evasion in relation to taxes on income.

Force and effect

(2) An Order in Council under subsection (1)—

(a) has force and effect despite any provision in this Act or any other Inland Revenue Act:

(b) may come into force on or after 1 July 2005:

(c) may apply for Australian financial years commencing on or after 1 July 2005.

Definitions

(3) In this section,—

Australian financial year means a year starting on and including 1 July

wine has the meaning given in section 31-1 of A New Tax System (Wine Equalisation Tax) Act 1999 (Aust) and regulations made under that Act.

Secondary legislation

(4) An Order in Council under subsection (1)—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); but

(b) commences in accordance with subsection (2), even if it is not yet published.

Defined in this Act: Australian financial year, Australian wine producer rebate, Inland Revenue Acts, New Zealand resident, pay, wine

Compare: 2004 No 35 s CV 4

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section CV 8(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CV 8(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

CV 9 Supplementary dividend holding companies

[Repealed]

Section CV 9: repealed, on 26 June 2019, by section 46 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

CV 10 Foreign dividend payment account companies or conduit tax relief companies

[Repealed]

Section CV 10: repealed (with effect on 30 June 2009), on 6 October 2009, by section 39(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CV 11 Maori authorities

Income

(1) An amount that a member of a Maori authority derives as a distribution from the Maori authority is income of the member if the amount is—

(a) a notional distribution under section HF 5 (Notional distributions of co-operative companies); or

(b) a taxable Maori authority distribution under section HF 7 (Taxable Maori authority distributions).

When credits attached

(2) The amount of a taxable Maori authority distribution or notional distribution is increased by a credit that is attached or is treated as attached under section RE 24 (When amount of tax treated as Maori authority credit).

Defined in this Act: amount, co-operative company, Maori authority, Maori authority credit, member, taxable Maori authority distribution

Compare: 2004 No 35 ss HI 4(3), HI 5(2), (3), HI 7

CV 12 Trustees: amounts received after person's death

To the extent to which section HC 8(2) (Amounts received after person's death) applies to an amount that a trustee of an estate of a deceased person receives in an income year, the amount is income of the trustee.

Defined in this Act: amount, income, income year, trustee

Compare: 2004 No 35 s HH 8

Section CV 12: amended (with effect on 1 April 2022), on 31 March 2023, by section 21(1) (and see section 21(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CV 13 Amounts derived from trusts

An amount derived by a person is income of the person if it is—

(a) beneficiary income to which sections HC 6 (Beneficiary income) and HC 17 (Amounts derived as beneficiary income) apply; or

(b) a settlement on trust of property of the kind described in section HC 7(3) (Trustee income); or

(c) a taxable distribution from a foreign trust to which section HC 18 (Taxable distributions from foreign trusts) applies.

Defined in this Act: amount, beneficiary income, foreign trust, income, settlement, settlor, taxable distribution, trustee income

Compare: 2004 No 35 ss HH 1(7), HH 3(1)

CV 14 Distributions from community trusts

To the extent to which section HC 21 (Distributions from community trusts) applies to treat an amount that a community trust distributes to a person as income, the amount is income of the person.

Defined in this Act: amount, community trust, distribution, income

Compare: 2004 No 35 s HH 3(5A)

CV 15 Amounts derived from trusts while person absent from New Zealand

To the extent to which section HC 23 (Temporary absences of beneficiaries) applies to an amount of beneficiary income or taxable distribution, the amount is income of the person derived on the day on which the person becomes resident in New Zealand again.

Defined in this Act: amount, beneficiary income, income, resident in New Zealand, taxable distribution

Compare: 2004 No 35 s HH 3(3)

CV 16 Non-resident shippers

When this section applies

(1) This section applies when a ship that belongs to, or is chartered by, a non-resident person carries outside New Zealand cargo, mail, or passengers shipped or embarked in New Zealand.

Amount of income

(2) Five percent of the amount payable to the person for the carriage, whether payable inside or outside New Zealand, is treated as income of the person.

Exemption

(3) Despite subsection (2), the Commissioner may determine that some or all of an amount that would otherwise be income of a person under this section is a foreign-sourced amount.

Place of shipping

(4) In this section, cargo, mail, or passengers shipped or embarked at a port in New Zealand for carriage outside New Zealand are treated as carried outside New Zealand from that port, even though the ship may call at another port in New Zealand before finally leaving New Zealand.

Defined in this Act: amount, Commissioner, exempt income, foreign-sourced amount, income, income tax, New Zealand, non-resident, pay, resident in New Zealand

Compare: 2004 No 35 ss FC 18, FC 19

CV 17 Non-exempt charities: taxation of tax-exempt accumulation

An amount of income of a person under section HR 12 (Non-exempt charities: treatment of tax-exempt accumulation) is income of the person for the income year that contains the day 1 year after the day of final decision.

Defined in this Act: day of final decision, person, income, income year, year

Section CV 17: replaced (with effect on 14 April 2014), on 30 June 2014, by section 22 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CV 17: amended (with effect on 14 April 2014), on 29 March 2018, by section 31 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CV 18 Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests

The amount of income that a person has under section EM 6 (Income and expenditure for fair dividend rate hedge portions) is income of the person.

Defined in this Act: amount, income

Section CV 18: inserted, on 17 July 2013, by section 12 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

CV 19 Additional income for certain imputation credits

When this section applies

(1) This section applies when a person has assessable income for the purposes of section LE 1 (Tax credits for imputation credits) because section LE 1(4B) applies (the **LE 1(4B) income**), and the LE 1(4B) income includes an imputation credit.

Income

(2) For the income year to which the LE 1(4B) income relates, the person derives an amount of income equal to the amount of the tax credit for the imputation credit under section LE 8B (Dividend from certain FIF interests) except if the LE 1(4B) income relates to FIF income or loss calculated under—

(a) the comparative value method; or

(b) the deemed rate of return method.

Defined in this Act: assessable income, comparative value method, deemed rate of return method, FIF income, FIF loss, imputation credit, income, income year, tax credit

Section CV 19: inserted, on 1 April 2014, by section 16 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CV 19(2): replaced (with effect on 1 April 2014), on 30 June 2014, by section 23(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CV 19 list of defined terms **comparative value method**: inserted (with effect on 1 April 2014), on 30 June 2014, by section 23(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CV 19 list of defined terms **deemed rate of return method**: inserted (with effect on 1 April 2014), on 30 June 2014, by section 23(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CV 19 list of defined terms **FIF income**: inserted (with effect on 1 April 2014), on 30 June 2014, by section 23(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CV 19 list of defined terms **FIF loss**: inserted (with effect on 1 April 2014), on 30 June 2014, by section 23(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CV 20 Employee share schemes

An amount of income that a person has under section DV 27(9) (Employee share schemes) is income of the person.

Defined in this Act: amount, employee share scheme, income

Section CV 20: inserted, on 29 September 2018, by section 32 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart CW—Exempt income

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Income from business or trade-like activities

CW 1 Forestry companies established by the Crown, Maori owners, and holding companies acquiring land with standing timber from founders

When this section applies

(1) This section applies when a forestry company acquires land with standing timber on it from a seller who is the Crown, the Maori owners, or a holding company of the forestry company.

Land disposed of by Maori Trustee, trustee for Maori owners, or Maori incorporation

(2) For the purposes of subsection (1),—

(a) land disposed of to the forestry company by the Maori Trustee or by a trustee for a Maori owner is treated as if it had been disposed of by the beneficial owners:

(b) land disposed of to the forestry company by a Maori incorporation is treated as if it had been disposed of by the members of the incorporation.

Exempt income

(3) The amount described in section CB 25(3) (Disposal of land with standing timber) is exempt income of the seller.

Relationship with section DP 9

(4) Section DP 9 (Cost of acquiring timber: forestry business on land acquired from the Crown, Maori owners, or holding company) deals with the cost to the forestry company of acquiring the timber.

Defined in this Act: amount, exempt income, forestry company, holding company, Maori incorporation, Maori owners, standing timber, trustee

Compare: 2004 No 35 s CW 1

Section CW 1 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 1(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 1(2) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 1(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 1(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 1(4): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CW 1B Treaty of Waitangi claim settlements: rights to take timber

When this section applies

(1) This section applies when a person's right to take timber (the **old right**) is extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if—

(a) the sole reason for the new rights replacing the old right is to facilitate a Treaty of Waitangi claim settlement process; and

(b) the rights and obligations of the new rights are equivalent to the old right, ignoring differences that are solely for the reason in paragraph (a).

Exempt income

(2) An amount under section CB 24(1)(b) (Disposal of timber or right to take timber) for the extinguishing of the old right, or for the granting of the new rights, is exempt income of the relevant person. The amount is not income under that section.

Exception

(3) Subsection (2) does not apply to an amount to the extent it is compensation paid, for the new rights replacing the old right, to the person who is granted the new rights.

Relationship with section DP 9B

(4) Section DP 9B (Treaty of Waitangi claim settlements: rights to take timber) deals with the cost of the new rights for the person who is granted them.

Defined in this Act: amount, exempt income, income, pay, person, right to take timber

Section CW 1B: inserted (with effect on 1 April 2008), on 29 August 2011, by section 7 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

CW 2 Forestry encouragement agreements

When this section applies

(1) This section applies when a person makes a forestry encouragement agreement under the Forestry Encouragement Act 1962.

Exempt income: advance

(2) An amount of income advanced to the person under the agreement is exempt income, even if the person is later relieved from some or all of their liability to repay the principal.

Exempt income: interest

(3) The amount from which the person is relieved in the circumstances described in subsection (4) is exempt income.

Circumstances for purposes of subsection (3)

(4) The circumstances are that—

- (a) the person is liable to pay interest on an advance made under the agreement; and
- (b) the interest has not been paid; and
- (c) the person has been denied a deduction for the interest; and
- (d) the person is relieved from some or all of their liability to pay the interest.

Defined in this Act: amount, deduction, exempt income, income, interest, pay

Compare: 2004 No 35 s CW 2

CW 3 Forestry companies and Maori investment companies

When this section applies

(1) This section applies when a forestry company or a Maori investment company issues a qualifying debenture.

Exempt income

(2) Interest derived from the qualifying debenture is exempt income to the extent to which it is paid by the issue of a further qualifying debenture.

Defined in this Act: exempt income, forestry company, interest, Maori investment company, pay, qualifying debenture

Compare: 2004 No 35 s CW 3

CW 3B Pre-1990 forest land units: emissions trading scheme

[Repealed]

Section CW 3B: repealed (with effect on 26 September 2008), on 6 October 2009, by section 40 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CW 3C Certain partitions or subdivisions of land

Exempt income when no more than minor economic disposal of land

(1) An amount that a person who is a co-owner of land derives from disposing of land to another co-owner on a partition or subdivision is exempt income if the person's end value proportion is no less than 95% of their acquisition proportion.

Partially exempt income when more than minor economic disposal of land

(2) If subsection (1) does not apply, an amount that a person who is a co-owner of land derives from disposing of land to another co-owner on a partition or subdivision is exempt income to the extent given by the following formula:

amount derived − (total land value × (acquisition proportion − end value proportion)).

Acquisition date for land provisions when no more than minor acquisition of land

(3) For the purposes of the land provisions and sections CB 12 to CB 14 (which relate to income from disposals of land), if the person's end value proportion is no more than 105% of their acquisition proportion, they are treated as acquiring the land they receive on the partition or subdivision on the date they acquired their interest in the undivided land or the date they are treated by section CB 15(2) (Transactions between associated persons) as acquiring their interest in the undivided land, whichever is earlier.

Acquisition date for land provisions when more than minor acquisition of land

(4) For the purposes of the land provisions and sections CB 12 to CB 14, if the person's end value proportion is more than 105% of their acquisition proportion, they are treated as acquiring the land they receive on the partition or subdivision as follows:

(a) for the original land, being the proportion of land remaining after the calculation in paragraph (b), on the date they acquired their interest in the undivided land or the date they are treated by section CB 15(2) as acquiring their interest in the undivided land, whichever is earlier:

(b) for the additional land, being the proportion of the land calculated using the following formula, on the date the person became entitled to the additional land or, to the extent the additional land is acquired from an associated person, the date they are treated by section CB 15(2) as acquiring the additional land:

(end value proportion − acquisition proportion) ÷ end value proportion.

Bright-line start date when no more than minor acquisition of land

(5) If the person's end value proportion is no more than 105% of their acquisition proportion, their bright-line start date for the land they receive on the partition or subdivision is their bright-line start date for the undivided land.

Bright-line start date when more than minor acquisition of land

(6) If the person's end value proportion is more than 105% of their acquisition proportion, their bright-line start date for the land they receive on the partition or subdivision is as follows:

(a) for the **original land**, being the amount of land remaining after the calculation in paragraph (b), their bright-line start date for the undivided land:

(b) for the **additional land**, being the proportion of the land calculated using the following formula, the date the person became entitled to the additional land:

(end value proportion − acquisition proportion) ÷ end value proportion.

Transitional rule for change in terminology

(6B) For the purposes of subsections (5) and (6), if the undivided land was acquired before 1 July 2024, the bright-line acquisition date for the land is treated as the bright-line start date.

Meaning of end value proportion

(7) **End value proportion** is the person's proportion of the value of the land they receive, whether alone or jointly or in common with another person, on the partition or subdivision out of the total value of the land still held by persons who were co-owners.

Meaning of acquisition proportion

(8) **Acquisition proportion** is the person's contribution to the cost of the land, including costs to subdivide, develop, and build on the land, as a proportion of total cost.

Meaning of co-owner

(9) **Co-owner**, in relation to land, includes a company in which the person is a shareholder, a person acting in their personal capacity, or a person acting in their capacity as a trustee of a trust, a partner in a partnership, or an owner of a look-through company, even if they became a co-owner of the land in a different one of those capacities.

Definition of items in formulas

(10) In the formulas in subsections (2), (4), and (6),—

(a) **amount derived** is the amount a co-owner receives from the disposal of their interest in the land to another co-owner on a partition or subdivision:

(b) **total land value** is the total value of the land held by all persons who were co-owners, whether alone or jointly or in common with another person, at the end of the partition or subdivision:

(c) **acquisition proportion** has the same meaning as in subsection (8):

(d) **end value proportion** has the same meaning as in subsection (7).

Example

Everly acquires land on 1 October 2024. Her friend Daniel comes on as a co-owner (50:50 shares) of the land on 5 February 2025. Everly and Daniel subdivide the land and construct a house each. The subdivision is complete and new titles are issued on 15 June 2026. Daniel's title ends up being 60% of the value of both titles. As Everly and Daniel go from owning a half share in the undivided land to being the sole owner of their parcel of land, they are disposing of their share in the parcel of land they did not keep to the other. Everly has disposed of some of her share in the land by more than a minor amount (more than the 5% safe-harbour) so only some of her income will be exempt, and she must calculate this under section CW 3C(2). All of Daniel's income will be exempt. However, because he has made a more than minor acquisition of land (more than the 5% safe-harbour), his acquisition date for the land will be as follows – 5/6ths of Daniel's property will be treated as being acquired on 5 February 2025 under section CW 3C(4)(a) (as it relates to what he held originally), and the remaining 1/6th will be treated as being acquired on 15 June 2026 under section CW 3C(4)(b).

Defined in this Act: acquisition proportion, amount, bright-line acquisition date, bright-line start date, co-owner, company, dispose, end value proportion, exempt income, land, land provisions, look-through company, partner, partnership, shareholder, trustee

Section CW 3C: replaced (with effect on 27 March 2021), on 29 March 2025, by section 21(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 3C(5) heading: replaced (with effect on 1 July 2024), on 29 March 2025, by section 21(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 3C(5): replaced (with effect on 1 July 2024), on 29 March 2025, by section 21(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 3C(6) heading: replaced (with effect on 1 July 2024), on 29 March 2025, by section 21(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 3C(6): replaced (with effect on 1 July 2024), on 29 March 2025, by section 21(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 3C(6B) heading: inserted (with effect on 1 July 2024), on 29 March 2025, by section 21(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 3C(6B): inserted (with effect on 1 July 2024), on 29 March 2025, by section 21(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 3C list of defined terms **bright-line start date**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 21(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Income from holding property (excluding equity)

CW 4 Annuities under life insurance policies

When this section applies

(1) This section applies when—

(a) a person is paid an annuity under a life insurance policy offered or entered into in New Zealand by a life insurer; or

(b) a person is paid an annuity under a life insurance policy offered or entered into outside New Zealand by a life insurer resident in New Zealand.

Exempt income

(2) The annuity is exempt income.

Excluded annuities

(3) An annuity that is excluded income of a superannuation fund under section CX 40 (Superannuation fund deriving amount from life insurance policy) is not also exempt income of the fund under this section.

Defined in this Act: excluded income, exempt income, life insurance policy, life insurer, New Zealand, offered or entered into in New Zealand, pay, resident in New Zealand, superannuation fund

Compare: 2004 No 35 s CW 4

CW 5 Payments of interest: post-war credits

Interest derived by a person under section 2 of the Income Tax (Repayment of Post-War Credits) Act 1959 of the United Kingdom Parliament is exempt income.

Defined in this Act: exempt income, interest

Compare: 2004 No 35 s CW 5

CW 6 Payments of interest: farm mortgages

Exempt income

(1) Fifty percent of the interest that a person derives from a mortgage securing a loan made by a seller of a farm is exempt income, if—

(a) the Rural Banking and Finance Corporation of New Zealand approves the mortgage; and

(b) the Corporation gives the Commissioner notice of the approval and each variation.

Exclusions

(2) This section does not apply if the person is—

(a) an absentee; or

(b) a company; or

(c) a Maori authority; or

(d) a public authority; or

(e) a trustee liable for income tax under subpart HC (Trusts) and section HZ 2 (Trusts that may become complying trusts); or

(f) an unincorporated body.

Relationship with sections LZ 6 to LZ 8

(3) A person who derives interest that is exempt income under this section is not entitled to a tax credit for the interest under sections LZ 6 to LZ 8 (which relate to interest on home vendor mortgages).

Defined in this Act: absentee, Commissioner, company, exempt income, income tax, interest, Maori authority, mortgage, notice, public authority, trustee

Compare: 2004 No 35 s CW 6

CW 7 Foreign-sourced interest

Interest that a person derives from a country or territory outside New Zealand is exempt income if—

(a) the person was not resident in New Zealand during the period for which the interest was payable; and

(b) the interest was exempt under the laws of the overseas country or territory from a tax that is substantially the same as income tax imposed under this Act.

Defined in this Act: exempt income, income tax, interest, New Zealand, pay, resident in New Zealand

Compare: 2004 No 35 s CW 7

CW 8 Money lent to government of New Zealand

What this section applies to

(1) This section applies to—

(a) interest derived from money lent under a binding contract entered into on or after 29 July 1983; and

(b) a redemption payment made on a commercial bill to which both the following apply; **issue** is defined in section 2 of the Bills of Exchange Act 1908:

(i) it was issued on or after 29 July 1983; and

(ii) it was not issued under a binding contract entered into before that date.

Exempt income

(2) Interest or a redemption payment that is payable outside New Zealand is exempt income if—

(a) it is derived by a person who is a non-resident; and

(b) it is derived from or in relation to money lent to—

(i) the government of New Zealand; or

(ii) a local authority or a public authority; and

(c) in the case of money lent to a local or public authority,—

(i) it is lent for the purposes of a non-commercial activity carried on in New Zealand by the local or public authority; and

(ii) the government of New Zealand has approved the exempt status of the interest or redemption payment.

Defined in this Act: commercial bill, exempt income, interest, local authority, money lent, New Zealand, non-resident, pay, public authority, redemption payment

Compare: 2004 No 35 s CW 8

CW 8B Certain amounts derived from use of assets

When this section applies

(1) This section applies when a person derives income from the use of an asset described in section DG 3 (Meaning of asset for this subpart).

When person opts out of assets expenditure rules

(2) Income that the person derives from the use of the asset is exempt income if—

(a) they meet the requirements of section DG 21 (Opting out of treatment under this subpart); and

(b) they choose under that section to treat the income as exempt income.

Below-market use and use by associates

(3) An amount of income that the person derives in relation to the private use of an asset as described in section DG 4(1) (Meaning of private use for this subpart) is exempt income.

Defined in this Act: amount, asset, exempt income, income

Section CW 8B: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 13(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Income from equity

CW 9 Dividend derived from foreign company

Exempt income

(1) A dividend from a foreign company is exempt income if derived by a company that is resident in New Zealand.

Exclusions

(2) Subsection (1) does not apply to a dividend if the dividend is paid in relation to rights that are—

(a) a direct income interest that meets the requirements of neither section EX 34 (CFC rules exemption) nor section EX 35 (Exemption for interest in FIF resident in Australia) and is excluded from being an attributing interest by—

(i) section EX 31 (Exemption for ASX-listed Australian companies):

(ii) section EX 32 (Exemption for Australian unit trusts with adequate turnover or distributions):

(iii) section EX 36 (Venture capital company emigrating to grey list country: 10-year exemption):

(iv) section EX 37 (Grey list company owning New Zealand venture capital company: 10-year exemption):

(v) section EX 37B (Share in grey list company acquired under venture investment agreement):

(vi) *[Repealed]*

(b) a fixed-rate foreign equity:

(c) rights to a deductible foreign equity distribution.

Non-application to certain dividends

(3) This section does not apply to a dividend—

(a) derived by a portfolio investment entity:

(b) excluded by section CD 36(2) (Foreign investment fund income) from the effect of section CD 36(1).

Defined in this Act: company, dividend, deductible foreign equity distribution, exempt income, fixed-rate foreign equity, portfolio investment entity, resident in New Zealand

Section CW 9: substituted (with effect on 30 June 2009), on 6 October 2009, by section 41(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 9(2)(a): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 9(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CW 9(2)(a)(vi): repealed, on 18 March 2019, by section 136 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 9(3) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 9(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CW 9(3): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 9(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CW 9 list of defined terms **multi-rate PIE**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 9(3)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CW 9 list of defined terms **portfolio investment entity**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 9(3)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section CW 9 list of defined terms **portfolio tax rate entity**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 9(3)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CW 10 Dividend within New Zealand wholly-owned group

Exempt income: dividends within wholly-owned groups

(1) A dividend is exempt income if—

(a) it is derived by a company (the **recipient**) that is—

(i) not a foreign company; or

(ii) a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand; and

(b) it is derived from a company (the **payer**) that is part of the same wholly-owned group of companies as the recipient at the time the dividend is derived; and

(c) the payer is not a foreign company; and

(d) the payer is not a company that can derive only exempt income; and

(e) the requirements of subsections (5) and (6) are met; and

(f) for a dividend derived by a company described in paragraph (a)(ii), 1 or more of the following apply:

(i) the recipient is treated as not being resident in New Zealand under a double tax agreement between New Zealand and Australia:

(ii) immediately after the dividend is derived by the recipient, the recipient has only shareholders that would have full relief from New Zealand tax under a double tax agreement on a dividend paid to them at that time by the recipient if the recipient were treated as being a company that is not a foreign company:

(iii) the total amount of dividends derived by the recipient from the payer is less than $1 million in each 12-month period that includes the date on which the dividend is derived by the recipient:

(iv) the recipient becomes a company that is not a foreign company within 2 years of the date on which it derived the dividend and

does not itself pay a dividend in the period that starts on the date on which it derived the dividend and ends on the date on which it becomes a company that is not a foreign company.

Exempt income: fully imputed dividends within wholly-owned groups

(1B) A dividend is exempt income to the extent to which it is fully imputed if—

(a) it is derived by a company described in subsection (1)(a)(ii); and

(b) the requirements of subsection (1)(b) to (e) are met; and

(c) the requirement of subsection (1)(f) is not met.

Aligned balance dates

[Repealed]

(2) *[Repealed]*

Exclusion: dividends from council-controlled organisations

[Repealed]

(3) *[Repealed]*

Exclusion: debt release dividends

[Repealed]

(4) *[Repealed]*

Exclusion: certain friendly society dividends

(5) The dividend must not be derived by a friendly society from a company registered as an insurer under the Accident Insurance Act 1998 that is under the control of the society.

Exclusion: certain sickness, accident, or death benefit fund dividends

(6) The dividend must not be derived by a trustee in trust for a sickness, accident, or death benefit fund from a company registered as an insurer under the Accident Insurance Act 1998 that is under the control of the trustee.

Relationship with other provisions

(7) This section overrides section HC 38 (Beneficiary income of certain close companies).

Defined in this Act: amount, company, council-controlled organisation, dividend, double tax agreement, exempt income, foreign company, friendly society, fully imputed, local authority, New Zealand, New Zealand resident, New Zealand tax, resident in New Zealand, shareholder, sickness, accident, or death benefit fund, trustee, wholly-owned group of companies

Compare: 2004 No 35 s CW 10

Section CW 10(1) heading: replaced (with effect on 30 August 2022), on 31 March 2023, by section 23(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10(1)(a): replaced (with effect on 30 August 2022), on 31 March 2023, by section 23(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10(1)(e): amended (with effect on 30 August 2022), on 31 March 2023, by section 23(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10(1)(e): amended, on 1 April 2022, by section 55(1) (and see section 55(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CW 10(1)(f): inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10(1B) heading: inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10(1B): inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10(2) heading: repealed, on 29 August 2011, pursuant to section 8(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CW 10(2): repealed, on 29 August 2011, by section 8(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CW 10(3) heading: repealed, on 1 April 2022, pursuant to section 55(2) (and see section 55(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CW 10(3): repealed, on 1 April 2022, by section 55(2) (and see section 55(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CW 10(4) heading: repealed (with effect on 1 April 2015), on 30 March 2017, pursuant to section 31 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CW 10(4): repealed (with effect on 1 April 2015), on 30 March 2017, by section 31 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CW 10(7) heading: inserted, on 1 April 2024, by section 19(1) (and see section 19(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CW 10(7): inserted, on 1 April 2024, by section 19(1) (and see section 19(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CW 10 list of defined terms **amount**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10 list of defined terms **deduction**: repealed, on 29 March 2018, by section 33 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 10 list of defined terms **double tax agreement**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10 list of defined terms **fully imputed**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10 list of defined terms **income year**: repealed, on 29 March 2018, by section 33 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 10 list of defined terms **net income**: repealed, on 29 March 2018, by section 33 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 10 list of defined terms **New Zealand resident**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10 list of defined terms **New Zealand tax**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10 list of defined terms **shareholder**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 23(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CW 10 list of defined terms **tax avoidance arrangement**: repealed, on 29 March 2018, by section 33 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CW 10B Dividends derived by council-controlled organisation holding companies

A dividend derived by a council-controlled organisation (the **recipient**) from another person (the **payer**) is exempt income of the recipient if—

(a) the payer is—

(i) a council-controlled organisation; or

(ii) a port company, a subsidiary of a port company, or an energy company that would be a council-controlled organisation in the absence of section 6(4) of the Local Government Act 2002; and

(b) at the time the dividend is derived, 100% of the voting interests in the payer are held by—

(i) 2 or more local authorities; or

(ii) a combination of 1 or more Ministers of the Crown, on behalf of the Crown, and 1 or more local authorities; and

(c) at the time the dividend is derived, a local authority holds 100% of the voting interests in the recipient.

Defined in this Act: council-controlled organisation, dividend, exempt income, local authority, voting interest

Section CW 10B: inserted, on 1 April 2022, by section 56(1) (and see section 56(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

CW 11 Dividend of conduit tax relief holding company

[Repealed]

Section CW 11: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 10(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CW 12 Proceeds of share disposal by qualifying foreign equity investor

Exempt income: proceeds from disposal of share in resident company

(1) An amount that a person derives from the sale or other disposal by a qualifying foreign equity investor of a share, or option to buy a share, in a company (the **resident company**) is exempt income if—

(a) the resident company is resident in New Zealand; and

(b) the share or option, or an option or convertible note relating to the share, is bought on a day that is 12 months or more before the day of the sale or other disposal; and

(c) the person who buys the share or option, or the option or convertible note relating to the share, and disposes of the share or option is a qualifying foreign equity investor from the time of the purchase to the time of the disposal; and

(d) at some time in the 12-month period that starts from the time of the purchase referred to in paragraph (b), the shares of the resident company are quoted on no official list of a recognised exchange; and

(e) the resident company meets the requirements of either or both of subsections (2) and (3).

Requirements relating to main activity of resident company

(2) A resident company meets the requirements of this subsection if, throughout the period referred to in subsection (1)(c), the resident company does not have as a main activity 1 or more of—

(a) land development:

(b) land ownership:

(c) mining:

(d) provision of financial services:

(e) insurance:

(f) construction of public infrastructure assets:

(g) acquisition of public infrastructure assets:

(h) investing with a main aim of deriving, from the investment, income in the form of interest, dividends, rent, or personal property lease payments that are not royalties.

Requirements relating to resident company that provides capital to others

(3) A resident company that has a main activity of providing capital in the form of debt or equity funding to other companies meets the requirements of this subsection if,—

(a) throughout the period referred to in subsection (1)(c), each other company that is resident in New Zealand—

(i) does not have, as a main activity, an activity that is referred to in subsection (2)(a) to (c) and (e) to (g); and

(ii) does not have, as a main activity, an activity that is referred to in subsection (2)(d) and (h) and is not the provision of capital to other companies; and

(iii) does not provide capital, directly or indirectly, to a company that is resident in New Zealand and has, as a main activity, an activity that is referred to in subsection (2)(a) to (c) and (e) to (g); and

(iv) does not provide capital, directly or indirectly, to a company that is resident in New Zealand and has, as a main activity, an activity that is referred to in subsection (2)(d) and (h) and is not the provision of capital to other companies; and

(b) throughout the period referred to in subsection (1)(c), each other company that is not resident in New Zealand does not provide capital, directly or indirectly, to a company that is resident in New Zealand and has, as a main activity, an activity that is referred to in subsection (2)(a) to (h); and

(c) for each other company there is a time in the period referred to in subsection (1)(c) at which—

(i) the shares of the other company are quoted on no official list of a recognised exchange; and

(ii) the shares of the resident company are quoted on no official list of a recognised exchange.

Some definitions

(4) In this section,—

foreign exempt entity means a person who—

(a) is established as a legal entity under the laws of a territory that is approved for the purposes of this section by the Governor-General by an Order in Council or under the laws of a part of such a territory; and

(b) has persons (the **members**) who hold interests in the capital of the legal entity and who are entitled to shares of the income of the legal entity; and

(c) under the laws of the territory or part of the territory is not subject to a tax on income other than as a body that handles income of the members; and

(d) is resident in no territory that has laws that treat the legal entity as being subject to a tax on income other than as a body that handles income of the members; and

(e) does not have a member who—

(i) has, when treated as holding the interests of any person who is associated with the member, an interest of 10% or more in the capital of the legal entity; and

(ii) is resident in no territory that is approved for the purpose of this section by the Governor-General by an Order in Council; and

(f) does not have a member who, when treated as holding the interests of any person who is associated with the member, has an interest of 10% or more in the capital of the legal entity and who would—

(i) be entitled to receive an amount derived from a disposal to which this section would apply; and

(ii) receive an amount referred to in subparagraph (i) that, in the absence of this section, would have been reduced by a tax imposed by the Act on the amount or on the proceeds of the disposal in the hands of the legal entity; and

(iii) in any circumstances under the laws of the territory in which the member is resident or under the laws of part of the territory be entitled to receive from the government of the territory or part of the territory a financial benefit in the form of a payment, credit, rebate, forgiveness, or other compensation for the reduction referred to in subparagraph (ii); and

(g) does not have a holder of a direct or indirect interest in the capital of the legal entity who,—

(i) is resident in New Zealand:

(ii) when treated as holding the interests of a person associated with the resident, holds a total direct or indirect interest of 10% or more

foreign exempt partnership means an unincorporated body that—

(a) is established under the laws of a territory that is approved for the purposes of this section by the Governor-General by an Order in Council or under the laws of a part of such a territory; and

(b) consists of persons (the **partners**); and

(c) under the laws of the territory or part of the territory is not subject to a tax on income other than as a body that handles income of the partners; and

(d) has at least 1 partner (the **general partner**) who is liable for all debts of the unincorporated body and who has significant involvement in, and control of, the business activities of the unincorporated body; and

(e) has at least 1 partner (the **special partner**) whose liability for debts of the unincorporated body is limited and who has limited involvement in, and control of, the business activities of the unincorporated body; and

(f) does not have a general partner who is resident in no territory that is approved for the purposes of this section by the Governor-General by an Order in Council; and

(g) does not have a partner who—

(i) has, when treated as holding the interests of any person who is associated with the partner, an interest of 10% or more in the capital of the unincorporated body; and

(ii) is resident in no territory that is approved for the purpose of this section by the Governor-General by an Order in Council; and

(h) does not have a partner who, when treated as holding the interests of any person who is associated with the partner, has an interest of 10% or more in the capital of the unincorporated body and who—

(i) would under the Act in the absence of this section, be subject to tax on an amount derived from a disposal to which this section would apply; and

(ii) would in any circumstances under the laws of the territory in which the partner is resident or under the laws of part of the territory be entitled to receive from the government of the territory or part of the territory a financial benefit in the form of a payment, credit, rebate, forgiveness, or other compensation for a payment of the tax referred to in subparagraph (i); and

(i) does not have a holder of a direct or indirect interest in the capital of the unincorporated body who,—

(i) is resident in New Zealand:

(ii) when treated as holding the interests of a person associated with the resident, holds a total direct or indirect interest of 10% or more

foreign exempt person means a person who—

(a) is resident in a territory that is approved for the purposes of this section by the Governor-General by an Order in Council; and

(b) is not a legal entity that meets the requirements of paragraphs (a) to (c) of the definition of **foreign exempt entity**; and

(c) is not part of an unincorporated body that meets the requirements of paragraphs (a) to (c) of the definition of **foreign exempt partnership**; and

(d) under the laws of the territory or part of the territory derives the proceeds from a disposal of shares or options that are held by the person; and

(e) is not a person who—

(i) would under the Act in the absence of this section, be subject to tax on an amount derived from a disposal to which this section would apply; and

(ii) would in any circumstances under the laws of the territory in which the person is resident or under the laws of part of the territory be entitled to receive from the government of the territory or part of the territory a financial benefit in the form of a payment, credit, rebate, forgiveness, or other compensation for a payment of the tax referred to in subparagraph (i); and

(f) does not have a holder of a direct or indirect interest in the capital of the legal entity who,—

(i) is resident in New Zealand:

(ii) when treated as holding the interests of a person associated with the resident, holds a total direct or indirect interest of 10% or more

qualifying foreign equity investor means a person who is not resident in New Zealand and who is 1 or more of—

(a) a foreign exempt entity:

(b) a person who is part of a foreign exempt partnership:

(c) a foreign exempt person.

Residency of territory

(5) For the purpose of this section, whether a person is resident in a territory other than New Zealand is determined—

(a) under a double tax agreement that is in force between New Zealand and the territory, if there is an agreement and it provides for the residency of the person; or

(b) otherwise, under the laws of the territory.

Approval and withdrawal of approval for territory

(6) The Governor-General may by Order in Council—

(a) approve a territory for the purpose of this section:

(b) withdraw the approval of a territory for the purpose of this section.

Secondary legislation

(7) An Order in Council under subsection (6) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, associated, business, company, dividend, double tax agreement, exempt income, foreign exempt entity, foreign exempt partnership, foreign exempt person, income, insurance, interest, land, pay, personal property lease payment, qualifying foreign equity investor, recognised exchange, resident in New Zealand, royalty, share, tax

Compare: 2004 No 35 s CW 11B

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section CW 12(4): substituted (with effect on 1 April 2008), on 6 October 2009, by section 42 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 12(4) **qualifying foreign equity investor**: inserted (with effect on 1 April 2008), on 27 February 2014, by section 17 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CW 12(5)(a): substituted, on 1 April 2008, by section 328(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CW 12(5)(b): substituted, on 1 April 2008, by section 328(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CW 12(7) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CW 12(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CW 12 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CW 13 Proceeds from share or option acquired under venture investment agreement

Exempt income: proceeds from share or option

(1) An amount of income that a non-resident derives from the sale or other disposal of a share, or option to buy a share, in a company is exempt income if the requirements of subsections (2) to (5) are met.

Requirement relating to company at time of acquisition

(2) The first requirement is that, when the non-resident first acquires a share, or option to buy a share, in the company in a way that meets the requirements of subsection (3), the company must have in New Zealand—

(a) more than 50% in value of the company's assets; and

(b) more than 50% in number of the company's employees.

Requirement relating to acquisition of first share or option

(3) The second requirement is that, when the non-resident first acquires a share or option to buy a share (the **first interest**) in the company, a person (the **venture capital manager**) must acquire, at the same time and on the same terms,—

(a) the first interest, on behalf of the non-resident; and

(b) another share or option that confers the same rights and imposes the same obligations as the first interest—

(i) on behalf of New Zealand Growth Capital Partners Limited or a company owned by New Zealand Growth Capital Partners Limited; and

(ii) under a venture investment agreement.

Continuing requirement relating to company

(4) The third requirement is that, while the non-resident holds the share or option, the company must not have 1 or more of the following as a main activity:

(a) land development:

(b) land ownership:

(c) mining:

(d) provision of financial services:

(e) insurance:

(f) construction of public infrastructure assets:

(g) acquisition of public infrastructure assets:

(h) investing with a main aim of deriving, from the investment, income in the form of interest, dividends, rent, or personal property lease payments that are not royalties.

Requirement relating to situation at disposition of share or option

(5) The fourth requirement is that, when the non-resident disposes of the share or option,—

(a) the venture capital manager must have complied with the venture capital manager's obligations under the venture investment agreement; and

(b) the non-resident must have complied with the non-resident's obligations under any agreement between the non-resident and New Zealand Growth Capital Partners Limited or a company owned by New Zealand Growth Capital Partners Limited; and

(c) no person who is resident in New Zealand and no group of associated persons who are resident in New Zealand has a direct or indirect interest of more than 10% in the share or option.

Venture investment agreement

(6) In this section, **venture investment agreement** means an agreement that—

(a) is an agreement, relating to investment in companies, between parties that include—

(i) a venture capital manager; and

(ii) New Zealand Growth Capital Partners Limited or a company owned by New Zealand Growth Capital Partners Limited; and

(b) provides for investments under the agreement to be managed by the venture capital manager; and

(c) provides that an investment under the agreement must be in a company that, when the first investment in the company under the agreement is made, has in New Zealand—

(i) more than 50% in value of the company's assets; and

(ii) more than 50% in number of the company's employees.

Defined in this Act: employee, income, interest, non-resident, pay, resident in New Zealand, share, venture investment agreement, Venture Investment Fund

Compare: 2004 No 35 s CW 11C

Section CW 13(3)(b)(i): amended, on 27 November 2025, by section 49 of the Statutes Amendment Act 2025 (2025 No 74).

Section CW 13(5)(b): amended, on 27 November 2025, by section 49 of the Statutes Amendment Act 2025 (2025 No 74).

Section CW 13(6)(a)(ii): amended, on 27 November 2025, by section 49 of the Statutes Amendment Act 2025 (2025 No 74).

CW 14 Dividends derived by qualifying companies

When this section applies

(1) This section applies when a company derives a dividend (the **derived dividend**) after it becomes a qualifying company, if—

(a) the derived dividend is derived less than 7 years after the company ceases to be a qualifying company; and

(b) section CW 10 applies to the derived dividend; and

(c) the company paid a dividend that section CW 15 applied to, when the company was a qualifying company.

Dividend not exempt income

(2) The derived dividend is not exempt income under section CW 10, except to the extent to which section CW 9 applies.

Defined in this Act: company, dividend, exempt income, qualifying company

Section CW 14: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 32(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CW 14(1)(b): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 30 March 2017, by section 33(1)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CW 14(2): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 30 March 2017, by section 33(1)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CW 15 Dividends paid by qualifying companies

Exempt income of shareholder

(1) To the extent to which the amount of a dividend that a qualifying company pays to a person resident in New Zealand is more than a fully imputed distribution, the amount is exempt income of the person.

Exempt income of beneficiary

(2) If a dividend paid by a qualifying company to a trustee shareholder is, or becomes, beneficiary income of a beneficiary resident in New Zealand, the dividend is exempt income of the beneficiary.

Defined in this Act: beneficiary income, dividend, exempt income, fully imputed, pay, qualifying company, resident in New Zealand, shareholder, trustee

Compare: 2004 No 35 s HG 13(1)(a), (1A)

Section CW 15(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 43(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 15 list of defined terms **bonus issue**: repealed, on 2 November 2012, by section 15 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CW 15 list of defined terms **fully imputed**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 43(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Employee or contractor income

CW 16 Allowance of Governor-General and other benefits and privileges

The following are exempt income:

(a) the allowance of the Governor-General, paid under section 6 of the Governor-General Act 2010:

(b) any benefit or privilege provided under an agreement made under section 11(1) of the Governor-General Act 2010 or an agreement referred to in section 28(1)(d) of that Act.

Defined in this Act: exempt income

Section CW 16: substituted, on 23 November 2010, by section 23 of the Governor-General Act 2010 (2010 No 122).

Section CW 16 list of defined terms **exempt income**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 14 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

CW 16B Accommodation expenditure: out-of-town secondments and projects

When this section applies

(1) This section applies when—

(a) the employment duties of an employee require them to work at a distant workplace on an out-of town secondment or a project of limited duration; and

(b) the period of the employee's employment or service at the distant workplace is a period of continuous work; and

(c) the employer—

(i) provides accommodation for the employee for a period that falls within a time limit described in section CW 16C:

(ii) incurs expenditure on the employee's accommodation at the distant workplace for a period that falls within a time limit described in section CW 16C:

(iii) incurs expenditure on the employee's accommodation for necessary travel to and from the distant workplace in connection with the performance of their duties.

Exclusions

(2) This section does not apply—

(a) to an amount that is the value provided or expenditure incurred by the employer when, under the terms of the their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount:

(b) in relation to an out-of-town secondment, to a new employee of the employer.

Exempt income

(3) The amount that is the value provided or expenditure incurred by the employer is exempt income of the employee.

Estimated expenditure

(4) For the purposes of subsection (1)(c)(ii),—

(a) an employer may make, for a relevant period, a reasonable estimate of the amount of expenditure likely to be incurred on an employee's accommodation; and

(b) the amount estimated is treated as if it were the amount incurred during the period to which the estimate relates.

Definitions for this section

(5) In this section and sections CW 16C to CW 16F, CW 17CB, CZ 29 to CZ 30, and FP 22 (which relate to accommodation expenditure), as applicable,—

distant workplace, for an employee, means a workplace that—

(a) is another workplace of the employee; and

(b) is not within reasonable daily travelling distance of their residence

out-of-town secondment means the placement of an employee at a distant workplace—

(a) because the employment duties of the employee require them to work at the distant workplace for the performance of those duties; and

(b) for a period that, in their employer's expectation at the start of the period of secondment, will last for no more than 2 years

period of continuous work—

(a) means a period when an employee has ongoing duties of employment that must be performed to a significant extent at a distant workplace, requiring the employee to stay at the distant location for 1 or more nights; and

(b) includes the employee's time away on leave or other breaks for personal reasons, weekend breaks, required rest periods, and other similar periods

project of limited duration means a particular work project—

(a) whose principal purpose is to create, build, develop, restore, replace, or demolish a capital asset; and

(b) which is carried out under a contract between an employer (the **contractor**) and 1 or more persons who are not associated with the contractor; and

(c) in relation to which the engagement of an employee of the contractor at the distant workplace—

(i) has, at the outset, clear start and end dates; and

(ii) involves work that, apart from incidental activities, is undertaken solely for the purposes of the project; and

(iii) in the contractor's expectation at the start of the project, will last for a period of no more than 3 years

workplace means a particular place or base—

(a) at which an employee performs their employment duties; or

(b) from which an employee's duties are allocated.

Defined in this Act: accommodation, amount, associated person, company, distant workplace, employee, employer, employment, employment income, exempt income, group of companies, out-of-town secondment, pay, period of continuous work, project of limited duration, workplace

Section CW 16B: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 24(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 16B(5): amended, on 1 April 2025, by section 22 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 16B(5) **project of limited duration** paragraph (b): replaced (with effect on 1 April 2015), on 24 February 2016, by section 83 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 16B(5) **project of limited duration** paragraph (c): replaced (with effect on 1 April 2015), on 24 February 2016, by section 83 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CW 16C Time periods for certain accommodation expenditure

Time limits: out-of-town secondments

(1) Section CW 16B applies for an employee on an out-of-town secondment to the value provided or expenditure incurred for a period that starts on the date

on which the employee begins to work at a distant workplace, and ends at the earliest of the following dates:

(a) the date that is 2 years from the date on which they began work at the distant workplace:

(b) the date on which the out-of-town secondment ends:

(c) the date on which the employee receives a relocation payment under section CW 17B in relation to the costs associated with settling the purchase of a new home:

(d) the date on which the employer's expectation regarding the length of the period changes, and the total period is expected to be more than 2 years.

Time limits: projects of limited duration

(2) Section CW 16B applies for an employee on a project of limited duration to the value provided or expenditure incurred for a period that starts on the date on which the employee starts work at a distant workplace, and ends at the earliest of the following dates:

(a) the date that is 3 years from the date on which the employee began work on the project at the distant workplace:

(b) the date on which the employee's participation in the project at the distant workplace ends:

(c) the date on which the employee receives a relocation payment under section CW 17B in relation to the costs associated with settling the purchase of a new home:

(d) the date on which the employer's expectation regarding the employee's involvement in the project changes, and the total period of their involvement in the project is expected to be more than 3 years.

When subsection (4) applies: time limits when expectations change

(3) Subsection (4) applies for a placement of an employee at a distant workplace when—

(a) the employment duties of the employee require them to work for a period of time at the distant workplace for the performance of those duties; and

(b) the terms of the placement of the employee meet the requirements of an out-of-town secondment or project of limited duration, as applicable, other than the requirement related to the limitation on the length of the period for which the employee is to remain at the distant workplace; and

(c) the expectation of their employer at the start of the period is that the duration of the secondment or project will exceed the applicable time limit; and

(d) during the period, the employer revises their expectation of the period for the secondment or project, reducing its expected duration, and as a

consequence, the requirements of an out-of-town secondment or project of limited duration, as applicable, are fully met.

Period of exemption

(4) Section CW 16B applies to the amount that is the value provided or expenditure incurred by the employer for the remainder of the period for which the employee is required to remain at the distant workplace under the out-of-town secondment or project of limited duration. For these purposes, the period starts on the date on which the employer revises their expectation, and ends at the earliest of the dates referred to in subsection (1)(a) to (d) or (2)(a) to (d), as applicable.

Time limits in exceptional circumstances

(5) A time limit does not apply if exceptional circumstances arise beyond the control of the employer and employee that require the employee to remain at the distant workplace after the period expires. Examples are a natural disaster or medical emergency. However, an extension of time must be limited to the period for which the employee is unable, because of the exceptional circumstances, to leave the distant workplace.

Avoidance provision

(6) For the purposes of determining whether a time limit under this section applies, a break in a period of continuous work at a distant workplace is ignored if a reason, that is more than incidental, for the cessation of the employment or service is to allow a further period of exemption under section CW 16B, CZ 29, CZ 29B, or FP 22 (which relate to accommodation expenditure).

Defined in this Act: accommodation, amount, distant workplace, employee, employer, employment, out-of-town secondment, pay, period of continuous work, project of limited duration, workplace

Section CW 16C: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 24(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 16C(6): amended, on 1 April 2025, by section 23 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CW 16D Accommodation expenditure: conferences and overnight stays

When this section applies

(1) This section applies when—

(a) the employment duties of an employee require them to attend a work-related meeting, conference, or training course that entails an overnight stay; and

(b) the period for which the employee's attendance is required is a period of continuous work; and

(c) their employer—

(i) provides accommodation for the employee for the period of their attendance:

(ii) incurs expenditure on the employee's accommodation for the period of their attendance:

(iii) incurs expenditure on the employee's accommodation for necessary travel in connection with the performance of their duties for the period of their attendance.

Exclusions

(2) This section does not apply to an amount that is the value provided or expenditure incurred by the employer when, under the terms of their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount.

Exempt income

(3) The amount that is the value provided or expenditure incurred by the employer is exempt income of the employee.

Extended meaning of period of continuous work

(4) For the purposes of this section, a **period of continuous work** may include a period in which an employee's duties of employment require them to stay for 1 or more nights at a location that is not distant from their regular workplace.

Defined in this Act: accommodation, amount, employee, employer, employment, employment income, exempt income, period of continuous work

Section CW 16D: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 24(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CW 16E Accommodation expenditure: new employees

Despite section CW 16B(2)(b), section CW 16B applies to a new employee in the following circumstances:

(a) when the employer intends, at the time of employing the new employee, that the new employee would work permanently at a workplace of the employer that is not a distant workplace, but instead requires the employee to work temporarily at another of their workplaces that is a distant workplace:

(b) the new employee is on an out-of-town secondment to work—

(i) for a person with whom the employer has a continuing commercial affiliation or working relationship, and for the purposes of section CW 16B, the person is treated as the employer; and

(ii) for a period that is expected to be no more than 2 years; and

(iii) at a distant workplace that is the person's workplace.

Defined in this Act: distant workplace, employee, employer, out-of-town secondment, workplace

Section CW 16E: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 24(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CW 16F Accommodation expenditure: multiple workplaces

When this section applies

(1) This section applies when—

(a) the employment duties of an employee require them to work on an ongoing basis at more than 1 workplace; and

(b) 1 or more of those workplaces is a distant workplace; and

(c) in connection with the employee's employment or service, their employer provides accommodation or pays an amount for the employee's accommodation at the distant workplace.

Exclusions

(2) This section does not apply—

(a) to an amount that is the value provided or the payment by the employer when, under the terms of their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount:

(b) when the employee has 2 workplaces and 1 of those workplaces is a home office.

Exempt income

(3) The amount that is the value provided or the payment by the employer is exempt income of the employee.

Defined in this Act: accommodation, amount, distant workplace, employee, employer, employment, employment income, exempt income, pay, workplace

Section CW 16F: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 24(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CW 17 Expenditure on account, and reimbursement, of employees

Exempt income: expenditure on account

(1) Expenditure on account of an employee, being a payment to which section CE 5 (Meaning of expenditure on account of an employee) applies, that is incurred by an employer in connection with the employee's employment or service is exempt income of the employee to the extent to which the expenditure is expenditure for which the employee would be allowed a deduction if they incurred the expenditure and if the employment limitation did not exist.

Exempt income: reimbursement

(2) An amount that an employer pays to an employee in connection with the employee's employment or service is exempt income of the employee to the extent to which it reimburses the employee for expenditure for which the employee would be allowed a deduction if the employment limitation did not exist.

Requirements for expenditure connected to employment or service

(2B) For the purposes of subsections (1) and (2), expenditure is treated as incurred, or an amount paid, in connection with an employee's employment or service only if—

(a) the expenditure is incurred or the amount is paid because the employee is performing an obligation required by their employment or service; and

(b) the employee derives employment income through the performance of the obligation; and

(c) the expenditure is necessary in the performance of the obligation.

When subsection (2D) applies

(2C) Subsection (2D) applies for the purposes of subsections (2) and (3) to an amount that an employer pays to or on behalf of an employee in connection with their employment or service when—

(a) the payment—

(i) is made to, or on behalf of, a wide group or class of employees; and

(ii) is provided mainly to reimburse an expense incurred by an employee in deriving their employment income; and

(b) the amount paid is not an amount incurred by the employer when, under the terms of their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount; and

(c) the Commissioner considers that the average private or capital benefit that the employee as a member of the group or class is likely to receive from the payment is hard to measure.

Determinations

(2D) The Commissioner may make a determination under section 91AAT of the Tax Administration Act 1994 as to whether, or the extent to which, tax must be paid on some or all of the amount.

Estimated expenditure of employees

(3) For the purposes of subsection (2),—

(a) the employer may make, for a relevant period, a reasonable estimate of the amount of expenditure likely to be incurred by the employee or a group of employees for which reimbursement is payable; and

(b) the amount estimated is treated as if it were the amount incurred during the period to which the estimate relates.

Depreciation loss included

(4) In this section, expenditure includes an amount of depreciation loss.

Relationship with certain employment expenses provisions

(5) This section does not apply to an amount referred to in section CW 16B to CW 16F, CW 17B, CW 17C, CW 17CB, CW 17CC, CW 17D, or CW 18 (which relate to certain amounts of employment expenditure).

Defined in this Act: amount, Commissioner, deduction, depreciation loss, employee, employer, employment, employment income, employment limitation, exempt income, expenditure on account of an employee, pay, tax

Compare: 2004 No 35 s CW 13

Section CW 17(1): amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 16(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CW 17(2B) heading: inserted, on 1 April 2015, by section 25(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17(2B): inserted, on 1 April 2015, by section 25(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17(2C) heading: inserted, on 1 April 2015, by section 25(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17(2C): inserted, on 1 April 2015, by section 25(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17(2D) heading: inserted, on 1 April 2015, by section 25(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17(2D): inserted, on 1 April 2015, by section 25(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17(4) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 44(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 17(4): added (with effect on 1 April 2008), on 6 October 2009, by section 44(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 17(5) heading: replaced, on 1 April 2015, by section 25(2)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17(5): added (with effect on 1 April 2008), on 6 October 2009, by section 44(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 17(5): amended, on 1 April 2025, by section 24 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 17(5): amended, on 1 April 2015, by section 25(2)(b) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17 list of defined terms **Commissioner**: inserted, on 1 April 2015, by section 25(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17 list of defined terms **depreciation loss**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 44(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 17 list of defined terms **employment**: inserted, on 1 April 2015, by section 25(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17 list of defined terms **employment income**: inserted, on 1 April 2015, by section 25(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17 list of defined terms **tax**: inserted, on 1 April 2015, by section 25(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CW 17B Relocation payments

Exempt income

(1) An amount that an employer pays to or on behalf of an employee in connection with the expenses of the employee in a work-related relocation is exempt income of the employee.

Actual expenditure

(2) The amount paid must be no more than the actual cost incurred by or on behalf of the employee on an expense that the Commissioner lists as an eligible relocation expense in a determination made under subsection (6).

Time limit

(3) Subsection (1) applies only to expenditure incurred to the end of the tax year following that in which the relocation occurs. For the purposes of this subsection, a temporary move that has not been treated as a work-related relocation under this section is ignored.

Meaning of work-related relocation

(4) **Work-related relocation** means a relocation of the place where an employee lives that is required—

(a) because the employee's workplace is not within reasonable daily travelling distance of their residence; and

(b) as a result of the employee—

(i) taking up new employment with a new employer; or

(ii) taking up new duties at a new location with their existing employer; or

(iii) continuing in their current position but at a new location.

Exemption from distance test

(5) The requirement in subsection (4)(a) for a person's workplace to be beyond reasonable travelling distance of their residence does not apply to a person whose accommodation forms an integral part of their work.

Determinations

(6) The Commissioner may issue a determination for the purposes of this section under section 91AAR of the Tax Administration Act 1994 to provide a list of eligible relocation expenses, and may extend or modify the list from time to time as required. The Commissioner must give at least 30 days' notice of the implementation date of any alteration.

Defined in this Act: amount, Commissioner, employee, employer, exempt income, tax year, work-related relocation

Section CW 17B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 45 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CW 17C Payments for overtime meals and certain other allowances

Exempt income: overtime meals

(1) An amount that an employer pays to or on behalf of an employee for a meal for the employee when the employee is working overtime is exempt income of the employee.

Exempt income: certain sustenance allowances

(2) An amount that an employer pays to an employee as a sustenance allowance for the employee for a day is exempt income of the employee if—

(a) the employee works a minimum of 7 hours on the day; and

(b) their employment requires them—

(i) to work outdoors and away from their employment base for most of the day; and

(ii) to undertake a long period of physical activity in travelling through a neighbourhood or district on foot or by bicycle; and

(c) it is not practicable for the employer to provide sufficient sustenance on the day for the period when the employee is working outdoors; and

(d) the allowance recognises—

(i) the arduous physical nature of the employee's work as described in paragraph (b); and

(ii) that the employer would normally provide tea, coffee, water, or similar refreshments at the employment base in the course of their business.

Eligibility requirements: overtime meals

(3) Subsection (1) applies only if—

(a) the employee has worked at least 2 hours' overtime on the day of the meal; and

(b) either—

(i) the employee's employment agreement provides for pay for overtime hours worked; or

(ii) the employer has an established policy or practice of paying for overtime meals.

Eligibility requirements: sustenance allowances

(4) Subsection (2) applies only if the employer has an established policy or practice of paying a sustenance allowance.

Actual cost or reasonable estimate

(5) The amount paid must be—

(a) the actual cost to the employee, and for an overtime meal referred to in subsection (1), with documentation required for amounts over $20 per meal; or

(b) a reasonable estimate of the expenditure likely to be incurred by the employee or a group of employees for whom an amount is payable.

Meaning of overtime

(6) For the purposes of this section, **overtime**, for a person and a day, means time worked for an employer on the day beyond the person's ordinary hours of work as set out in their employment agreement.

Defined in this Act: amount, employee, employer, exempt income, overtime, pay

Section CW 17C: inserted (with effect on 1 April 2008), on 6 October 2009, by section 45 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CW 17CB Payments for certain work-related meals

Exempt income

(1) When the employment duties of an employee require them to work away from their employer's workplace, expenditure that the employer incurs for or on behalf of the employee for a meal for the employee is exempt income of the employee. For these purposes, expenditure includes a reimbursement payment or a meal allowance.

Inclusions: work-related events

(2) For the purposes of subsection (1), a meal includes—

(a) food and drink that the employee consumes as part of a working meal arranged as part of or as an alternative to a formal meeting for business discussions:

(b) food and drink that the employee consumes at a conference or training course:

(c) light refreshments in the form of snack foods such as biscuits and fruit, or liquid refreshments such as tea, coffee, water, or similar refreshments, provided for the employee, but only if—

(i) their employment duties require them to be away from their employment base for most of the day; and

(ii) the employer would normally provide the refreshments to the employee on the day; and

(iii) it is not practicable for the employer to provide the refreshments on the day.

Inclusions: meals when travelling on business

(3) For the purposes of subsection (1), a meal also includes food and drink that the employee consumes when their employment duties require them to travel in the performance of those duties.

Exclusion: salary sacrifice

(4) Subsection (1) does not apply if expenditure is incurred by the employer when, under the terms of their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the expenditure.

Time limit

(5) The maximum period applying to expenditure incurred under subsection (1) other than expenditure on a meal described in subsection (2), is 3 months—

(a) commencing—

(i) on the date on which the employee starts to work away from their employer's workplace; or

(ii) for an employee who does not have a fixed workplace, on the date on which they arrive at their accommodation base:

(b) ending on the earlier of—

(i) the date on which the 3-month period expires; or

(ii) the date on which the employee returns to their employer's workplace to undertake their employment duties for their employer, or the date on which the employee moves to a new accommodation base, as applicable.

Measuring period

(6) In the measurement of the maximum period in subsection (5), the period includes the employee's time away on leave or other breaks for personal reasons, weekend breaks, required rest periods, and other similar periods.

Time limits in exceptional circumstances

(7) The time limit referred to in subsection (5) does not apply if exceptional circumstances arise beyond the control of the employer and employee that require the employee to continue to work away from their employer's workplace after the period expires. However, an extension of time must be limited to the period for which the employee is unable, because of the exceptional circumstances, to return to their employer's workplace.

Meaning of employer's workplace

(7B) In this section, **employer's workplace** means the workplace of the employer at which the employee normally works.

Relationship with FBT rules

(8) To the extent to which the expenditure of an employer described in subsection (1) gives rise to a fringe benefit, the fringe benefit tax rules override this section.

Defined in this Act: accommodation, amount, business, employee, employer, employer's workplace, employment, employment income, exempt income, fringe benefit, fringe benefit tax rules, pay, workplace

Section CW 17CB: inserted, on 1 April 2015, by section 26 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 17CB(7B) heading: inserted, on 29 March 2018 (with effect on 1 April 2015), by section 34(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 17CB(7B): inserted, on 29 March 2018 (with effect on 1 April 2015), by section 34(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 17CB list of defined terms **employer's workplace**: inserted, on 29 March 2018 (with effect on 1 April 2015), by section 34(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CW 17CC Payments for distinctive work clothing

Exempt income

(1) An amount that an employer pays to or on behalf of an employee for distinctive work clothing for the employee is exempt income of the employee.

Distinctive work clothing

(2) For the purposes of this section, **distinctive work clothing** has the meaning set out in section CX 30 (Distinctive work clothing).

Certain plain clothes included

(3) Despite subsection (2), for the purposes of subsection (4), the wearing of distinctive work clothing by an employee includes the wearing of plain clothes that would normally be worn for private purposes if—

(a) their employer provides a uniform to employees; and

(b) despite the provision of a uniform, the employer requires the employee to wear plain clothes in the performance of their employment duties; and

(c) as at 1 July 2013, the employer's general terms and conditions of employment or service provided for allowances for plain clothes to be paid to employees; and

(d) historically, the plain clothes allowance was part of a larger amount paid at the time by the employer to employees in relation to the provision of plain clothes, the balance being a taxable amount that was at a later period classified as remuneration for employees then receiving the plain clothes allowance under the employer's general terms and conditions; and

(e) the terms and conditions referred to in paragraph (c) continue to provide for the payment of the plain clothes allowance.

Exempt amount

(4) The amount that the employer pays to or on behalf of the employee as an allowance for the plain clothes is exempt income of the employee.

Defined in this Act: amount, distinctive work clothing, employee, employer, employment, exempt income, pay

Section CW 17CC: inserted (with effect on 1 July 2013), on 30 June 2014, by section 27 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CW 17D Payments related to health or safety

When this section applies

(1) This section applies when an employer pays an amount to, or on behalf of, an employee that is related to the employee's health or safety and is aimed at managing the risks to health and safety in the workplace as provided for under the Health and Safety at Work Act 2015.

Exempt income

(2) The amount paid by the employer is exempt income of the employee to the extent to which the payment is for a benefit that would be excluded by section CX 24 from being a fringe benefit if the benefit was a non-cash benefit provided to the employee.

Defined in this Act: amount, employee, employer, exempt income, fringe benefit, pay

Section CW 17D: inserted, on 1 April 2025, by section 25(1) (and see section 25(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CW 18 Allowance for additional transport costs

Exempt income

(1) An allowance that an employee receives from an employer to reimburse the employee's additional transport costs is exempt income to the extent to which the employee incurs the costs in connection with their employment and for the employer's benefit or convenience.

Estimated expenditure of employees

(2) For the purposes of subsection (1),—

(a) the employer may make, for a relevant period, a reasonable estimate of the amount of expenditure likely to be incurred by the employee or a group of employees for which reimbursement is payable; and

(b) the amount estimated is treated as if it were the amount incurred during the period to which the estimate relates.

Meaning of additional transport costs

(3) In this section, **additional transport costs** means the costs to an employee of travelling between their home and place of work that are more than would ordinarily be expected. The costs must be attributable to 1 or more of the following factors:

(a) the day or time of day when the work duties are performed:

(b) the need to transport any goods or material for use or disposal in the course of the employee's work:

(c) the requirement to fulfil a statutory obligation:

(d) a temporary change in the employee's place of work while in the same employment:

(e) any other condition of the employee's work:

(f) the absence of an adequate public passenger transport service that operates fixed routes and a regular timetable for the employee's place of work.

Quantifying additional transport costs

(4) Additional transport costs are quantified as follows:

(a) when the additional transport costs are attributed to a factor described in any of subsection (3)(a) to (e), the amount by which the costs are more than the employee's ordinarily expected travel costs without reference to that factor:

(b) when the additional transport costs are attributed to the factor described in subsection (3)(f), the amount by which the costs are more than $5 for each day on which the employee attends work:

(c) except in special circumstances, the costs of travelling any distance over 70 kilometres in 1 day are not taken into account in calculating additional transport costs.

Defined in this Act: additional transport costs, amount, employee, employer, exempt income, pay

Compare: 2004 No 35 s CW 14

CW 19 Amounts derived during short-term visits

Exempt income

(1) Income that a non-resident person derives from performing personal or professional services in New Zealand during a visit is exempt income if—

(a) the visit is for 92 or fewer days, counting the days of arrival and departure as a whole day each; and

(b) the person is present in New Zealand for 92 days or fewer in total in each 12-month period that includes the period of the visit; and

(c) the services are performed for or on behalf of a person who is not resident in New Zealand; and

(d) the amount derived from the personal or professional services is chargeable in the country or territory in which the person is resident with a tax that is substantially the same as income tax imposed under this Act.

Exclusion

(2) This section does not apply to the income of a public entertainer.

Meaning of public entertainer

(3) In this section, **public entertainer** includes—

(a) circus performers, dancers, lecturers, motion picture artists, musicians, radio artists, singers, television artists, and theatre artists; and

(b) athletes, boxers, wrestlers, and other professional sportspersons.

Defined in this Act: amount, exempt income, income, income tax, New Zealand, non-resident, public entertainer, resident in New Zealand, tax year

Compare: 2004 No 35 s CW 15

Section CW 19(1): amended (with effect on 30 March 2017), on 18 March 2019, by section 137 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 19(1)(b): replaced, on 30 March 2017 (applying for a person for a visit beginning on or after 1 April 2017), by section 34(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CW 19B Certain amounts derived by employees during emergency events: exempt income

Income that satisfies section FP 20 (Certain amounts derived by employees during emergency events) is exempt income to the extent to which the income is—

(a) accommodation:

(b) less than or equal to $5,000 in total, if the income is in a form other than accommodation.

Defined in this Act: accommodation, exempt income, income

Section CW 19B: inserted, on 1 April 2025, by section 26 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CW 20 Amounts derived by visiting entertainers including sportspersons

Exempt income: cultural activities

(1) Income that a non-resident entertainer derives from carrying out their activity or performance in New Zealand during a visit is exempt income if—

(a) the activity or performance occurs under a cultural programme of the New Zealand government or an overseas government; or

(b) the activity or performance occurs under a cultural programme wholly or partly sponsored by the New Zealand government or an overseas government; or

(c) the activity or performance occurs as part of a programme of an overseas foundation, trust, or other organisation that—

(i) exists wholly or partly to promote cultural activity; and

(ii) is not carried on for the private pecuniary profit of any member, proprietor, or shareholder.

Exempt income: sporting activities

(2) Income that a non-resident entertainer derives from carrying out an activity or performance that relates to a game or sport in New Zealand during a visit is

exempt income if the participants are the official representatives of a body that administers the game or sport in an overseas country.

Exempt income: employer of non-resident entertainer

(3) If income derived from an activity or performance of a non-resident entertainer would be exempt income under this section if derived by the non-resident entertainer, that amount is exempt income if derived by a person who—

(a) provides the services of the non-resident entertainer during the visit to New Zealand; and

(b) is 1 of the following:

(i) the entertainer's employer; or

(ii) a company of which the entertainer is an officer; or

(iii) a firm of which the entertainer is a principal.

Meaning of non-resident entertainer

(4) In this section, **non-resident entertainer** means a non-resident person, as defined in subpart YD (Residence and source in New Zealand), who carries out an activity or performance in connection with—

(a) a solo or group performance by actors, comperes, dancers, entertainers, musicians, singers, or other artists, whether for cultural, educational, entertainment, religious, or other purposes; or

(b) lectures, speeches, or talks for any purpose; or

(c) a sporting event or sporting competition of any nature.

Defined in this Act: amount, company, employer, exempt income, income, New Zealand, non-resident, non-resident entertainer

Compare: 2004 No 35 s CW 16

CW 21 Amounts derived by visiting crew of pleasure craft

Exempt income

(1) Income that a non-resident crew member derives from performing services in New Zealand relating to a pleasure craft while it is in New Zealand is exempt income if—

(a) the services are performed for a person who is not resident in New Zealand; and

(b) the pleasure craft is the subject of a security given under section 136 of the Customs and Excise Act 2018; and

(c) the pleasure craft is not owned, wholly or partly or directly or indirectly, by—

(i) a resident of New Zealand; or

(ii) a controlled foreign company.

Some definitions

(2) In this section,—

non-resident crew member means a person who—

(a) is a crew member of a pleasure craft; and

(b) is a non-resident, a matter determined without applying section YD 1(3) (Residence of natural persons); and

(c) is not present in New Zealand on more than 365 days in any 2-year period that starts on or after 28 May 2002; and

(d) is not in New Zealand unlawfully under the Immigration Act 2009

pleasure craft is defined in section 2 of the Maritime Transport Act 1994.

Defined in this Act: amount, controlled foreign company, exempt income, income, New Zealand, non-resident, non-resident crew member, pleasure craft, resident in New Zealand, year

Compare: 2004 No 35 s CW 17

Section CW 21(1)(b): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section CW 21(2) **non-resident crew member**: amended, on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

CW 22 Amounts derived by overseas experts and trainees in New Zealand by government arrangement

Exempt income: personal services

(1) Income that a non-resident person derives from performing personal services, including professional services, in New Zealand during a visit is exempt income if—

(a) the services are performed for or on behalf of a non-resident employer; and

(b) the purpose of the visit is all or any of the following:

(i) providing professional or expert advice or assistance:

(ii) teaching or lecturing:

(iii) making investigations:

(iv) receiving education, training, or experience; and

(c) the visit occurs under an arrangement for assistance entered into by the government of New Zealand.

Exempt income: maintenance or bursaries

(2) An amount of income that a non-resident person derives from a payment of maintenance or of an allowance, or from a bursary or scholarship, provided for or paid to the person during or in relation to their presence in New Zealand during a visit, is exempt income if—

(a) the purpose of the visit is all or any of the following:

(i) providing professional or expert advice or assistance:

(ii) teaching or lecturing:

(iii) making investigations:

(iv) receiving education, training, or experience; and

(b) the visit occurs under an arrangement for assistance entered into by the government of New Zealand.

Some definitions

(3) In this section,—

arrangement for assistance entered into by the government of New Zealand means an arrangement entered into by the government of New Zealand—

(a) in relation to or under—

(i) the Commonwealth Education Scheme; or

(ii) a programme of the United Nations, or any specialised agency of the United Nations, for cultural, economic, educational, expert, professional, or technical assistance; or

(b) for the purpose of providing education, training, or experience for officers of the Samoan, Cook Islands, Niuean, or Tokelauan public services, or for persons resident in Samoa, the Cook Islands, Niue, or Tokelau; or

(c) with the government of any other country or with any international organisation, if it is an arrangement that—

(i) is for the purpose of providing cultural, economic, educational, expert, professional, or technical assistance, or administrative or other training, or the means or facilities for making investigations, whether upon a bilateral, co-operative, multilateral, mutual, or unilateral basis; and

(ii) is in principle similar to any arrangement to which paragraph (a) or (b) applies

international organisation means an organisation whose members are sovereign powers, whether countries of the Commonwealth or foreign sovereign powers, or the governments of those countries or powers

non-resident person means a person who would not be resident in New Zealand if they were not present in New Zealand under an arrangement for assistance entered into by the government of New Zealand. The residence of the person is determined without applying section YD 1(3) (Residence of natural persons).

Defined in this Act: amount, arrangement, arrangement for assistance entered into by the government of New Zealand, Commonwealth, employer, exempt income, income, international organisation, New Zealand, non-resident person, pay, resident in New Zealand

Compare: 2004 No 35 s CW 18

CW 23 Income for military or police service in operational area

When this section applies

(1) This section applies when a member of the New Zealand Defence Force or the police (the **member**) derives income for serving in an operational area.

Exempt income

(2) The following are exempt income of the member:

(a) an operational allowance:

(b) an amount that the ministerial committee decides under subsection (3) is exempt income.

Ministerial committee

(3) A ministerial committee that includes the Prime Minister, the Minister of Defence, the Minister of Police, the Minister of Finance, and the Minister of Foreign Affairs may, for the purposes of subsection (2)(b), decide that an amount of income derived by a member for being in an operational area is exempt income.

Some definitions

(4) In this section,—

operational allowance, for a member, means the amount of an allowance payable by the Government of New Zealand that—

(a) is paid directly and solely to the member for being in an operational area; and

(b) is not—

(i) a regular force gratuity:

(ii) a bonus or bounty for re-engagement in a regular force

operational area means an area—

(a) to which the Minister of Defence has ordered the deployment of New Zealand Defence Force members for a specific mission authorised by the Government; and

(b) that the Chief of Defence Force delineates for that mission.

Defined in this Act: amount, exempt income, income, New Zealand, operational allowance, operational area

Compare: 2004 No 35 s CW 19

CW 24 Deferred military pay for active service

Exempt income

(1) Deferred military pay that is granted or paid under the Defence Act 1990 to a person for service in the New Zealand armed forces in an active service area is exempt income.

Some definitions

(2) In this section,—

active service area means an area outside New Zealand that is designated as an active service area by the Minister of Defence, with the agreement of the Minister of Finance

deferred military pay means pay declared to be deferred by the Minister of Defence, with the agreement of the Minister of Finance.

Defined in this Act: active service area, deferred military pay, exempt income, New Zealand, pay

Compare: 2004 No 35 s CW 20

CW 25 Value of board for religious society members

The value of personal board and lodging and other basic personal necessities received by a member of a religious society or order is exempt income if—

(a) the member's sole occupation is service in a religious society or order; and

(b) it is in the nature of the service that members are not paid for their work and do not receive a reward for it, other than those necessities.

Defined in this Act: exempt income, pay

Compare: 2004 No 35 s CW 21

CW 26 Jurors' and witnesses' fees

Fees paid by the Crown to jurors and to witnesses, other than expert witnesses, are exempt income.

Defined in this Act: exempt income, pay

Compare: 2004 No 35 s CW 22

CW 26B Exempt ESS

An amount derived from an exempt ESS is exempt income.

Defined in this Act: amount, exempt ESS, exempt income

Section CW 26B: inserted, on 29 March 2018, by section 35 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CW 26C Meaning of exempt ESS

Exempt ESS

(1) **Exempt ESS** means—

(a) a scheme that had the Commissioner's approval under section DC 12 (Loans to employees under share purchase schemes) before that section's repeal by the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018:

(b) an arrangement of which the Commissioner has been notified under section 63B(1) of the Tax Administration Act 1994, if—

(i) the arrangement meets the criteria in subsections (2) to (9) of this section; and

(ii) the Commissioner has received all forms due under section 63B(2) and (3) of the Tax Administration Act 1994.

Purchase of shares

(2) The arrangement must provide that—

(a) the shares are available for no more than their market value at the date of purchase or subscription; and

(b) the market value of the shares purchased or subscribed for by an employee, or a trustee for an employee, under the arrangement is less than or equal to $7,500 in a year; and

(c) the difference between the market value of the shares purchased or subscribed for by an employee or a trustee and the amount that an employee spends on buying shares under the arrangement is less than or equal to $3,000 in a year.

Eligibility

(3) The arrangement must provide that—

(a) a full-time permanent employee to whom an offer under the arrangement is made is eligible to participate in the arrangement, on an equal basis with 90% or more of other full-time permanent employees to whom an offer under the arrangement is not subject to foreign security disclosure rules; and

(b) if it applies to part-time employees, those employees to whom an offer under the arrangement is made are eligible to participate in the arrangement, on an equal basis with 90% or more of other part-time employees to whom an offer under the arrangement is not subject to foreign security disclosure rules; and

(c) if it applies to seasonal workers, those employees to whom an offer under the arrangement is made are eligible to participate in the arrangement, on an equal basis with 90% or more of other seasonal workers to whom an offer under the arrangement is not subject to foreign security disclosure rules; and

(d) if it requires that an employee spend a minimum amount on buying shares, it requires no more than $1,000 to be spent in a year; and

(e) if it requires that an employee must have a minimum period of employment or service before the employee is eligible to participate, it requires—

(i) no more than 3 years full-time work, for full-time employees; and

(ii) no more than an accumulated period that is the equivalent of 3 years full-time work, for other employees.

Trusts

(3B) If a trust holds the shares in trust for the employee, the arrangement must provide that—

(a) the trustee pays dividends directly to the employee; and

(b) the dividends are treated as being derived by the employee.

Payments

(4) The arrangement must provide that—

(a) if it requires that an employee must buy the shares for more than nominal consideration,—

(i) a loan for the cost of the shares is available to the employee; or

(ii) the employee may pay for or buy the shares in regular instalments of a month or less, and any regular instalments are subject to paragraph (d)(ii); and

(b) any loan to an employee to buy shares is free of interest and other charges; and

(c) any loan or regular instalments have a maximum term of 60 months and a minimum term of 36 months; and

(d) any loan to an employee to buy shares is repayable by regular instalments of a month or less, but—

(i) the loan is repayable early in full or in part at the employee's discretion; and

(ii) in the case of an employee who is on unpaid or parental leave for more than a month, the regular instalments are suspended while on leave and the term of the loan is extended as appropriate.

Serious hardship

(5) The arrangement must provide, in the case of serious hardship that results or may result from an employee's continued participation in the exempt ESS, that, with the employee's agreement,—

(a) any regular instalments and any other terms related to payment by the employee may be varied; or

(b) the employee may withdraw from the arrangement, and any shares are bought from the employee for their market value on the day of withdrawal, subject to the repayment of any outstanding loan.

Withdrawal

(6) The arrangement must provide that the employee may withdraw from the arrangement on giving 1 month's notice to the relevant party. Any shares must be bought from the employee for the lesser of their market value on the day of withdrawal and their cost to the employee, subject to the repayment of any outstanding loan.

Period of restriction

(7) The arrangement must provide that,—

(a) if the employee has not acquired the shares for market value, there is a period of restriction during which the shares must not be disposed of other than as part of a takeover or similar share reorganisation, and that period of restriction is the shorter of—

(i) a period of 3 years starting on the date the employee acquired the shares, or the period of repayment of a loan made to them under the scheme for this purpose, whichever is longer; and

(ii) a period starting on the date the employee acquired the shares and ending on the date the employee ends their employment with the company that employs them, or a company in the same group of companies if the employee is transferred; or

(b) if the employee has acquired the shares for market value, there is a period of restriction during which the shares must not be disposed of other than as part of a takeover or similar share reorganisation, and that period of restriction is no longer than the shorter of—

(i) the shortest period in paragraph (a)(i) and (ii); and

(ii) any period of restriction provided by the arrangement, if that period finishes on or after the date on which the employee has no further repayment obligations for a loan made to them under the scheme.

End of period of restriction: first option

(8) The arrangement may provide, when the period of restriction provided by subsection (7) ends, that the shares are transferred to the employee if they have not already been transferred or, if the employee chooses, that the shares are acquired from the employee or trustee for the lesser of—

(a) the cost of the shares to the employee:

(b) the market value of the shares on the date the period of restriction ends.

End of period of restriction: second option

(8B) If the arrangement does not provide as described in subsection (8), the arrangement must provide, when the period of restriction provided by subsection (7) ends,—

(a) in the case that the employee is currently employed, that the shares are transferred to the employee if they have not already been transferred or, if the employee chooses, that the shares are acquired from the employee or trustee for the lesser of—

(i) the cost of the shares to the employee:

(ii) the market value of the shares on the date the period of restriction ends:

(b) in the case that the employee is not currently employed, that the shares are acquired from the employee or trustee for the lesser of—

(i) the cost of the shares to the employee:

(ii) the market value of the shares on the date the period of restriction ends.

End of period of restriction: certain cases

(9) Despite subsections (8) and (8B), when a period of restriction ends because the employee's employment ends through their death, accident, sickness, redundancy, or retirement at normal retiring age, the arrangement must provide that—

(a) the shares are transferred to the former employee if they have not already been transferred, or transferred to the legal representative of the employee's estate, as appropriate; or

(b) if the employee chooses, the shares are purchased for the lesser of—

(i) the cost of the shares to the employee:

(ii) the market value of the shares on the date the period of restriction ends.

Defined in this Act: amount, arrangement, Commissioner, company, employee, employer, employment, exempt ESS, group of companies, interest, loan, market value, normal retiring age, notice, pay, share, trustee, year

Section CW 26C: inserted, on 29 March 2018, by section 35 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 26C(2)(b): amended, on 1 April 2025, by section 27(1)(a) (and see section 27(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 26C(2)(c): amended, on 1 April 2025, by section 27(1)(b) (and see section 27(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 26C(3B) heading: inserted (with effect on 29 March 2018), on 23 March 2020, by section 95(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(3B): inserted (with effect on 29 March 2018), on 23 March 2020, by section 95(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(7)(a): amended (with effect on 29 March 2018), on 23 March 2020, by section 95(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(7)(a)(ii): amended (with effect on 29 March 2018), on 30 March 2021, by section 19 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CW 26C(7)(b): amended (with effect on 29 March 2018), on 23 March 2020, by section 95(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(8) heading: replaced (with effect on 29 March 2018), on 23 March 2020, by section 95(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(8): replaced (with effect on 29 March 2018), on 23 March 2020, by section 95(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(8B) heading: inserted (with effect on 29 March 2018), on 23 March 2020, by section 95(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(8B): inserted (with effect on 29 March 2018), on 23 March 2020, by section 95(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 26C(9): amended (with effect on 29 March 2018), on 23 March 2020, by section 95(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CW 26D Meaning of employee

For the purposes of section CW 26C, **employee**—

(a) means a person that is employed by a company; but

(b) does not include a person who,—

(i) is a director of the company, unless they are employed by the company:

(ii) is a corporation sole, a body corporate, or an unincorporated body:

(iii) with any associated person, holds 10% or more of the issued capital of the company.

Defined in this Act: associated person, company, director, employment

Section CW 26D: inserted, on 29 March 2018, by section 35 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CW 26DB Meaning of market value

For the purposes of section CW 26C, **market value**—

(a) has the same meaning as in section YA 1 (Definitions), definition of **market value**, paragraphs (a) and (b); and

(b) includes, for a share or option quoted on the official list of a recognised exchange, at the time, an amount equal to the 5-day volume weighted average price or any other method that is accepted by the Commissioner or is comparable to the 5-day volume weighted average price, for such shares or options.

Section CW 26DB: inserted (with effect on 29 March 2018), on 23 March 2020, by section 96 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CW 26E Meaning of normal retiring age

For the purposes of section CW 26C, **normal retiring age** means,—

(a) for an employee other than 1 to whom paragraph (b) applies, no less than 60 years of age:

(b) for a female employee who is entitled under a contract of employment entered into before 1 April 1978 with the company that employs her to retire before 60 years of age, no less than 55 years of age:

(c) for any employee, an age that is earlier than the age referred to in paragraph (a) or (b) and that the Commissioner considers reasonable

given the nature of the employment or the general terms of employment in the business or occupation of the employee.

Defined in this Act: business, Commissioner, company, employee, employment, normal retiring age

Section CW 26E: inserted, on 29 March 2018, by section 35 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CW 26F Meaning of share

For the purposes of section CW 26C, **share** means, for a company whose shares are made available under an exempt ESS, a fully paid ordinary share that ranks equally with, and has the same designation as, an existing ordinary voting share in the company.

Defined in this Act: company, exempt ESS, share

Section CW 26F: inserted, on 29 March 2018, by section 35 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CW 26G Meaning of trustee

For the purposes of section CW 26C, **trustee** means a group of persons appointed to administer an exempt ESS of a company that employs an employee, and to hold shares under that scheme on trust for the employee during any period of restriction described in section CW 26C(7).

Defined in this Act: company, employee, exempt ESS, group of persons, share, trustee

Section CW 26G: inserted, on 29 March 2018, by section 35 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Certain income of transitional resident

CW 27 Certain income derived by transitional resident

Income derived by a person who is a transitional resident is exempt income if the income is a foreign-sourced amount that is none of the following:

(a) employment income of a type described in section CE 1 (Amounts derived in connection with employment) in connection with employment or service performed while the person is a transitional resident:

(b) income from a supply of services.

Defined in this Act: employment income, exempt income, foreign-sourced amount, income, transitional resident

Compare: 2004 No 35 s CW 22B

Income from living allowances, foreign superannuation, compensation, and government grants

Heading: amended, on 1 April 2014, by section 18 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CW 28 Pensions

Exempt income

(1) The following are exempt income:

(a) a pension or allowance under the Veterans' Support Act 2014, including a lump sum paid pursuant to an election under section 53(1)(b) of that Act, but excluding—

(i) a veteran's pension:

(ii) a retirement lump sum paid under Part 5, subpart 7 of that Act:

(iii) weekly income compensation paid under Part 3, subpart 4 of that Act:

(iv) weekly compensation paid under Part 4, subpart 5 of that Act:

(v) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of that Act:

(b) a pension or allowance of any other kind granted in New Zealand or overseas by any government relating to any war or to disability attributable to or aggravated by service in the armed forces or the police:

(c) a payment of portable New Zealand superannuation:

(d) a payment of portable veteran's pension:

(e) an overseas pension.

Meaning of overseas pension

(2) In this section, **overseas pension** means—

(a) an overseas pension, to the extent of amounts deducted under section 189 of the Social Security Act 2018, by the department currently responsible for administering that Act, from—

(i) a monetary benefit paid under that Act (other than section 380, which relates to reciprocity agreements with other countries); or

(ii) a monetary benefit, other than New Zealand superannuation or a veteran's pension, paid under section 380 of that Act:

(b) an overseas pension to the extent to which it is subject to an arrangement under section 190 of the Social Security Act 2018.

Defined in this Act: amount, exempt income, New Zealand superannuation, overseas pension, pay, portable New Zealand superannuation, portable veteran's pension, veteran's pension

Compare: 2004 No 35 s CW 23

Section CW 28(1)(a): replaced (with effect on 7 December 2014), on 31 March 2015, by section 12(1) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CW 28(1)(a)(iii): inserted, on 31 March 2015, by section 12(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CW 28(1)(a)(iv): inserted, on 31 March 2015, by section 12(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CW 28(1)(a)(v): inserted, on 31 March 2015, by section 12(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section CW 28(2): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section CW 28 list of defined terms **income-tested benefit**: repealed, on 17 July 2013, by section 15(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

CW 28B Foreign superannuation withdrawal in initial period of residency

A foreign superannuation withdrawal is exempt income of a person if the person—

(a) meets the requirements of section CF 3(4)(a) (Withdrawals from foreign superannuation scheme); and

(b) derives the foreign superannuation withdrawal in the exemption period referred to in section CF 3(6) for the person.

Defined in this Act: exempt income, foreign superannuation withdrawal, transitional resident

Section CW 28B: inserted, on 1 April 2014, by section 19 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CW 28C Foreign superannuation withdrawal exceeding given amount

A foreign superannuation withdrawal derived by a person in the assessable period referred to in section CF 3(8) (Withdrawals from foreign superannuation scheme) for the person is exempt income of the person to the extent to which the foreign superannuation withdrawal exceeds the amount—

(a) calculated using the formula in section CF 3(10) as the assessable withdrawal amount, if the person uses the schedule method under that section; or

(b) calculated using the formula in section CF 3(16) as the assessable withdrawal amount, if the person uses the formula method under that section.

Defined in this Act: exempt income, foreign superannuation withdrawal

Section CW 28C: inserted, on 1 April 2014, by section 19 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CW 29 Reinvested amounts from foreign superannuation schemes in Australia

An amount of income derived in an income year by a natural person as a withdrawal from a foreign superannuation scheme is exempt income if,—

(a) in the income year, the person invests the amount in another foreign superannuation scheme; and

(b) each foreign superannuation scheme is constituted in Australia and is—

(i) an Australian approved deposit fund:

(ii) an Australian exempt public sector superannuation scheme:

(iii) an Australian regulated superannuation fund:

(iv) an Australian retirement savings account.

Defined in this Act: amount, Australian approved deposit fund, Australian exempt public sector superannuation scheme, Australian regulated superannuation fund, Australian retirement savings account, exempt income, foreign superannuation scheme, income, income year

Compare: 2004 No 35 s CW 23B

CW 29B Amounts from Australian complying superannuation schemes reinvested in KiwiSaver schemes

An amount of income derived in an income year by a natural person from an Australian complying superannuation scheme is exempt income if, in the income year, it is contributed to a KiwiSaver scheme.

Defined in this Act: amount, Australian complying superannuation scheme, exempt income, income, income year, KiwiSaver scheme

Section CW 29B: inserted, on 1 July 2013, by section 13 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CW 30 Annuities from Crown Bank Accounts

An annuity is exempt income if—

(a) it is granted by the Executive Council of New Zealand; and

(b) it is paid from the Crown Bank Account; and

(c) it is not designated as being subject to tax.

Defined in this Act: exempt income, New Zealand, pay, tax

Compare: 2004 No 35 s CW 24

CW 31 Services for members and former members of Parliament

An amount is exempt income of a person to the extent that it is income of the person and is not exempt income of the person under another provision of subpart CW, if the amount is—

(a) travel, accommodation, or communication services, and is—

(i) paid under section 72, 85, 87, or 94 or clauses 15 and 16 of Schedule 3 of the Parliament Act 2025; and

(ii) provided to a member of Parliament (including in his or her capacity as a member of the Executive), an eligible candidate, or a family member of one of those persons:

(b) the travel rebates of a former member of Parliament (including the travel rebates that apply in respect of a former member's spouse or partner) and is paid—

(i) under section 39 of the Members of Parliament (Remuneration and Services) Act 2013 after 30 June 2014 but before the day specified in section 2(1) of the Parliament Act 2025:

(ii) under clause 23 or 24 of Schedule 3 of the Parliament Act 2025 on and after the date on which that schedule came into force:

(c) the travel expenses of a former Prime Minister (including the travel expenses that apply in respect of a former Prime Minister's spouse or partner) and is paid in accordance with a determination made under section 74 of the Parliament Act 2025:

(d) international travel, international accommodation, or communications services provided to a member of the Executive.

Defined in this Act: exempt income, eligible candidate, family member, pay

CW 31: replaced, on 16 December 2013, by section 66 of the Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93).

Section CW 31(a)(i): amended, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section CW 31(a)(ii): amended, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section CW 31(b): replaced, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section CW 31(c): replaced, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section CW 31 list of defined terms **eligible candidate**: inserted, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section CW 31 list of defined terms **qualifying electoral candidate**: repealed, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

CW 32 Maintenance payments

The following are exempt income:

(a) child support or spousal maintenance under the Child Support Act 1991:

(b) a payment in the nature of maintenance out of money belonging to a person's spouse, civil union partner or de facto partner, or former spouse, former civil union partner, or former de facto partner.

Defined in this Act: exempt income, pay

Compare: 2004 No 35 s CW 26

CW 33 Allowances and benefits

Exempt income

(1) The following are exempt income:

(a) a monetary benefit under the Social Security Act 2018, except any of the following kinds:

(i) a payment of a main benefit:

(ii) a payment of New Zealand superannuation equivalent assistance:

(iii) a payment of veteran's pension equivalent assistance:

(b) a payment under Part 5 or 13 of the Accident Insurance Act 1998, or under Part 11 of the Accident Compensation Act 2001, of any of the following kinds:

(i) a payment to an insured person for treatment or rehabilitation:

(ii) an independence allowance:

(iii) a funeral grant:

(iv) a survivor's grant:

(v) a childcare payment:

(ba) a payment under section 363, 386AAG, or 386B of the Oranga Tamariki Act 1989:

(c) a participation allowance under regulations made under section 429 of the Social Security Act 2018:

(cb) a payment under the cost of living payments scheme, as defined in section 3(1) of the Tax Administration Act 1994:

(d) a disabled workshop payment:

(e) an amount derived by a trustee of a trust created for the benefit of persons harmed by thalidomide, or a distribution to a beneficiary from the trust:

(f) an amount derived by a trustee of the New Zealand Agent Orange Trust that represents the settlement fund and income attributable to the fund, or a distribution to a beneficiary from the trust.

Meaning of disabled workshop payment

(2) In this section, **disabled workshop payment** means a payment to a disabled person for undertaking therapeutic activities in a sheltered workshop, as defined in the Disabled Persons Employment Promotion Act 1960, or in a similar workshop, if the average amount paid in a tax year is $50 or less per week.

Defined in this Act: amount, disabled workshop payment, exempt income, income, main benefit, New Zealand superannuation equivalent assistance, pay, tax year, trustee, veteran's pension equivalent assistance

Compare: 2004 No 35 s CW 27

Section CW 33(1)(a): replaced (with effect on 20 April 2020), on 30 April 2020, by section 4(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section CW 33(1)(a)(i): replaced, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CW 33(1)(b): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CW 33(1)(ba): replaced, on 1 July 2019, by section 47 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section CW 33(1)(c): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section CW 33(1)(cb): inserted, on 25 May 2022, by section 8 of the Taxation (Cost of Living Payments) Act 2022 (2022 No 25).

Section CW 33 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CW 33 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CW 33 list of defined terms **New Zealand superannuation equivalent assistance**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 4(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section CW 33 list of defined terms **veteran's pension equivalent assistance**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 4(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

CW 34 Compensation payments

Exempt income

(1) An amount of income from the following payments is exempt income:

(a) a payment relating to incapacity for work:

(b) a payment under the Workers Compensation Act 1956:

(c) a payment under the Criminal Injuries Compensation Act 1963:

(d) a distribution from funds approved by the Minister in charge of War Pensions to ex-prisoners of war held in German concentration camps in World War 2:

(e) a payment under the laws of a State of the Federal Republic of Germany or the Republic of Austria to the victims of National Socialist persecution:

(f) payments under schedule 1 of the Crown Forest Assets Act 1989 (except clause 3(b)):

(g) payments of compensation, solatium payments, or payments to lessors for the purchase of leases under the Maori Reserved Land Amendment Act 1997 (but not interest paid under section 23 of the Act).

Some definitions

(2) In this section,—

accident insurance contract is defined in section 13 of the Accident Insurance Act 1998

payment relating to incapacity for work means a payment of 1 of the following kinds made to a person because they are, or another person is, incapacitated for work:

(a) a payment by a friendly society, but not a payment referred to in paragraph (d) or (e) of the definition of **accident compensation payment**

in section CF 1(2) (Benefits, pensions, compensation, and government grants):

(b) a payment from a sickness, accident, or death benefit fund to which the person was a contributor when the period of incapacity began, but not a payment referred to in paragraph (d) or (e) of the definition of **accident compensation payment** in section CF 1(2):

(c) a payment under a policy of personal sickness or accident insurance, or an accident insurance contract, but neither a payment referred to in paragraph (d) or (e) or (f) of the definition of **accident compensation payment** in section CF 1(2) nor a payment calculated according to loss of earnings or profits:

(d) an impairment payment made under subpart 4 of Part 4 of the Veterans' Support Act 2014.

Defined in this Act: accident insurance contract, exempt income, friendly society, interest, lease, pay, payment relating to incapacity for work, sickness, accident, or death benefit fund

Compare: 2004 No 35 s CW 28

Section CW 34(2) **payment relating to incapacity for work** paragraph (d): inserted, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

CW 35 Personal service rehabilitation payments

Exempt income

(1) An amount paid to a person for an income year as a personal service rehabilitation payment is exempt income of the person if—

(a) they are paid the amount under the Accident Compensation Act 2001 either—

(i) in the income year; or

(ii) as a reimbursement payment in a later income year; and

(b) they pay an amount to another person for providing them in the income year or in an earlier income year a key aspect of social rehabilitation referred to in the definition of **personal service rehabilitation payment**; and

(c) the amount paid is equal to or more than the amount of personal service rehabilitation payment for the income year or an earlier income year after taking into account any amount of tax withheld.

Meaning of reimbursement payment

(2) For the purposes of this section, sections DF 4, LB 7, and RD 20B, **reimbursement payment** means a personal service rehabilitation payment that—

(a) relates to a key aspect of social rehabilitation that is provided to a person in an income year; and

(b) is paid to them in an income year that is later than the income year in which they were provided the rehabilitation.

Defined in this Act: amount, amount of tax, exempt income, income year, pay, personal service rehabilitation payment, reimbursement payment

Compare: 2004 No 35 s CW 28B

Section CW 35: substituted, on 1 July 2008, by section 329 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CW 35(1) heading: inserted (with effect on 1 April 2018), on 18 March 2019, by section 138(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 35(1)(a): replaced (with effect on 1 April 2018), on 18 March 2019, by section 138(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 35(1)(b): amended (with effect on 1 April 2018), on 18 March 2019, by section 138(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 35(1)(c): amended (with effect on 1 April 2018), on 18 March 2019, by section 138(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 35(2) heading: inserted (with effect on 1 April 2018), on 18 March 2019, by section 138(5) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 35(2): inserted (with effect on 1 April 2018), on 18 March 2019, by section 138(5) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 35(2): amended, on 1 April 2024, by section 22 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CW 35(2): amended (with effect on 1 July 2008), on 26 June 2019, by section 48 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section CW 35 list of defined terms **reimbursement payment**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 138(6) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CW 36 Scholarships and bursaries

A basic grant or an independent circumstances grant under regulations made under section 645 of the Education and Training Act 2020 is not exempt income, but any other scholarship or bursary for attendance at an educational institution is exempt income.

Defined in this Act: exempt income

Compare: 2004 No 35 s CW 29

Section CW 36: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

CW 37 Film production grants

[Repealed]

Section CW 37: repealed (with effect on 1 October 2009), on 6 October 2009, by section 46(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Income of certain entities

CW 38 Public authorities

Exempt income: sinking funds

(1) An amount of income derived from sinking funds relating to the debt of a public authority is exempt income.

Exempt income: other income

(2) Any other amount of income derived by a public authority is exempt income.

Exclusion: amounts received in trust

(3) Subsection (2) does not apply to an amount of income that a public authority derives as a trustee, other than an amount distributed as beneficiary income to a beneficiary who derives the amount as exempt income.

Exclusion: superannuation schemes

(4) Subsection (2) does not apply to a public authority to the extent to which it is a superannuation scheme.

Exclusion: certain public authorities

(5) Subsection (2) does not apply to an amount of income derived by the following public authorities:

(a) Public Trust:

(b) State enterprises:

(c) Crown Research Institutes:

(d) a Fund investment entity:

(db) a VCF investment vehicle as referred to in section 25 of the Venture Capital Fund Act 2019:

(e) a company that is treated as being wholly owned by the Crown under section HR 4B (Activities relating to New Zealand Superannuation Fund and VCF).

Exclusion: mixed-ownership enterprises

(5B) Subsection (2) does not apply to an amount of income derived by a mixed-ownership enterprise.

Meaning of public authority

(6) In this section, **public authority** includes the Reserve Bank of New Zealand.

Defined in this Act: amount, Crown Research Institute, exempt income, Fund investment entity, income, mixed-ownership enterprise, public authority, State enterprise, superannuation scheme, trustee, VCF

Compare: 2004 No 35 s CW 31

Section CW 38(1) heading: replaced (with effect on 1 April 2008), on 23 March 2020, by section 97(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 38(2) heading: replaced (with effect on 1 April 2008), on 23 March 2020, by section 97(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 38(3): amended, on 30 June 2014, by section 28 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 38(5)(d): replaced, on 5 June 2024, by section 13(1) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section CW 38(5)(db): inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section CW 38(5)(e): inserted, on 23 October 2015, by section 4 of the Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94).

Section CW 38(5)(e): amended, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section CW 38(5B) heading: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section CW 38(5B): inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section CW 38 list of defined terms **Fund investment entity**: inserted, on 5 June 2024, by section 13(2) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section CW 38 list of defined terms **mixed-ownership enterprise**: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section CW 38 list of defined terms **VCF**: inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

CW 38B Public purpose Crown-controlled companies

Exempt income: sinking funds

(1) An amount of income derived from sinking funds relating to the debt of a public purpose Crown-controlled company is exempt income.

Exempt income: other income

(2) Any other amount of income derived by a public purpose Crown-controlled company is exempt income.

Exclusion: amounts received in trust

(3) Subsection (2) does not apply to an amount of income that a public purpose Crown-controlled company derives as a trustee, other than an amount distributed as beneficiary income to a beneficiary who derives the amount as exempt income.

Orders in Council

(4) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, amend schedule 35—

(a) to add the name of a company that meets the following criteria:

(i) the company is listed in schedule 4A of the Public Finance Act 1989 or 100% of the voting interests in the company are held by

the group of persons that holds 100% of the voting interests in a company listed in schedule 4A of that Act; and

(ii) Ministers of the Crown hold, on behalf of the Crown, more than 50% of the voting interests in the company; and

(iii) all other voting interests, if any, in the company are held by local authorities; and

(iv) the company's primary purpose is the carrying out of a public policy objective of the Government of New Zealand:

(b) to substitute the name of a company in recognition of a change in its name:

(c) to remove the name of a company.

When Minister of Revenue must recommend Order in Council under subsection (4)(c)

(5) The Minister of Revenue must recommend that an Order in Council be made to remove the name of a company from schedule 35 if the Minister is satisfied that—

(a) the company has been removed from the register of companies kept under the Companies Act 1993; or

(b) the company no longer meets the criteria set out in subsection (4)(a).

Secondary legislation

(6) An Order in Council under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, company, exempt income, group of persons, income, income tax, local authority, public purpose Crown-controlled company, trustee, voting interest

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section CW 38B: inserted, on 18 March 2019, by section 139 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 38B(1) heading: replaced (with effect on 18 March 2019), on 23 March 2020, by section 98(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 38B(2) heading: replaced (with effect on 18 March 2019), on 23 March 2020, by section 98(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 38B(6) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CW 38B(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

CW 39 Local authorities

Exempt income: sinking funds

(1) An amount of income derived from sinking funds relating to the debt of a local authority is exempt income.

Exempt income: other income

(2) Any other amount of income derived by a local authority is exempt income.

Exclusion: amounts received in trust

(3) Subsection (2) does not apply to an amount of income that a local authority derives as a trustee, other than an amount distributed as beneficiary income to a beneficiary who derives the amount as exempt income.

Exclusion: certain amounts from commercial undertakings

(4) Subsection (2) does not apply to an amount of income that—

(a) is derived by a local authority from—

(i) a council-controlled organisation linked by ownership or control to the local authority, other than a council-controlled organisation operating a hospital as a charitable activity on behalf of the local authority or a water organisation whose income is exempt under section CW 55BC; or

(ii) an organisation linked by ownership or control to the local authority that is a port company, a subsidiary of a port company, or an energy company and that would be a council-controlled organisation in the absence of section 6(4) of the Local Government Act 2002; and

(b) is neither rates nor a dividend.

Exclusion: local authority as port operator

(5) Subsection (2) does not apply to an amount of income derived by a local authority in its capacity as a port operator from a port-related commercial undertaking. **Port operator** and **port-related commercial undertaking** are defined in section 38(4) of the Port Companies Act 1988.

Defined in this Act: amount, council-controlled organisation, exempt income, income, local authority, trustee, water organisation

Compare: 2004 No 35 s CW 32

Section CW 39(1) heading: replaced (with effect on 1 April 2008), on 23 March 2020, by section 99(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 39(2) heading: replaced (with effect on 1 April 2008), on 23 March 2020, by section 99(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 39(3): amended, on 30 June 2014, by section 29 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 39(4): replaced, on 1 April 2022, by section 57(1) (and see section 57(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CW 39(4)(a)(i): replaced, on 27 August 2025, by section 35(1) (and see section 35(3) for application) of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Section CW 39 list of defined terms **water organisation**: inserted, on 27 August 2025, by section 35(2) (and see section 35(3) for application) of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

CW 39B Auckland Future Fund

Exempt income

(1) An amount of income derived by a trustee of the Auckland Future Fund is exempt income.

Exclusion: certain amounts from commercial undertakings

(2) Subsection (1) does not apply to an amount of income that—

(a) is derived by a trustee of the Auckland Future Fund from—

(i) a council-controlled organisation of Auckland Council; or

(ii) an organisation linked by ownership or control to Auckland Council that is a port company, a subsidiary of a port company, or an energy company, and that would be a council-controlled organisation of Auckland Council in the absence of section 6(4) of the Local Government Act 2002; and

(b) is not—

(i) rates; or

(ii) a dividend.

Meaning of Auckland Future Fund

(3) In this section, **Auckland Future Fund**—

(a) means the fund established by Auckland Council as part of its Long-term plan 2024–2034; and

(b) includes—

(i) any funds, assets, or both that the Council adds to the fund; and

(ii) capital and income retained in the fund.

Meaning of Auckland Council

(4) In this section, **Auckland Council** means the territorial authority established by section 6(1) of the Local Government (Auckland Council) Act 2009 as the Auckland Council.

Defined in this Act: amount, Auckland Council, Auckland Future Fund, council-controlled organisation, dividend, exempt income, income, trustee

Section CW 39B: inserted (with effect on 1 April 2024), on 29 March 2025, by section 28(1) (and see section 28(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CW 40 Local and regional promotion bodies

Exempt income: beautification societies

(1) An amount of income derived by an association or society is exempt income if—

(a) the association or society is established mainly to—

(i) advertise, beautify, or develop a city or other district so as to attract population, tourists, trade, or visitors:

(ii) create, develop, or increase amenities for the general public in a city or other district; and

(b) none of the funds of the association or society is used, or is or may become available to be used, for any other purpose that is not a charitable purpose.

Exclusion: council-controlled organisation

(2) Subsection (1) does not apply to an amount of income derived—

(a) by a council-controlled organisation:

(b) by a local authority from a council-controlled organisation.

Exempt income: trustees of Cornwall Park

(3) An amount of income that the trustees of Cornwall Park, Auckland, derive from the property of the trust is exempt income.

Defined in this Act: amount, charitable purpose, council-controlled organisation, exempt income, income, local authority, trustee

Compare: 2004 No 35 s CW 33

Section CW 40 list of defined terms **associated person**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 47 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CW 40B Te Urewera Board

Exempt income

(1) To the extent to which it is applied for the purposes set out in the Te Urewera Act 2014, income derived by Te Urewera Board is exempt income.

Definition

(2) In this section, **Te Urewera Board** has the meaning given in section 7 of that Act.

Section CW 40B: inserted, on 28 July 2014, by section 40(6) of the Te Urewera Act 2014 (2014 No 51).

CW 40C Te Pou Tupua

Exempt income

(1) An amount of income derived by Te Pou Tupua (as defined in the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017) is exempt income.

Exclusion

(2) However, subsection (1) does not apply for an amount of income under section CH 11 (Te Awa Tupua and Te Pou Tupua).

Defined in this Act: amount, exempt income, income

Section CW 40C: inserted, on 21 March 2017, by section 26(3) of the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7).

Section CW 40C(1) heading: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 36(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 40C(2) heading: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 36(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 40C list of defined terms **amount**: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 36(c) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 40C list of defined terms **exempt income**: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 36(c) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 40C list of defined terms **income**: inserted, on 29 March 2018 (with effect on 21 March 2017), by section 36(c) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CW 40D Te Tōpuni Kōkōrangi

Exempt income

(1) An amount of income derived by Te Tōpuni Kōkōrangi (as defined in Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025) is exempt income.

Exclusion

(2) However, subsection (1) does not apply for an amount of income under section CH 11B (Te Kāhui Tupua and Te Tōpuni Kōkōrangi).

Section CW 40D: inserted, on 2 February 2025, by section 57(3) of the Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 (2025 No 1).

CW 40E Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 asset management company

Exempt income

(1) An amount of income derived by the asset management company (as defined in Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025) is exempt income.

Exclusion

(2) However, subsection (1) does not apply for an amount of income under section CH 11C (Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 asset management company).

Section CW 40E: inserted, on 2 February 2025, by section 57(3) of the Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 (2025 No 1).

CW 41 Charities: non-business income

Exempt income

(1) The following are exempt income:

(aa) an amount of income derived by a person who is removed from the register of charitable entities (the **register**) under the Charities Act 2005, if it is derived in the period starting with the day they are registered on the register and ending with the earlier of the following days:

(i) the day on which the person does not comply with the person's rules contained in the register:

(ii) the day of final decision:

(a) an amount of income derived by a trustee in trust for charitable purposes:

(b) an amount of income derived by a society or institution established and maintained exclusively for charitable purposes and not carried on for the private pecuniary profit of any individual.

Exclusion: trustees, society, or institution not registered

(2) This section does not apply to an amount of income if, at the time that the amount of income is derived, the trustee or trustees of the trust, the society, or the institution is not, or are not, a tax charity.

Exclusion: business income

(3) This section does not apply to an amount of income derived from a business carried on by, or for, or for the benefit of a trust, society, or institution of a kind referred to in subsection (1).

Exclusion: council-controlled organisation income

(4) This section does not apply to an amount of income derived by—

(a) a council-controlled organisation, other than a council-controlled organisation operating a hospital as a charitable activity:

(b) a local authority from a council-controlled organisation, other than from a council-controlled organisation operating a hospital as a charitable activity on behalf of the local authority.

Definition

(5) **Tax charity** means,—

(a) a trustee, a society, or an institution, registered as a charitable entity under the Charities Act 2005:

(b) a trustee, a society, or an institution (the **entity**), that—

(i) has started, before 1 July 2008, to take reasonable steps in the process of preparing an application for registering the entity as a charitable entity under the Charities Act 2005; and

(ii) intends to complete the process of preparing an application described in subparagraph (i); and

(iii) has not been notified by the Commissioner that the entity is not a tax charity:

(c) a trustee, a society, or an institution, that is or are non-resident and carrying out its or their charitable purposes outside New Zealand, and which is approved as a tax charity by the Commissioner in circumstances where registration as a charitable entity under the Charities Act 2005 is unavailable:

(d) a person who is removed from the register, in the period starting with the day they are registered on the register and ending with the earlier of the following days:

(i) the day on which the person does not comply with the person's rules contained in the register:

(ii) the day of final decision.

Defined in this Act: amount, business, charitable purpose, council-controlled organisation, day of final decision, exempt income, income, local authority, notify, tax charity, trustee

Compare: 2004 No 35 s CW 34

Section CW 41(1)(aa): inserted (with effect on 14 April 2014 and applying for a person for the 2014–15 and subsequent income years; and for an income year before the 2014–15 income year, but only for the first income year and subsequent income years for which the person files a return of income on the basis that subsections (1), (2), and (3) of section 30 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 apply for the relevant income year), on 30 June 2014, by section 30(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 41(2): amended, on 1 July 2008, by section 20(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 41(4): substituted, on 1 April 2008, by section 331 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CW 41(5) heading: added, on 1 July 2008, by section 20(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 41(5): added, on 1 July 2008, by section 20(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 41(5): amended, on 1 April 2019, by section 140 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 41(5)(a): amended, on 29 March 2018 (with effect on 1 July 2008), by section 37(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 41(5)(b): amended, on 29 March 2018 (with effect on 1 July 2008), by section 37(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 41(5)(c): amended, on 29 March 2018 (with effect on 1 July 2008), by section 37(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CW 41(5)(c): amended (with effect on 14 April 2014), on 30 June 2014, by section 30(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 41(5)(d): inserted (with effect on 14 April 2014 and applying for a person for the 2014–15 and subsequent income years; and for an income year before the 2014–15 income year, but only for the first income year and subsequent income years for which the person files a return of income on the basis that subsections (1), (2), and (3) of section 30 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 apply for the relevant income year), on 30 June 2014, by section 30(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 41 list of defined terms **day of final decision**: inserted (with effect on 14 April 2014 and applying for a person for the 2014–15 and subsequent income years; and for an income year before the 2014–15 income year, but only for the first income year and subsequent income years for which the person files a return of income on the basis that subsections (1), (2), and (3) of section 30 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 apply for the relevant income year), on 30 June 2014, by section 30(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 41 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CW 41 list of defined terms **registered as a charitable entity**: repealed, on 1 July 2008, by section 20(3) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 41 list of defined terms **tax charity**: inserted, on 1 July 2008, by section 20(3) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

CW 42 Charities: business income

Exempt income

(1) Income derived directly or indirectly from a business carried on by, or for, or for the benefit of a trust, society, or institution of a kind referred to in section CW 41(1) is exempt income if—

(aa) the entity carrying on the business is, at the time that the income is derived, registered as a charitable entity under the Charities Act 2005; and

(a) the trust, society, or institution carries out its charitable purposes in New Zealand; and

(b) the trustee or trustees of the trust, the society, or the institution is or are, at the time that the income is derived, a tax charity; and

(c) no person with some control over the business is able to direct or divert an amount derived from the business to the benefit or advantage of,—

(i) if subparagraph (ii) does not apply, a person other than the trust, society, or institution except for a purpose of the trust, society, or institution:

(ii) if a trust, society, or institution (the **operating entity**) is carrying on the business for or for the benefit of another trust, society, or institution (the **controlling entity**), a person other than the operating entity or the controlling entity except for a purpose of the operating entity or the controlling entity.

Subsections (3) to (8) expand on this subsection.

Exclusion

(2) This section does not apply to an amount of income derived by—

(a) a council-controlled organisation, other than a council-controlled organisation operating a hospital as a charitable activity:

(b) a local authority from a council-controlled organisation, other than from a council-controlled organisation operating a hospital as a charitable activity on behalf of the local authority.

Carrying on a business: trustee

(3) For the purposes of subsection (1), a trustee is treated as carrying on a business if—

(a) the trustee derives rents, fines, premiums, or other revenues from an asset of the trust; and

(b) the asset was disposed of to the trust by a person of a kind described in subsection (5)(b); and

(c) either—

(i) the person retains or reserves an interest in the asset; or

(ii) the asset will revert to the person.

Charitable purposes in New Zealand and overseas

(4) For the purposes of subsection (1)(a), if the charitable purposes of the trust, society, or institution are not limited to New Zealand, income derived from the business in a tax year is apportioned reasonably between those purposes in New Zealand and those outside New Zealand. Only the part apportioned to the New Zealand purposes is exempt income.

Control over business

(5) For the purposes of subsection (1)(c) and section CW 42B(2)(c) and (4) for an income year, a person is treated as having some control over the business, and as being able to direct or divert amounts from the business if, in the tax year,—

(a) they are, in any way, whether directly or indirectly, able to determine, or materially influence the determination of,—

(i) the nature or extent of a relevant benefit or advantage; or

(ii) the circumstances in which a relevant benefit or advantage is, or is to be, given or received; and

(b) their ability to determine or influence the benefit or advantage arises because they are—

(i) a settlor or trustee of the trust by which the business is carried on; or

(ii) a shareholder or director of the company by which the business is carried on; or

(iii) a settlor or trustee of a trust that is a shareholder of the company by which the business is carried on; or

(iv) a person associated with a settlor, trustee, shareholder, or director referred to in any of subparagraphs (i) to (iii).

Control: settlor asset disposed of to trust

(6) For the purposes of subsection (5) and section CW 42B(2)(c) and (4), a person is treated as a settlor of a trust, and as gaining a benefit or advantage in the carrying on of a business of the trust, if—

(a) they have disposed of an asset to the trust, and the asset is used by the trust in the carrying on of the business; and

(b) they retain or reserve an interest in the asset, or the asset will revert to them.

No control

(7) For the purposes of subsection (1)(c) and section CW 42B(2)(c) and (5), a person is not treated as having some control over the business merely because—

(a) they provide professional services to the trust or company by which the business is carried on; and

(b) their ability to determine, or materially influence the determination of, the nature or extent of a relevent benefit or advantage arises because they—

(i) provide the services in the course of and as part of carrying on, as a business, a professional public practice; or

(ii) are a statutory trustee company; or

(iii) are Public Trust; or

(iv) are the Maori Trustee.

Benefit or advantage

(8) For the purposes of subsection (1)(c) and section CW 42B(2)(c) and (6), a benefit or advantage to a person—

(a) may or may not be something that is convertible into money:

(b) unless excluded under paragraph (d), includes deriving an amount that would be income of the person under 1 or more of the following provisions:

(i) section CA 1(2) (Amounts that are income):

(ii) sections CB 1 to CB 23 (which relate to income from business or trade-like activities):

(iii) section CB 32 (Property obtained by theft):

(iv) sections CC 1 (Land), CC 3 to CC 8 (which relate to income from financial instruments), and CC 9 (Royalties):

(v) section CD 1 (Dividend):

(vi) sections CE 1 (Amounts derived in connection with employment) and CE 8 (Attributed income from personal services):

(vii) section CF 1 (Benefits, pensions, compensation, and government grants):

(viii) section CG 3 (Bad debt repayment):

(ix) sections CQ 1 (Attributed controlled foreign company income) and CQ 4 (Foreign investment fund income):

(c) includes retaining or reserving an interest in an asset in the case described in subsection (3), if the person has disposed of the asset to the trust or the asset will revert to them:

(d) does not include earning interest on money lent, if the interest is payable at no more than the current commercial rate, given the nature and term of the loan.

Non-exempt business income

(9) If an amount derived from the carrying on of a business by or for a trust is not exempt income because of a failure to comply with subsection (1)(c), the amount is trustee income.

Defined in this Act: amount, associated person, business, charitable purpose, company, council-controlled organisation, director, exempt income, income, income year, interest, local authority, money lent, New Zealand, pay, shareholder, statutory trustee company, tax charity, trustee, trustee income

Compare: 2004 No 35 s CW 35

Section CW 42(1)(aa): inserted, on 1 April 2020, by section 141(1) (and see section 141(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 42(1)(b): amended, on 1 July 2008, by section 21(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 42(1)(c): replaced (with effect on 1 July 2008), on 24 February 2016, by section 84(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 42(2): substituted, on 1 April 2008, by section 332 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section CW 42(5): amended (with effect on 1 July 2008), on 24 February 2016, by section 84(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 42(5): amended (with effect on 14 April 2014), on 30 June 2014, by section 31(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 42(6): amended (with effect on 14 April 2014), on 30 June 2014, by section 31(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 42(7): amended (with effect on 14 April 2014), on 30 June 2014, by section 31(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 42(8): amended (with effect on 14 April 2014), on 30 June 2014, by section 31(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 42(9): amended (with effect on 1 April 2008), on 6 October 2009, by section 48 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 42 list of defined terms **tax charity**: inserted, on 1 July 2008, by section 21(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

CW 42B Community housing trusts and companies

Exempt income

(1) An amount of income derived by a community housing entity is exempt income.

Definition

(2) In this section and section LD 3 (Meaning of charitable or other public benefit gift), **community housing entity** means a trustee or company (the **entity**) whose activities involve the provision of housing or housing assistance (the **activities**), and—

(aa) the entity is a registered community housing provider under the Public and Community Housing Management Act 1992; and

(a) the activities are not carried on for the private pecuniary profit of any individual; and

(b) all profit is retained by the entity, or distributed or applied to—

(i) community housing entities that meet the requirements to derive exempt income under this section:

(ii) beneficiaries or clients of the entity:

(iii) tax charities:

(iv) persons to whom distributions would be in accordance with charitable purposes; and

(c) no person with some control over the activities is able to direct or divert an amount derived from the activities to the benefit or advantage of,—

(i) if subparagraph (ii) does not apply, a person other than the entity except for a purpose of the entity or a charitable purpose:

(ii) if the entity (the **operating entity**) is carrying on the activities for or for the benefit of a community housing entity or charity (the **controlling entity**), a person other than the operating entity or the controlling entity except for a purpose of the operating entity or the controlling entity or for a charitable purpose.

Definition: exception

(3) Despite subsection (2), **community housing entity** does not include a trustee or company (the **entity**) if—

(a) more than 15% of the people who become beneficiaries or clients of the entity on a date that is or is after 14 April 2014 have, on that date, income or assets exceeding a value (the **entry threshold**) set out in schedule 34 (Community housing trusts and companies: income and

assets of beneficiaries and clients) that is relevant to the beneficiary or client:

(b) the provision of housing or housing assistance to a beneficiary or client who has income and assets not exceeding the entry thresholds is substantially different from the provision of housing or housing assistance to a beneficiary or client who has income or assets exceeding an entry threshold.

Control over activities

(4) For the purposes of subsection (2)(c), for an income year, a person is treated as having some control over the activities, and as being able to direct or divert amounts from the activities if, in the tax year, they are described in section CW 42(5)(a) and (b) and (6) (Charities: business income).

No control

(5) For the purposes of subsection (2)(c), a person described in section CW 42(7)(a) and (b) is not treated as having some control merely because of the factors in section CW 42(7)(a) and (b).

Benefit or advantage

(6) For the purposes of subsection (2)(c), a benefit or advantage to a person includes a benefit or advantage included under section CW 42(8).

Defined in this Act: amount, charitable purpose, community housing entity, exempt income, income, income year, tax charity

Section CW 42B: inserted (with effect on 14 April 2014), on 30 June 2014, by section 32(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 42B(2): amended (with effect on 14 April 2014), on 24 February 2016, by section 85(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 42B(2)(aa): inserted (with effect on 14 April 2014), on 30 June 2014, by section 32(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39) (as amended by the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016).

Section CW 42B(2)(aa): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section CW 42B(2)(c): replaced (with effect on 14 April 2014), on 24 February 2016, by section 85(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 42B(3): amended (with effect on 14 April 2014), on 24 February 2016, by section 85(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 42B(3)(a): replaced (with effect on 14 April 2014), on 24 February 2016, by section 85(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 42B(3)(b): replaced (with effect on 14 April 2014), on 24 February 2016, by section 85(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CW 42B(4): amended (with effect on 14 April 2014), on 24 February 2016, by section 85(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CW 43 Charitable bequests

Exempt income

(1) An amount of income derived by a deceased's executor or administrator is exempt income to the extent to which the requirements of subsections (2) and (3) are met, having regard to all relevant matters including—

(a) the terms of the deceased's will, including the rights of annuitants, legatees, and other beneficiaries; and

(b) the nature and extent of the debts and liabilities of, and other charges against, the estate and their likely effect on the income and assets available for distribution to the beneficiaries; and

(c) the shares and prospective shares of the beneficiaries in the income and assets of the estate.

Gift to charity

(2) The first requirement is that the amount arises from or is attributable to assets of the estate that have been left to a trust, society, or institution of a kind referred to in section CW 41(1).

Exempt in hands of charity

(3) The second requirement is that the amount, if derived by the trust, society, or institution or by a business carried on by, or for, or for the benefit of it, would be exempt income under section CW 41 or CW 42.

Timing of registration as charitable entity

(4) An amount of income derived by a deceased's executor or administrator that is derived during the period beginning on the deceased's date of death and ending at the end of the income year that follows the income year in which the deceased died is not prevented from being exempt income under this section merely because the trustee or trustees of the trust, the society, or the institution is not, or are not, a tax charity.

Requirements of sections CW 41 and CW 42 disregarded

(5) For the purposes of subsection (4), until the end of the income year that follows the income year in which the deceased died, the requirements of sections CW 41 and CW 42 for the trustee or trustees of the trust, the society, or the institution to be a tax charity must be disregarded when applying those sections for the purposes of this section.

Amounts derived after end of certain period

(6) This section does not apply to an amount of income derived after the end of the income year that follows the income year in which the deceased died if, at the

time that the amount of income is derived, the trustee or trustees of the trust, the society, or the institution is not, or are not, a tax charity.

Defined in this Act: amount, business, distribution, exempt income, income, New Zealand, tax charity

Compare: 2004 No 35 s CW 36

Section CW 43(4): amended, on 1 July 2008, by section 22(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 43(5): amended, on 1 July 2008, by section 22(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 43(6): amended, on 1 July 2008, by section 22(3) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 43 list of defined terms **registered as a charitable entity**: repealed, on 1 July 2008, by section 22(4) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section CW 43 list of defined terms **tax charity**: inserted, on 1 July 2008, by section 22(4) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

CW 44 Friendly societies

An amount of income derived by a friendly society is exempt income, except to the extent to which the amount is derived from—

(a) a business carried on beyond the membership of the friendly society; or

(b) a company registered as an insurer under the Accident Insurance Act 1998.

Defined in this Act: amount, business, company, exempt income, friendly society, income

Compare: 2004 No 35 s CW 37

CW 45 Funeral trusts

Interest or a dividend derived by a trustee in trust for a fund is exempt income if, when the interest or dividend is derived by the trustee,—

(a) the sole purpose of the fund is the payment of the expenses associated with the funerals of—

  (i) employees of an employer:

  (ii) spouses, civil union partners, de facto partners, and dependants of employees of the employer:

  (iii) surviving spouses, civil union partners, de facto partners, and surviving dependants of deceased employees of the employer; and

(b) the employer has at least 10 employees; and

(c) all persons eligible for benefits from the fund are eligible equally for benefits from the fund; and

(d) no contributions to the fund are made by a person who is not the employer or an employee of the employer; and

(e) the fund is approved by the Commissioner.

Defined in this Act: Commissioner, dividend, employee, employer, exempt income, interest, pay, trustee

Compare: 2004 No 35 s CW 38

CW 46 Bodies promoting amateur games and sports

An amount of income derived by a club, society, association, or trustee or trustees of a trust (the **promoter**) is exempt income if—

(a) the promoter is established mainly to promote an amateur game or sport; and

(b) the game or sport is conducted for the recreation or entertainment of the general public; and

(c) no part of the funds of the promoter is used or is available to be used for the private pecuniary profit of a member, proprietor, shareholder, beneficiary, or associate of any of them.

Defined in this Act: amount, associated person, beneficiary, exempt income, income, trustee

Compare: 2004 No 35 s CW 39

Section CW 46: amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 30 June 2014, by section 33(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 46(a): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 30 June 2014, by section 33(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 46(c): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 30 June 2014, by section 33(3)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 46(c): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 30 June 2014, by section 33(3)(b) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 46 list of defined terms **beneficiary**: inserted (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 30 June 2014, by section 33(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CW 46 list of defined terms **trustee**: inserted (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 30 June 2014, by section 33(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CW 47 TAB NZ and racing clubs

Exempt income: racing organisations

(1) An amount of income derived by any of the following bodies is exempt income:

(a) TAB NZ:

(b) New Zealand Thoroughbred Racing:

(c) Harness Racing New Zealand:

(d) the New Zealand Greyhound Racing Association (Incorporated):

(e) the Racing Integrity Board:

(f) Racing New Zealand.

Exempt income: racing clubs

(2) An amount of income derived by a racing club, as defined in section 5(1) of the Racing Industry Act 2020, is exempt income, if none of the club's funds is used or is available to be used for the private pecuniary profit of a member of the club or an associate of a member.

Defined in this Act: amount, associated person, exempt income, income

Compare: 2004 No 35 s CW 40

Section CW 47 heading: amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

Section CW 47(1)(a): amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

Section CW 47(1)(e): inserted (with effect on 1 August 2020) on 30 March 2022, by section 58 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CW 47(1)(f): inserted (with effect on 1 August 2020) on 30 March 2022, by section 58 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CW 47(2): amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

CW 48 Income from conducting gaming-machine gambling

An amount of income derived by a person that is gross gambling proceeds from gaming-machine gambling is exempt income if—

(a) the person is authorised to conduct the gaming-machine gambling under the Gambling Act 2003 by a gaming-machine operator's licence and a gaming-machine venue licence; and

(b) the person complies with the Gambling Act 2003 in applying and distributing the net gambling proceeds from the gaming-machine gambling.

Defined in this Act: exempt income, gaming-machine gambling, gaming-machine operator's licence, gaming-machine venue licence, gross gambling proceeds, net gambling proceeds

Compare: 2004 No 35 s CW 40B

CW 49 Bodies promoting scientific or industrial research

Exempt income

(1) An amount of income derived by a society or association established mainly to promote or encourage scientific or industrial research is exempt income if—

(a) the society or association is approved by the Royal Society of New Zealand; and

(b) none of its funds is used or available to be used for the private pecuniary profit of a member, proprietor, shareholder, or associate of any of them.

Exclusion

(2) This section does not apply to a Crown Research Institute.

Defined in this Act: amount, associated person, Crown Research Institute, exempt income, income

Compare: 2004 No 35 s CW 41

CW 50 Veterinary services bodies

Exempt income: veterinary clubs

(1) An amount of income derived by a veterinary association, club, or society is exempt income if—

(a) the association, club, or society was established mainly to promote efficient veterinary services in New Zealand; and

(b) none of its funds is used or available to be used for the private pecuniary profit of a member, proprietor, shareholder, or associate of any of them.

Exempt income: Veterinary Council

(2) An amount of income derived by the Veterinary Council of New Zealand is exempt income.

Defined in this Act: amount, associated person, exempt income, income, New Zealand

Compare: 2004 No 35 s CW 42

CW 51 Herd improvement bodies

An amount of income derived by a herd improvement association or society is exempt income if—

(a) the association or society was established mainly to promote the improvement of the standard of dairy cattle in New Zealand; and

(b) none of its funds is used or available to be used for the private pecuniary profit of a member, proprietor, shareholder, or associate of any of them.

Defined in this Act: amount, associated person, exempt income, income, New Zealand

Compare: 2004 No 35 s CW 43

CW 52 Community trusts

An amount of income derived by the trustee of a community trust is exempt income.

Defined in this Act: amount, community trust, exempt income, income, trustee

Compare: 2004 No 35 s CW 44

CW 52B Disability support services

Exempt income

(1) An amount of income derived by or on behalf of a person or their carer is exempt income of the relevant person if the amount is paid by Health New Zealand, the Ministry of Disabled People, or the Ministry of Health for the purpose of the purchase of disability support services in relation to the person.

Meaning

(2) In this section, **disability support services** has the meaning given in section 4 of the Pae Ora (Healthy Futures) Act 2022.

Defined in this Act: exempt income, income, pay, person

Section CW 52B: inserted (with effect on 1 April 2015), on 18 March 2019, by section 142(1) (and see section 142(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CW 52B(1): amended (with effect on 1 December 2024), on 29 March 2025, by section 29 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CW 52B(1): amended, on 30 June 2024, by section 43 of the Pae Ora (Disestablishment of Māori Health Authority) Amendment Act 2024 (2024 No 5).

Section CW 52B(1): amended (with effect on 1 July 2022), on 28 March 2024, by section 23 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CW 52B(1): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section CW 52B(2) **disability support services**: amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

CW 53 Distributions from complying trusts

To the extent to which section HC 20 (Distributions from complying trusts) applies to an amount that a person derives as a beneficiary of a trust, the amount is exempt income.

Defined in this Act: amount, complying trust, distribution, exempt income

Compare: 2004 No 35 s HH 3(5)

CW 54 Foreign-sourced amounts derived by trustees

To the extent to which section HC 26 (Foreign-sourced amounts: resident trustees) applies to a foreign-sourced amount that a trustee who is resident in New Zealand derives in an income year, the amount is exempt income.

Defined in this Act: exempt income, foreign-sourced amount, income year, non-resident, resident in New Zealand, trustee

Compare: 2004 No 35 s HH 4(3B)

CW 55 Maori authority distributions

A distribution from a Maori authority to a member, to the extent to which it is not income under section CV 11 (Maori authorities) is exempt income.

Defined in this Act: exempt income, income, Maori authority, member

Compare: 2004 No 35 s HI 5(1)

CW 55BA Tertiary education institutions and subsidiaries

Exempt income

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

Tertiary education subsidiary

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

(a) in which the tertiary education institution, alone or together with other tertiary education institutions, holds—

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

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

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

Control over company

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

No control over company

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

Benefit or advantage

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

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

Section CW 55BA: replaced (with effect on 1 July 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 86(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CW 55BAA Federation of Polytechnics Committee and industry skills boards

(1) An amount of income derived by the Federation of Polytechnics Committee established under section 325 of the Education and Training Act 2020 is exempt income if the Committee is not carried on for the private pecuniary profit of any individual.

(2) An amount of income derived by an industry skills board established under section 362 of the Education and Training Act 2020 is exempt income if the board is not carried on for the private pecuniary profit of any individual.

Defined in this Act: amount, exempt income, income

Section CW 55BAA: inserted, on 22 October 2025, by section 41 of the Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56).

CW 55BAB Rebate of fees paid by FIF

When this section applies

(1) This section applies to a person having an attributing interest in a foreign investment fund when—

(a) the FIF pays fees to another person; and

(b) the person derives, from the other person, a rebate of the fees; and

(c) the person is not allowed a deduction for the fees; and

(d) the person's FIF income or loss from the interest is not calculated using the comparative value method.

Exempt income

(2) The amount of the rebate is exempt income.

Defined in this Act: attributing interest, comparative value method, deduction, exempt income, FIF, foreign investment fund, loss, pay

Section CW 55BAB: inserted (with effect on 1 April 2009), on 27 February 2014, by section 20(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CW 55BAB(2) heading: inserted, on 30 March 2025, by section 30 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CW 55BB Minors' income, to limited extent

When this section applies

(1) This section applies for a tax year to a person, other than an absentee, when the person is—

(a) younger than 15:

(b) younger than 18, and attends a registered school as defined in section 10(1) of the Education and Training Act 2020:

(c) younger than 19, and—

(i) was a person to whom paragraph (b) applied during the previous tax year; and

(ii) turned 18 on or after 1 January in that previous tax year; and

(iii) continues to attend a school of a kind referred to in paragraph (b).

Exempt income—if less than limit

(2) An amount of income derived by the person in the tax year is exempt income if—

(a) the income is none of—

(i) a PAYE income payment from which the person's employer is required to withhold tax under the PAYE rules:

(ii) resident passive income:

(iii) non-resident passive income:

(iiib) beneficiary income:

(iv) excluded income:

(v) exempt income under another provision; and

(b) the person derives in the tax year a total amount of income meeting the requirements of paragraph (a) that is less than $2,340.

Defined in this Act: absentee, beneficiary income, employer, excluded income, exempt income, income, non-resident passive income, PAYE income payment, PAYE rules, resident passive income, tax, tax year

Section CW 55BB: inserted, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 4(1) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section CW 55BB(1)(b): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section CW 55BB(2)(a)(i): replaced (with effect on 29 May 2012 and applying for the 2012–13 and later tax years), on 17 July 2013, by section 17(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CW 55BB(2)(a)(iiib): inserted (with effect on 29 May 2012), on 30 March 2021, by section 20(1) (and see section 20(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CW 55BB list of defined terms **beneficiary income**: inserted (with effect on 29 May 2012), on 30 March 2021, by section 20(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CW 55BB list of defined terms **employer**: inserted (with effect on 29 May 2012), on 17 July 2013, by section 17(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CW 55BB list of defined terms **PAYE rules**: inserted (with effect on 29 May 2012), on 17 July 2013, by section 17(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CW 55BB list of defined terms **tax**: inserted (with effect on 29 May 2012), on 17 July 2013, by section 17(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

CW 55BC Water organisations

(1) An amount of income derived by a water organisation is exempt income if—

(a) the water organisation provides services that are only 1 or more of the following:

(i) water services:

(ii) services that are related to, or necessary for, providing water services (for example, services relating to the management or maintenance of water services networks):

(b) the water organisation is a company incorporated under the Companies Act 1993, and the only shareholders of the company are 1 or more of the following:

(i) a territorial authority:

(ii) a consumer trust that derives only exempt income under 1 or both of sections CW 41 and CW 42:

(c) the water organisation is not a company incorporated under the Companies Act 1993, and any distribution it makes is to a person who derives only exempt income.

Meaning of water organisation

(2) In this section and section CW 39, **water organisation** has the same meaning as in section 4 of the Local Government (Water Services) Act 2025.

Meaning of water services

(3) In this section, **water services** has the same meaning as in section 4 of the Local Government (Water Services) Act 2025.

Meaning of territorial authority

(4) In this section, **territorial authority** has the same meaning as in section 5(1) of the Local Government Act 2002.

Meaning of consumer trust

(5) In this section, **consumer trust** has the same meaning as in section 4 of the Local Government (Water Services) Act 2025.

Defined in this Act: amount, consumer trust, exempt income, income, water services, water organisation

Section CW 55BC: inserted, on 27 August 2025, by section 36(1) (and see section 36(2) for application) of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Partners and partnerships

Heading: inserted, on 1 April 2008, by section 8(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

CW 55B Amounts of exempt income for partners

A person who is a partner has an amount of exempt income to the extent to which an amount of exempt income results from the application of subpart HG (Joint venturers, partners, and partnerships) to them and their partnership.

Defined in this Act: amount, exempt income, partner, partnership

Section CW 55B: inserted, on 1 April 2008, by section 8(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Income from certain activities

CW 56 Non-resident aircraft operators

Exempt income

(1) An amount of income derived by a non-resident aircraft operator from air transport from New Zealand, or from air transport to New Zealand, is exempt income to the extent to which the Commissioner determines that an aircraft operator resident in New Zealand is, in circumstances corresponding to the circumstances of the non-resident aircraft operator, exempt from, or not liable to, income tax imposed by the laws of the country or territory in which the non-resident aircraft operator is resident.

Determination

(2) A determination by the Commissioner for the purposes of subsection (1) may relate to a class of non-resident aircraft operators or a class of resident aircraft operators.

Some definitions

(3) In this section,—

air transport from New Zealand—

(a) means the carriage outside New Zealand by an aircraft of cargo, mail, or passengers emplaned or embarked on the aircraft at an airport in New Zealand; and

(b) includes a flight by the aircraft between the airport in New Zealand where the emplaning or embarking occurred and another airport in New Zealand at which the aircraft calls before leaving New Zealand on the international flight for which the emplaning or embarking occurred

air transport to New Zealand—

(a) means the carriage to an airport in New Zealand by an aircraft of cargo, mail, or passengers emplaned or embarked on the aircraft at an airport in a country or territory outside New Zealand; and

(b) includes a flight by the aircraft to the airport in New Zealand for carriage to which the emplaning or embarking occurred from another airport in New Zealand at which the aircraft calls en route

non-resident aircraft operator means a person who—

(a) is engaged in the business of operating an aircraft for air transport from an airport; and

(b) is resident in a country or territory outside New Zealand and is not resident in New Zealand.

Defined in this Act: air transport from New Zealand, air transport to New Zealand, amount, business, Commissioner, exempt income, income, income tax, New Zealand, non-resident aircraft operator, resident in New Zealand

Compare: 2004 No 35 s CW 45

Section CW 56(1): amended (with effect on 1 April 2008), on 23 March 2020, by section 100(1) (and see section 100(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 56(3) **air transport from New Zealand** paragraph (b): replaced (with effect on 1 April 2008), on 23 March 2020, by section 100(2) (and see section 100(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 56(3) **air transport to New Zealand**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 100(3) (and see section 100(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CW 56 list of defined terms **air transport to New Zealand**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 100(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CW 57 Non-resident company involved in exploration and development activities

Exempt income

(1) An amount of income derived by a non-resident company from exploration and development activities in an offshore permit area is exempt income if it is derived in the period that—

(a) starts on 1 January 2025; and

(b) ends on 31 December 2029.

Some definitions

(2) In this section,—

exploration and development activities—

(a) means the following activities undertaken for the purposes of identifying and developing exploitable petroleum deposits or occurrences in an offshore permit area:

(i) operating a ship to provide seismic or electromagnetic survey readings:

(ii) drilling an exploratory well or other well; but

(b) does not include using a drilling rig of modular construction that is installed on an existing offshore platform

offshore permit area means an area of land that is—

(a) in New Zealand; and

(b) on the seaward side of the mean high-water mark; and

(c) a permit area or part of a permit area.

Defined in this Act: amount, exempt income, exploration and development activities, exploratory well, New Zealand, non-resident company, offshore permit area, permit area

Compare: 2004 No 35 s CW 45B

Section CW 57(1)(a): replaced, on 1 January 2020, by section 51 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section CW 57(1)(a): amended, on 1 January 2025, by section 24(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CW 57(1)(b): replaced, on 1 January 2020, by section 51 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section CW 57(1)(b): amended, on 1 January 2025, by section 24(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CW 57(2) **exploration and development activities**: replaced, on 1 January 2015, by section 34(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CW 58 Disposal of companies' own shares

An amount of income derived by a company from disposing of shares in the company, including if the company disposes of the shares as the result of the application of section CE 6 (Trusts are nominees), is exempt income if—

(a) the company acquired the shares, including if the company acquired the shares as the result of the application of section CE 6; and

(b) the acquisition was treated under section 67A(1) of the Companies Act 1993 as not resulting in the cancellation of the shares.

Defined in this Act: amount, cancellation, company, exempt income, income, share

Compare: 2004 No 35 s CW 46

Section CW 58: amended, on 30 March 2021, by section 21(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CW 58(a): amended, on 30 March 2021, by section 21(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

CW 59 New Zealand companies operating in Niue

Exempt income: income wholly or mainly from Niue

(1) An amount of income derived by a company incorporated in New Zealand that derives its income wholly or mainly from Niue is exempt income.

Exclusion

(2) Subsection (1) does not apply if the company, if it were a foreign company, would at any time during the income year in which the amount is derived be a controlled foreign company.

Exempt income: dividends

(3) A dividend derived from a company incorporated in New Zealand that derives its income wholly or mainly from Niue is exempt income, unless the dividend is derived by—

(a) a person who is resident in New Zealand; or

(b) a company that is a controlled foreign company at any time during the income year in which the amount is derived; or

(c) a trustee of a trust of which a settlor or beneficiary is resident in New Zealand during the income year in which the amount is derived.

Exempt income: Niue development projects

(4) An amount of income derived by a company incorporated in New Zealand from a business or enterprise that the company carries on in Niue is exempt income if—

(a) the business or enterprise is declared by an Order in Council made under subsection (7) to be a development project for the purposes of this section; and

(b) the company's income is derived wholly or mainly from that business or enterprise; and

(c) the amount is derived from sources in Niue; and

(d) the amount is derived while the Order in Council is in force.

Exclusions

(5) Subsections (1), (3), and (4) do not apply to—

(a) an amount of income derived from sources in New Zealand; or

(b) a dividend, to the extent to which it constitutes distribution of an amount derived by the company from sources in New Zealand.

Attributed CFC income and FIF income

(6) This section does not restrict the application of section CQ 1 (Attributed controlled foreign company income), or CQ 4 (Foreign investment fund income), or the FIF rules. For the purposes of the FIF rules, a company that derives its income wholly or mainly from Niue and has exempt income under subsection (1) is treated as a foreign company.

Order in Council declaring Niue development project

(7) The Governor-General may make an Order in Council declaring a business or enterprise to be a development project for the purposes of this section if satisfied that the business or enterprise—

(a) has been or will be entered upon wholly or mainly for the purpose of developing Niue; or

(b) is or will be important in the development of Niue.

Secondary legislation

(8) An Order in Council under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, attributed CFC income, business, company, controlled foreign company, dividend, exempt income, FIF, FIF rules, foreign company, income, income year, resident in New Zealand, settlor, source in New Zealand, trustee

Compare: 2004 No 35 s CW 47

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section CW 59(8) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section CW 59(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

CW 59B Income of and distributions by certain international funds

Trustees

(1) An amount derived by a person is exempt income of the person if they are—

(a) the trustee of the Niue International Trust Fund:

(b) the trustee of the Tokelau International Trust Fund.

Distributions

(2) An amount derived by a person is exempt income of the person if the income is a distribution by—

(a) the trustee of the Niue International Trust Fund:

(b) the trustee of the Tokelau International Trust Fund.

Defined in this Act: amount, distribution, exempt income, income, Niue International Trust Fund, Tokelau International Trust Fund, trustee

Compare: 2004 No 35 ss CW 49C, CW 49D

Section CW 59B: inserted, on 1 April 2008, by section 333 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

CW 59C Life reinsurance claims from reinsurer outside New Zealand

An amount of life reinsurance claim derived by a life insurer is exempt income to the extent to which, for the relevant life reinsurance policy, deductions for premiums are denied under section DR 3 (Life reinsurance premiums to reinsurer outside New Zealand).

Defined in this Act: amount, claim, deduction, exempt income, income, life insurer, life reinsurance, life reinsurance policy, New Zealand, premium

Section CW 59C: inserted, on 1 July 2010, by section 49(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 59C heading: replaced, on 1 July 2018, by section 7(1) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section CW 59C: amended, on 1 July 2018, by section 7(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

CW 60 Stake money

Stake or prize money for a dog race, horse race, or trotting race is exempt income if—

(a) it is paid by a club that is licensed to use the totalisator under the Racing Industry Act 2020; or

(b) the race is held outside New Zealand.

Defined in this Act: exempt income, New Zealand, pay

Compare: 2004 No 35 s CW 48

Section CW 60(a): amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

CW 61 Providing standard-cost household service

Exempt income under determination

(1) An amount of income derived in an income year by a natural person from providing a standard-cost household service is exempt income if the amount is exempt income under a determination made under section 91AA(2)(a) of the Tax Administration Act 1994.

When amount treated as expenditure

(2) If subsection (1) does not apply, and the amount of standard-cost household service is less than the amount of income of the person, the person is treated, under a determination made under section 91AA of that Act, as incurring an amount of expenditure in providing the services.

Allocation

(3) For the purposes of subsection (2), the allocation of the amount of the expenditure occurs under section BD 4 (Allocation of deductions to particular income years).

Defined in this Act: amount, deduction, exempt income, income, income tax liability, income year, standard-cost household service

Compare: 2004 No 35 s CW 49

CW 62 Interest paid under the KiwiSaver Act 2006

Interest paid by the Commissioner under section 84 of the KiwiSaver Act 2006 is exempt income.

Defined in this Act: Commissioner, exempt income, interest

Compare: 2004 No 35 s CW 49B

CW 62B Voluntary activities

Exempt income

(1) When a volunteer, in undertaking a voluntary activity, derives an amount that is a reimbursement payment to cover actual expenses incurred by them, the amount is exempt income of the volunteer.

Estimated expenditure

(2) For the purposes of subsection (1)—

(a) a person may make a reasonable estimate of the amount of expenditure likely to be incurred by the volunteer for which reimbursement is payable; and

(b) the amount estimated is treated as if it were the amount incurred.

Payments partly reimbursement and partly honorarium

(3) If the person paying the amount to the volunteer makes a payment to them that is only partly a reimbursement of expenses, the person must identify the portion of the amount that is the reimbursement, and treat the remainder as an honorarium, being a schedular payment to which the PAYE rules apply.

Who is a volunteer?

(4) For the purposes of this section, a **volunteer** means a person who freely undertakes an activity in New Zealand—

(a) chosen either by themselves or by a group of which they are a member; and

(b) that provides a benefit to a community or another person; and

(c) for which there is no purpose or intention of private pecuniary profit for the person.

Honoraria

(5) For the purposes of this section, an **honorarium** means an amount that a person receives for providing services that—

(a) is paid at a rate that is less than the market rate for providing the services; and

(b) is an amount for which, in the normal course, no payment is fixed for the services provided.

Nature of reimbursement payment

(6) For the purposes of this section, it does not matter whether—

(a) an amount of a reimbursement payment is paid in 1 sum or not:

(b) the amount is paid during an income year or at the end of an income year.

Relationship with section RD 8(3)

(7) A determination made by the Commissioner under section RD 8(3) (Schedular payments) may apply to modify an amount of expenditure under this section.

Defined in this Act: amount, exempt income, honorarium, income year, New Zealand, pay, PAYE rules, schedular payment, volunteer

Section CW 62B: inserted (with effect on 1 April 2009), on 6 October 2009, by section 50(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CW 62B(5): amended, on 7 September 2010 (applying for the 2009–10 and later income years), by section 15(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CW 62C Income from foreign-currency loans used for disallowed residential property

[Repealed]

Section CW 62C: repealed, on 1 April 2025, by section 25 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CW 63 Avoidance arrangements

An amount is exempt income if it is treated as exempt income under—

(a) section GA 1 (Commissioner's power to adjust):

(b) section GB 23 (Excessive remuneration to relatives).

Defined in this Act: amount, exempt income

Compare: 2004 No 35 ss GB 1(1)–(2C), GD 3(1), (2)

CW 64 Exemption under other Acts

An amount of income expressly exempted from income tax by any other Act is exempt income.

Defined in this Act: amount, exempt income, income, income tax

Compare: 2004 No 35 s CW 50

Restructuring under New Zealand Railways Corporation Restructuring Act 1990

Heading: inserted (with effect on 31 December 2012), on 17 July 2013, by section 18 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

CW 65 New Zealand Railways Corporation restructure: exempt income

Railways vesting and land-related payments

(1) The following are exempt income of KiwiRail Holdings Limited and any company in which it directly or indirectly owns 100% of the shares (**wholly-owned subsidiary**):

(a) an amount derived from the Railways vesting:

(b) an amount derived by KiwiRail Holdings Limited or a wholly-owned subsidiary in relation to—

(i) a disposal or grant of land, if that land is owned on 31 December 2012 by the Crown or New Zealand Railways Corporation:

(ii) the termination or variation of a lease granted by the Crown or New Zealand Railways Corporation over land, if that land is owned on 31 December 2012 by the Crown or New Zealand Railways Corporation.

Meaning of Railways vesting

(2) In this section, **Railways vesting** has the same meaning as in section EZ 68 (Definitions).

Defined in this Act: amount, company, dispose, exempt income, land, lease, Railways vesting, share

Section CW 65: inserted (with effect on 31 December 2012), on 17 July 2013, by section 18 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Subpart CX—Excluded income

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Goods and services tax

CX 1 Goods and services tax

The following are excluded income of a registered person:

(a) output tax on goods and services they supply:

(b) goods and services tax (GST) payable to them by the Commissioner.

Defined in this Act: Commissioner, excluded income, goods, GST, GST payable, output tax, pay, registered person, services

Compare: 2004 No 35 s CX 1

CX 1B Treatment of flat-rate credits under platform economy rules

Excluded income

(1) For the purposes of the flat-rate credit, as defined in section 2(1) of the Goods and Services Tax Act 1985, the amount of the credit is excluded income of the person receiving the credit, whether or not the person is a registered person.

When credits not excluded income

(2) Subsection (1) does not apply to a person who, for an income year,—

(a) is an underlying supplier; and

(b) receives a flat-rate credit for which they are not required to make an adjustment under section 20(4E) of the Goods and Services Tax Act 1985; and

(c) includes the amount of the credit in their income as described in section CH 5B (Adjustments for certain flat-rate credits under platform economy rules) for the income year.

Defined in this Act: amount, excluded income, income, income year, registered person

Section CX 1B: inserted, on 1 April 2024, by section 24B of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 1B(1) heading: inserted (with effect on 1 April 2024), on 29 March 2025, by section 31(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CX 1B(2) heading: inserted (with effect on 1 April 2024), on 29 March 2025, by section 31(2) (and see section 31(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CX 1B(2): inserted (with effect on 1 April 2024), on 29 March 2025, by section 31(2) (and see section 31(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CX 1B list of defined terms **income**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 31(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CX 1B list of defined terms **income year**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 31(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Fringe benefits

Introductory provisions

CX 2 Meaning of fringe benefit

Meaning

(1) A **fringe benefit** is a benefit that—

(a) is provided by an employer to an employee in connection with their employment; and

(b) either—

(i) arises in a way described in any of sections CX 6, CX 9, CX 10, or CX 12 to CX 16; or

(ii) is an unclassified benefit; and

(c) is not a benefit excluded from being a fringe benefit by any provision of this subpart.

Arrangement to provide benefit

(2) A benefit that is provided to an employee through an arrangement made between their employer and another person for the benefit to be provided is treated as having been provided by the employer.

Past, present, or future employment

(3) It is not necessary to the existence of a fringe benefit that an employment relationship exists when the employee receives the benefit.

Relationship with subpart RD

(4) Sections RD 25 to RD 63 (which relate to fringe benefit tax) deal with the calculation of the taxable value of fringe benefits.

Arrangements

(5) A benefit may be treated for the purposes of the FBT rules as being provided by an employer to an employee under—

(a) section GB 31 (FBT arrangements: general):

(b) section GB 32 (Benefits provided to employee's associates).

Defined in this Act: arrangement, associated person, employee, employer, employment, FBT rules, fringe benefit, unclassified benefit

Compare: 2004 No 35 s CX 2

Section CX 2(5): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 51(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 2 list of defined terms **FBT rules**: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 51(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CX 3 Excluded income

A fringe benefit is excluded income of the employee.

Defined in this Act: employee, excluded income, fringe benefit

Compare: 2004 No 35 s CX 3

CX 4 Relationship with assessable income

To the extent to which a benefit that an employer provides to an employee in connection with their employment is assessable income, the benefit is not a fringe benefit.

Defined in this Act: assessable income, employee, employer, employment, fringe benefit

Compare: 2004 No 35 s CX 4

CX 5 Relationship with exempt income

Exempt income not fringe benefit

(1) To the extent to which a benefit that an employer provides to an employee in connection with their employment is exempt income, the benefit is not a fringe benefit.

Exclusions

(2) Subsection (1) does not apply to—

(a) *[Repealed]*

(b) an allowance that is exempt income under section CW 17 (Expenditure on account, and reimbursement, of employees) to the extent to which it is made to enable the employee to provide a benefit to another person.

Exempt cash payment not fringe benefit

(3) To the extent to which a benefit that an employer provides to an employee in connection with their employment would have been exempt income if it had been paid in cash, the benefit is not a fringe benefit.

Exclusion

(4) Subsection (3) does not apply to interest, dividends, or an allowance under subsection (2)(b).

Defined in this Act: dividend, employee, employer, employment, exempt income, fringe benefit, interest, pay

Compare: 2004 No 35 s CX 5

Section CX 5(2)(a): repealed, on 30 March 2017, by section 36 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 5 list of defined terms **expenditure on account of an employee**: repealed, on 29 March 2018, by section 38 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CX 5 list of defined terms **life insurance policy**: repealed, on 29 March 2018, by section 38 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CX 5 list of defined terms **premium**: repealed, on 29 March 2018, by section 38 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Fringe benefits

CX 6 Private use of motor vehicle

When fringe benefit arises

(1) A fringe benefit arises when—

(a) a motor vehicle is made available to an employee for their private use; and

(b) the person who makes the vehicle available to the employee—

(i) owns the vehicle:

(ii) leases or rents the vehicle:

(iii) has a right to use the vehicle under an agreement or arrangement with the employee or a person associated with the employee.

Exclusion: work-related vehicles

(2) Subsection (1) does not apply when the vehicle is a work-related vehicle.

Exclusion: election by close company

(2B) Subsection (1) does not apply if the employee is a shareholder-employee of a close company and the close company made an election under section CX 17(4B) to apply subpart DE (Motor vehicle expenditure) instead of the FBT rules.

Exclusion: emergency calls

(3) Subsection (1) does not apply when the vehicle is used for an emergency call.

Exclusion: absences from home

(4) Subsection (1) does not apply when the employee is absent from home, with the vehicle, for a period of at least 24 hours continuously, if the employee is required, in the performance of their duties, to use a vehicle and regularly to be absent from home.

Use on part of day

(5) For the purposes of subsections (3) and (4), the whole of the day on which a motor vehicle is used as described in the applicable subsection is treated as a day on which the vehicle is not available for private use.

Defined in this Act: close company, emergency call, employee, FBT rules, fringe benefit, lease, motor vehicle, private use, shareholder-employee, work-related vehicle

Compare: 2004 No 35 s CX 6

Section CX 6(2B) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 67(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 6(2B): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 67(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 6 list of defined terms **close company**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 67(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 6 list of defined terms **FBT rules**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 67(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 6 list of defined terms **shareholder-employee**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 67(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

CX 7 Employer or associated person treated as having right to use vehicle under arrangement

When this section applies

(1) This section applies for the application of the fringe benefit tax (FBT) rules to an agreement or arrangement—

(a) between an employer, or a person associated with the employer, and an employee, or a person associated with the employee; and

(b) transferring to the employer or person associated with the employer a right to use a motor vehicle under terms agreed between the parties.

Person treated as having right to use vehicle

(2) The employer or associated person is treated as having a right to use the motor vehicle for a period during which the employee—

(a) uses the vehicle privately:

(b) has a right to use the vehicle privately.

Defined in this Act: employee, employer, FBT rules, fringe benefit tax, lease, motor vehicle

Compare: 2004 No 35 s CX 6B

CX 8 Private use of motor vehicle: use by more than 1 employee

If, on any day, a motor vehicle is made available by an employer for the private use of more than 1 employee, this availability is treated as a single instance.

The taxable value of the fringe benefit is reduced by the total amount of any contributions paid by an employee or employees.

Defined in this Act: amount, contribution, employee, employer, fringe benefit, motor vehicle, pay, private use

Compare: 2004 No 35 s CX 7

CX 9 Subsidised transport

A fringe benefit arises when an employer provides subsidised transport to an employee, unless section CX 19C or CX 19D applies.

Defined in this Act: employee, employer, fringe benefit, subsidised transport

Compare: 2004 No 35 s CX 8

Section CX 9: amended, on 1 April 2023, by section 25(1) (and see section 25(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CX 10 Employment-related loans

When fringe benefit arises

(1) A fringe benefit arises when an employer provides a loan to an employee.

Exclusions

(2) Subsection (1) does not apply to a loan made—

(a) as an employee share loan:

(b) under an exempt ESS:

(bb) as an amount that is a PAYE-related overpayment:

(c) *[Repealed]*

(d) as an advance of salary and wages, if,—

(i) in the period for which the employer is required to forward a return to the Commissioner under sections RD 25 to RD 63 (which relate to fringe benefit tax), the total outstanding of such advances to the employee is no more than $2,000; and

(ii) the contract of employment does not require the employer to make the advance.

Loan owing

(3) The employer provides a fringe benefit in a tax year in which the loan is owing. The circumstances in which a loan is owing include a case in which, under the arrangement for the loan, an amount is payable in the future, or would be payable in the future if a particular event happened, and the employee or an associated person is or would be liable to pay the amount.

Defined in this Act: amount, arrangement, associated person, employee, employee share loan, employer, employment-related loan, exempt ESS, fringe benefit, income, pay, PAYE-related overpayment, tax year

Compare: 2004 No 35 s CX 9

Section CX 10(2)(b): amended (with effect on 29 March 2018), on 31 March 2023, by section 26(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 10(2)(bb): inserted, on 1 April 2019, by section 143(1) (and see section 143(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CX 10(2)(c): repealed, on 1 April 2011, by section 16(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CX 10 list of defined terms **exempt ESS**: inserted (with effect on 29 March 2018), on 31 March 2023, by section 26(2)(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 10 list of defined terms **PAYE-related overpayment**: inserted, on 1 April 2019, by section 143(2) (and see section 143(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CX 10 list of defined terms **share purchase scheme**: repealed (with effect on 29 March 2018), on 31 March 2023, by section 26(2)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 10 list of defined terms **superannuation fund**: repealed, on 1 April 2011, by section 16(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

CX 11 Employment-related loans: loans by life insurers

When fringe benefit treated as arising

(1) A life insurer provides a benefit that is treated as an employment-related loan if—

(a) the life insurer makes a loan to a person who holds a life insurance policy (**person A**) or to a person associated with person A; and

(b) the life insurance policy is offered or entered into in New Zealand; and

(c) either—

(i) the loan is made because of the capacity or status of person A as a policyholder; or

(ii) the interest charged on the loan depends on the capacity or status of person A as a policyholder.

Life insurer as employer

(2) For the purposes of the FBT rules, the life insurer is treated as an employer and person A or the person associated with them is treated as an employee.

Meaning of life insurer

(3) In this section, **life insurer**—

(a) means a person who is the insurer under the life insurance policy:

(b) includes—

(i) a person associated with the life insurer:

(ii) a person with whom the life insurer has entered into an arrangement relating to the making of the loan.

Defined in this Act: arrangement, associated person, employee, employer, employment-related loan, FBT rules, fringe benefit, interest, life insurance policy, life insurer, offered or entered into in New Zealand

Compare: 2004 No 35 s CX 10

CX 12 Services for members and former members of Parliament

When fringe benefit arises

(1) A fringe benefit arises when travel, accommodation, and communications services are exempt income under section CW 31 (services for members and former members of Parliament).

Relationship with sections CX 5 and CX 28

(2) This section overrides sections CX 5 (relationship with exempt income) and CX 28 (accommodation).

Defined in this Act: exempt income, fringe benefit

Section CX 12: replaced, on 16 December 2013, by section 66 of the Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93).

CX 13 Contributions to superannuation schemes

When fringe benefit arises

(1) A fringe benefit arises when an employer contributes to a superannuation scheme for the benefit of an employee.

Exclusion

(2) This section does not apply if the contribution is an employer's superannuation cash contribution.

Defined in this Act: contribution, employee, employer, employer's superannuation cash contribution, fringe benefit, superannuation scheme

Compare: 2004 No 35 s CX 12

Section CX 13(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 52(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 13 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 52(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 13 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 52(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CX 14 Contributions to sickness, accident, or death benefit funds

A fringe benefit arises when an employer makes a contribution for the benefit of an employee to a sickness, accident, or death benefit fund.

Defined in this Act: contribution, employee, employer, fringe benefit, sickness, accident, or death benefit fund

Compare: 2004 No 35 s CX 13

CX 15 Contributions to funeral trusts

A fringe benefit arises when an employer makes a contribution to a fund in the circumstances described in section CW 45 (Funeral trusts).

Defined in this Act: contribution, employer, fringe benefit

Compare: 2004 No 35 s CX 14

CX 16 Contributions to life or health insurance

When fringe benefit arises

(1) A fringe benefit arises when an employer pays a specified insurance premium or makes a contribution to the insurance fund of a friendly society for the benefit of an employee.

Exclusion

(2) This section does not apply to a premium or contribution described in section CZ 15 (Accident insurance contracts before 1 July 2000).

Meaning of specified insurance premium

(3) In this section, **specified insurance premium** means a premium paid for the benefit of an employee on an insurance policy to the extent to which the insurance policy is for—

(a) life insurance under section EY 8 (Meaning of life insurance) on the life of the employee or their spouse, civil union partner, or de facto partner, or on their joint lives, or on the life of their child:

(b) accident or medical insurance referred to in section EY 8(3) on the life of the employee or their spouse, civil union partner, or de facto partner, or on their joint lives, or on the life of their child:

(c) insurance against accident, disease, or sickness, whether fatal or not, suffered by the employee, their spouse, civil union partner, or de facto partner, or their child.

Life insurance

[Repealed]

(4) *[Repealed]*

Life insurance: pension benefit

[Repealed]

(5) *[Repealed]*

Health insurance

[Repealed]

(6) *[Repealed]*

Defined in this Act: contribution, de facto partner, employee, employer, friendly society, fringe benefit, life insurance, pay, premium, specified insurance premium, year

Compare: 2004 No 35 s CX 15

Section CX 16(3) heading: replaced, on 30 March 2017, by section 37(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16(3): replaced, on 30 March 2017, by section 37(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16(4) heading: repealed, on 30 March 2017, pursuant to section 37(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16(4): repealed, on 30 March 2017, by section 37(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16(5) heading: repealed, on 30 March 2017, pursuant to section 37(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16(5): repealed, on 30 March 2017, by section 37(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16(6) heading: repealed, on 30 March 2017, pursuant to section 37(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16(6): repealed, on 30 March 2017, by section 37(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16 list of defined terms **de facto partner**: inserted, on 30 March 2017, by section 37(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 16 list of defined terms **premium**: inserted, on 30 March 2017, by section 37(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CX 17 Benefits provided to employees who are shareholders or investors

Benefit provided in connection with employment

(1) If a company or a trustee of a group investment fund provides a non-cash benefit to an employee who holds shares in the company or who is an investor in the fund, the benefit is treated as having been provided in connection with the employment. The shares or investment may be held in the employee's own right or beneficially.

Whether fringe benefit or dividend

(2) A company or a trustee of a group investment fund that has provided a non-cash benefit to an employee who holds shares in the company or who is an investor in the fund may choose to treat the benefit as a fringe benefit or a dividend. If the company or trustee does not make an election, the benefit is treated as a fringe benefit. If the company or trustee chooses to treat the benefit as a dividend, the FBT rules do not apply.

Exclusion: benefit provided to non-executive director

(3) Neither subsection (1) nor subsection (2) applies to a non-cash benefit provided by a company to a non-executive director of the company.

Non-cash benefits

(4) Subsection (2) applies to non-cash benefits that would,—

(a) in the absence of section CD 32 (Employee benefits), be dividends under section CD 4 (Transfers of company value generally) if provided to a person in their capacity as a shareholder; and

(b) in the absence of section CX 4, be unclassified benefits if provided to a person in their capacity as an employee.

Exclusion: election by close company

(4B) Despite subsection (4), subsection (2) does not apply and the benefit is neither a fringe benefit nor a dividend in an income year if—

(a) the benefit—

(i) arises when a close company makes a motor vehicle available to a shareholder-employee for their private use; and

(ii) would, in the absence of this subsection, be a fringe benefit arising under section CX 6; and

(b) the total benefits the close company provides to all employees in the income year are 1 or 2 of the benefits described in paragraph (a); and

(c) the close company chooses to apply subpart DE (Motor vehicle expenditure) for the motor vehicle and the shareholder-employee instead of the FBT rules.

When election may be made

(4C) An election by a close company under subsection (4B) may be made for the income year which includes the day on which the close company—

(a) acquires the motor vehicle; or

(b) first starts using the motor vehicle for business use.

Election continues to apply

(4D) An election under subsection (4B) applies for the income year described in subsection (4C), and continues to apply until the end of the income year that includes the earlier of—

(a) the day on which the close company stops using the motor vehicle for business use; or

(b) the day on which the close company disposes of the motor vehicle.

Notice of election under subsection (2)

(5) The company or trustee must give notice to the Commissioner of the election referred to in subsection (2) in the time allowed for filing a fringe benefit tax return for the period in which the benefit was provided.

Notice of election under subsection (4B)

(5B) The close company must give notice to the Commissioner of an election referred to in subsection (4B) in the time allowed for filing a return of income for the income year in which the election was made.

Relationship with subpart DG

(6) Section DG 2(4) (Application of this subpart) may apply to require a company to treat a benefit under this section as a dividend.

Defined in this Act: business use, close company, Commissioner, company, dividend, employee, employment, FBT rules, fringe benefit, fringe benefit tax, group investment fund, income year, investor, motor vehicle, non-executive director, notice, return, return of income, share, shareholder, shareholder-employee, trustee, unclassified benefit

Compare: 2004 No 35 s CX 16

Section CX 17(3) heading: replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(4)(a): amended, on 23 March 2020, by section 101 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 17(4)(a): amended (with effect on 1 April 2008), on 7 September 2010, by section 17(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section CX 17(4B) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(4B): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(4C) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(4C): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(4D) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(4D): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(5) heading: amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(5B) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(5B): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17(6) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 20(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 17(6): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and

later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 20(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 17 list of defined terms **business use**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17 list of defined terms **close company**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17 list of defined terms **income year**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17 list of defined terms **motor vehicle**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17 list of defined terms **return of income**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section CX 17 list of defined terms **shareholder-employee**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 68(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

CX 18 Benefits provided to associates of both employees and shareholders

When this section applies

(1) This section applies when—

- (a) a benefit provided to an associated person of an employee would be treated as a fringe benefit under section GB 32 (Benefits provided to employee's associates) in the absence of section CX 4; and
- (b) the employer is a company; and
- (c) the associated person is also associated with a shareholder in the company; and
- (d) the associated person is not a company; and
- (e) the associated person is not a shareholder in the company; and
- (f) the benefit would be a dividend if provided to the shareholder.

FBT rules apply, not dividend rules

(2) The benefit is subject to the FBT rules and is treated as not being a dividend.

Defined in this Act: associated person, company, dividend, employee, employer, FBT rules, fringe benefit, shareholder

Compare: 2004 No 35 s GC 15(3), (4)

Exclusions and limitations

CX 19 Benefits provided instead of allowances

When not fringe benefit

(1) A benefit that an employer provides to an employee in connection with their employment is not a fringe benefit to the extent to which it removes the need that would otherwise exist for the employer to pay the employee an allowance of 1 of the following kinds:

(a) an allowance that, if it had been paid,—

(i) would have been exempt income under section CW 17 (Expenditure on account, and reimbursement, of employees); and

(ii) would have been paid for reasons other than to enable the employee to provide a benefit to another person; or

(b) an allowance that reimburses the employee for transport costs that—

(i) would have been incurred both in connection with their employment and for the benefit of the employer in travelling between home and work; and

(ii) would have been attributable to any 1 or more of the factors set out in section CW 18(3) (Allowance for additional transport costs); or

(c) an amount that, if it had been paid, would have been exempt income under sections CW 16B to CW 16F, CW 17B, CW 17CB, CW 17CC, and CW 17D (which relate to certain expenditure of an employer on an employee's accommodation, work-related meals, relocation, clothing, and health and safety).

Temporary change in workplace

(2) A benefit that an employer provides to an employee is not a fringe benefit if it—

(a) is in substitution for an allowance described in subsection (1)(b); and

(b) is brought about because the employee has a temporary change in their place of work while in the same employment; and

(c) reimburses the employee for transport costs that would have been incurred relating to travel by 1 or more of the employee's spouse, civil union partner, or de facto partner, and relatives for the purpose of visiting the employee in the temporary place of work; and

(d) has a value that is no more than the amount that would be provided under the allowance described in subsection (1)(b).

Defined in this Act: employee, employer, employment, exempt income, fringe benefit, pay, relative

Compare: 2004 No 35 s CX 17

Section CX 19(1)(b)(ii): amended (with effect on 1 April 2008), on 6 October 2009, by section 53 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 19(1)(c): added (with effect on 1 April 2008), on 6 October 2009, by section 53 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 19(1)(c): amended, on 1 April 2025, by section 32 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CX 19(1)(c): amended, on 1 April 2015, by section 35 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CX 19B Transport in vehicle other than motor vehicle

A benefit that an employer provides to an employee in the form of transport of the employee in a vehicle is not a fringe benefit if the vehicle—

(a) is not a motor vehicle; and

(b) is not designed principally for the carriage of passengers.

Defined in this Act: employee, employer, fringe benefit, motor vehicle

Section CX 19B: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 38(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CX 19C Certain public transport

Travel between home and work

(1) A fare that an employer subsidises mainly for the purposes of an employee travelling between their home and place of work is not a fringe benefit if the fare—

(a) is a public transport fare for 1 or more of the following:

(i) bus service:

(ii) rail vehicle:

(iii) ferry:

(iv) cable car:

(b) is partly funded by the Total Mobility Scheme administered by Waka Kotahi.

Meaning of bus service

(2) **Bus service** means a service for the carriage of passengers for hire or reward by means of a motor vehicle, but does not include—

(a) a service that can be reserved for use by a single person or a self-selected group of people:

(b) a shuttle service as defined in section 5 of the Land Transport Management Act 2003.

Meaning of public transport fare

(3) **Public transport fare** means the money paid for a journey on a means of transport that is available to the public and for which set fares are charged.

Meaning of rail vehicle

(4) **Rail vehicle** has the same meaning as in section 4(1) of the Railways Act 2005.

Defined in this Act: bus service, employee, fringe benefit, public transport fare, rail vehicle

Section CX 19C: inserted, on 1 April 2023, by section 27(1) (and see section 27(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CX 19D Certain self-powered and low-powered vehicles and vehicle-share services

Self-powered or low-powered vehicles

(1) A vehicle that an employer provides to an employee for the main purpose of the employee travelling between their home and place of work is not a fringe benefit if the vehicle is—

(a) a bicycle:

(b) an electric bicycle:

(c) a scooter:

(d) an electric scooter:

(e) any other vehicle declared under section 168A of the Land Transport Act 1998 to be—

(i) a mobility device; or

(ii) not a motor vehicle.

Payment of vehicle-share service costs

(2) A benefit that an employer provides to an employee in the form of assistance with the payment of the employee's costs of using a vehicle-share service for the main purpose of an employee travelling between their home and place of work is not a fringe benefit if the vehicle-share service provides use of 1 or more of the following vehicles to the employee:

(a) a bicycle:

(b) an electric bicycle:

(c) a scooter:

(d) an electric scooter:

(e) any other vehicle declared under section 168A of the Land Transport Act 1998 to be—

(i) a mobility device; or

(ii) not a motor vehicle.

Regulations

(3) For the purposes of subsections (1) and (2), the Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, make regulations specifying—

(a) the maximum allowable cost of the vehicle referred to in subsection (1); and

(b) requirements for any vehicle referred to in subsections (1) and (2).

Meaning of vehicle-share service

(4) In this section, **vehicle-share service** means a transport service that allows users to hire a vehicle for a point-to-point trip through a mobile communication device.

Secondary legislation

(5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: employee, employer, fringe benefit

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section CX 19D: inserted, on 1 April 2023, by section 27(1) (and see section 27(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 19D(5) heading: inserted (with effect on 1 April 2023), on 28 March 2024, by section 26 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CX 19D(5): inserted (with effect on 1 April 2023), on 28 March 2024, by section 26 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CX 20 Benefits to enable performance of duties

The taxable value of a benefit that an employer provides to an employee by way of subsidised transport, or in the form of expenditure that an employer incurs on accommodation or transport provided to an employee, is zero if the expenditure—

(a) relates to travel by the employee in order for them to perform their employment duties; and

(b) does not relate to the providing or taking of leave or a vacation; and

(c) is not increased as a result of the benefit.

Defined in this Act: employee, employer, subsidised transport

Compare: 2004 No 35 s CX 18

CX 21 Business tools

When use of business tool not fringe benefit

(1) The private use of a business tool that an employer provides to an employee, and the availability for private use of such a business tool, is not a fringe benefit if—

(a) the business tool is provided mainly for business use; and

(b) the cost of the business tool to the employer, including the amount of any deduction for the cost of the business tool that the employer may make under section 20(3) of the Goods and Services Tax Act 1985, is no more than $5,000.

Use away from employer's premises

(2) For the purposes of subsection (1), a business tool that is not taken to and used on the employer's premises may nevertheless be provided mainly for business use if the employee performs a significant part of the employee's employment duties away from the premises.

Defined in this Act: business tool, business use, employee, employer, fringe benefit

Compare: 2004 No 35 s CX 18B

CX 22 Benefits to non-executive directors

A transfer of company value to a non-executive director that is a dividend under section CD 20(2) (Benefits of shareholder-employees or directors) is not a fringe benefit if it is made solely because of their capacity as a non-executive director.

Defined in this Act: dividend, fringe benefit, non-executive director, transfer of company value

Compare: 2004 No 35 s CX 19

Section CX 22: amended, on 23 March 2020, by section 102(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 22 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 102(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 22 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 102(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CX 23 Benefits provided on premises

When not fringe benefit

(1) A benefit, other than free, discounted, or subsidised travel, accommodation, or clothing, is not a fringe benefit if the benefit is—

(a) provided to the employee by the employer of the employee and used or consumed by the employee on the premises of—

(i) the employer:

(ii) a company that is part of the same group of companies as the employer:

(b) provided to the employee by a company that is part of the same group of companies as the employer of the employee and used or consumed by the employee on the premises of—

(i) the employer:

(ii) the company that provides the benefit.

Premises of person

(2) In this section, the premises of a person—

(a) include premises that the person owns or leases:

(b) include premises, other than those referred to in paragraph (a), on which an employee of the person is required to perform duties for the person:

(c) do not include premises occupied by an employee of the person for residential purposes.

Defined in this Act: company, employee, employer, fringe benefit, group of companies, lease

Compare: 2004 No 35 s CX 20

Section CX 23(1)(a): amended (with effect on 5 August 2010), on 21 December 2010, by section 34 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 23(1)(b): amended (with effect on 5 August 2010), on 21 December 2010, by section 34 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

CX 24 Benefits related to health or safety

A benefit that an employer provides to an employee is not a fringe benefit to the extent to which it—

(a) is related to the employee's health or safety; and

(b) is aimed at managing risks to health and safety in the workplace as provided under the Health and Safety at Work Act 2015; and

(c) would be excluded by section CX 23 from being a fringe benefit if provided on the employer's premises.

Defined in this Act: employee, employer, employment, fringe benefit

Compare: 2004 No 35 s CX 20B

Section CX 24(b): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

CX 25 Benefits provided by charitable organisations

When not fringe benefit

(1) A charitable organisation that provides a benefit to an employee does not provide a fringe benefit except to the extent to which—

(a) the employee receives the benefit mainly in connection with their employment; and

(b) the employment consists of the carrying on by the organisation of a business whose activity is outside its benevolent, charitable, cultural, or philanthropic purposes.

When employer provides charge facilities

(2) Subsection (1) does not apply, and the benefit provided is a fringe benefit, if a charitable organisation provides a benefit to an employee by way of short-term charge facilities and the value of the benefit from the short-term charge facilities for the employee in a tax year is more than the lesser for the tax year of—

(a) 5% of the employee's salary or wages:

(b) $1,200.

Meaning of short-term charge facilities

(3) For the purposes of the FBT rules, a **short-term charge facility** means an arrangement that—

(a) enables an employee to obtain goods or services that have no connection with the employer or its operations by—

(i) buying or hiring the goods or services:

(ii) charging the cost of the goods or services to an account:

(iii) providing consideration other than money for the goods or services; and

(b) requires the employer to provide some or all of the payment or other consideration for the goods or services; and

(c) is not a fringe benefit under section CX 10.

Defined in this Act: business, charitable organisation, employee, employer, employment, fringe benefit, pay, salary or wages, short-term charge facility, tax year

Compare: 2004 No 35 s CX 21

Section CX 25(2): replaced, on 1 April 2014, by section 21(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 25(3)(a): replaced, on 1 April 2014, by section 21(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 25(3)(b): replaced, on 1 April 2014, by section 21(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 25 list of defined terms **employer**: inserted, on 1 April 2014, by section 21(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 25 list of defined terms **salary or wages**: inserted, on 1 April 2014, by section 21(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 25 list of defined terms **tax year**: inserted, on 1 April 2014, by section 21(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

CX 26 Non-liable payments

Employees' PAYE income payments

(1) A benefit received by an employee is not a fringe benefit to the extent to which it is received in a quarter or in an income year in which they derive 1 or more pay-as-you-earn (PAYE) income payments, all of which are not liable for income tax.

Benefit provided during time spent in New Zealand

(2) Despite subsection (1), some or all of a benefit received by an employee who is not resident in New Zealand but derives a PAYE income payment that is taxable in New Zealand is a fringe benefit only to the extent to which the benefit relates to time spent by the employee in New Zealand.

Defined in this Act: employee, fringe benefit, income tax, income year, New Zealand, PAYE income payment, quarter, resident

Compare: 2004 No 35 s CX 22

Section CX 26(1) heading: inserted, on 1 April 2024, by section 28(1)(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 26(2) heading: inserted, on 1 April 2024, by section 28(1)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 26(2): inserted, on 1 April 2024, by section 28(1)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 26 list of defined terms **New Zealand**: inserted, on 1 April 2024, by section 28(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 26 list of defined terms **resident**: inserted, on 1 April 2024, by section 28(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CX 27 Assistance with tax returns

Not fringe benefit

(1) An employer's assistance with the preparation of an employee's return of income is not a fringe benefit when the expenditure incurred in providing the assistance is expenditure for which the employee would have been allowed a deduction, if it had been incurred by the employee, under section DB 3 (Determining tax liabilities).

Employees' returns of income

(2) For the purposes of this section, an employee's return of income includes the income information held by the Commissioner and set out in the employee's pre-populated account referred to in section 22D(5) of the Tax Administration Act 1994.

Defined in this Act: deduction, employee, employer, fringe benefit, return of income

Compare: 2004 No 35 s CX 23

Section CX 27(1) heading: inserted, on 1 April 2019, by section 144(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CX 27(1): amended, on 1 April 2019, by section 144(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CX 27(2) heading: inserted, on 1 April 2019, by section 144(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CX 27(2): inserted, on 1 April 2019, by section 144(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CX 27 list of defined terms **income statement**: repealed, on 1 April 2019, by section 144(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CX 28 Accommodation

The value of accommodation that an employer provides to an employee in connection with the employment or services is not a fringe benefit.

Defined in this Act: accommodation, employee, employer, employment, fringe benefit

Section CX 28: substituted (with effect on 1 April 2008), on 6 October 2009, by section 54(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CX 29 Entertainment

When not fringe benefit

(1) A benefit in a form of entertainment described in section DD 2 (Limitation rule) that an employer provides to an employee is not a fringe benefit. This subsection is overridden by subsection (2).

When is fringe benefit

(2) A benefit in a form of entertainment described in section DD 2 that an employer provides to an employee is a fringe benefit if—

(a) the employee does not receive or use it in the course of employment; and

(b) the employee does not receive or use it as a necessary consequence of their employment duties; and

(c) either—

(i) the employee may choose when to receive or use the benefit; or

(ii) the entertainment is of a kind described in section DD 7 (Entertainment outside New Zealand).

Defined in this Act: employee, employer, employment, fringe benefit

Compare: 2004 No 35 s CX 25

CX 30 Distinctive work clothing

When not fringe benefit

(1) Distinctive work clothing that an employer provides to an employee is not a fringe benefit, whether provided by sale or otherwise.

Meaning of distinctive work clothing

(2) In this section, **distinctive work clothing** means clothing, including a single item of clothing, that—

(a) is worn by an employee as, or as part of, a uniform that can be identified with the employer—

(i) through the permanent and prominent display of a name, logo, or other identification that the employer regularly uses in carrying on their activity or undertaking; or

(ii) because the colour scheme, pattern, or style is readily associated with the employer; and

(b) is worn in the course, or as an incident, of employment; and

(c) is not clothing that employees would normally wear for private purposes.

Defined in this Act: distinctive work clothing, employee, employer, employment, fringe benefit

Compare: 2004 No 35 s CX 26

CX 31 Contributions to income protection insurance

An employer who satisfies a liability to pay, or contribute to the payment of, a premium for income protection insurance for the benefit of an employee does not provide a fringe benefit to the employee if a payment of the insurance to the employee would be assessable income of the employee.

Defined in this Act: contribution, employee, employer, fringe benefit, pay

Compare: 2004 No 35 s CX 26B

CX 32 Services provided to superannuation fund

A fringe benefit does not arise if services are provided to a superannuation fund to the extent to which the superannuation fund would have been allowed a deduction for the expenditure incurred in providing the services if the expenditure had been incurred by the superannuation fund.

Defined in this Act: deduction, fringe benefit, superannuation fund

Compare: 2004 No 35 s CX 27

CX 33 Goods provided at discount by third parties

When this section applies

(1) This section applies when an employer and a person who is not associated with the employer have an arrangement through which goods are provided by the person at a discount.

When not fringe benefit

(2) A discount provided by the person to an employee in a group of employees is not a fringe benefit if—

(a) the person offers a discount to a group of persons that—

(i) negotiates the discount on an arm's-length basis; and

(ii) does not include the group of employees; and

(iii) is comparable in number to the group of employees; and

(b) the discount offered to the group of employees is the same or less than the discount offered to the group described in paragraph (a).

Defined in this Act: arrangement, associated person, employee, employer, fringe benefit

Compare: 2004 No 35 s CX 27B

CX 33B Benefits for members of Parliament

Reasonable estimates may be used to determine, for the purposes of the FBT rules, what benefit provided under the Parliament Act 2025 to a member of Parliament is a fringe benefit, or excluded from being a fringe benefit, or valued at zero.

Defined in this Act: FBT rules, fringe benefit

Section CX 33B: inserted (with effect on 1 July 2013), on 17 July 2013, by section 22 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section CX 33B: amended, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Definitions

CX 34 Meaning of emergency call

Emergency call means a visit that an employee is required to make, to which all the following apply:

(a) the employee makes the visit from their home in the course of their employment; and

(b) the purpose of the visit is to provide—

(i) essential services relating to the operation of the plant or machinery of the employer, or of their client or customer; or

(ii) essential services relating to the maintenance of services provided by a local authority or a public authority; or

(iii) essential services relating to the carrying on of a business for the supply of energy or fuel to the public; or

(iv) emergency services relating to the health or safety of any person; and

(c) the employer, their client or customer, or a member of the public requests the services; and

(d) except when paragraph (b)(iv) applies, the services are required to be performed between the hours of 6.00 pm and 6.00 am on days other than a Saturday, Sunday, or statutory public holiday, and at any time on other days.

Defined in this Act: business, emergency call, employee, employer, employment, local authority, public authority, request

Compare: 2004 No 35 s CX 28

Section CX 34 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

CX 35 Meaning of employee share loan

Meaning

(1) **Employee share loan** means a loan made to an employee if—

(a) the loan is made for the sole purpose of enabling the employee to acquire, under a scheme of acquisition,—

(i) shares, rights, or options in the company that is their employer:

(ii) shares, rights, or options in a company that is associated with their employer; and

(b) the employee uses the loan only for the purpose of the acquisition; and

(c) the employee beneficially owns the shares, rights, or options throughout the term of the loan; and

(d) the employee must immediately repay the loan in full if they stop being the beneficial owner of any of the shares, rights, or options; and

(e) the company issuing the shares, rights, or options must maintain a dividend-paying policy throughout the term of the loan.

Exclusions

(2) This section does not apply—

(a) to shares, rights, or options in a qualifying company:

(b) to a loan made under an exempt ESS:

(c) to an employer and an employee who are associated persons.

Defined in this Act: associated person, company, dividend, employee, employee share loan, employer, exempt ESS, pay, qualifying company, share

Compare: 2004 No 35 s CX 29

Section CX 35(2)(b): amended (with effect on 29 March 2018), on 31 March 2023, by section 29(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 35 list of defined terms **exempt ESS**: inserted (with effect on 29 March 2018), on 31 March 2023, by section 29(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CX 36 Meaning of private use

Private use, for a motor vehicle, includes—

(a) the employee's use of the vehicle for travel between home and work; and

(b) any other travel that confers a private benefit on the employee.

Defined in this Act: employee, motor vehicle, private use

Compare: 2004 No 35 s CX 30

CX 37 Meaning of unclassified benefit

Unclassified benefit means a fringe benefit that arises if an employer provides an employee with a benefit in connection with their employment that is—

(a) not a benefit referred to in any of sections CX 6 to CX 16; and

(b) not a benefit excluded under this subpart.

Defined in this Act: employee, employer, employment, fringe benefit, unclassified benefit

Compare: 2004 No 35 s CX 31

CX 38 Meaning of work-related vehicle

Meaning

(1) **Work-related vehicle**, for an employer, means a motor vehicle that prominently and permanently displays on its exterior,—

(a) if the employer owns the vehicle, the form of identification that the employer regularly uses in carrying on their undertaking or activity; or

(b) if the employer rents the vehicle, the form of identification—

(i) that the employer regularly uses in carrying on their undertaking or activity; or

(ii) that the person from whom it is rented regularly uses in carrying on their undertaking or activity.

Exclusion: car

(2) Subsection (1) does not apply to a car.

Exclusion: private use

(3) A motor vehicle is not a work-related vehicle on any day on which the vehicle is available for the employee's private use, except for private use that is—

(a) travel to and from their home that is necessary in, and a condition of, their employment; or

(b) other travel in the course of their employment during which the travel arises incidentally to the business use.

Defined in this Act: business use, car, employee, employer, employment, motor vehicle, work-related vehicle

Compare: 2004 No 35 s CX 32

Insurance

CX 39 Life insurers and fully reinsured persons

[Repealed]

Section CX 39: repealed, on 1 July 2010, by section 55(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CX 40 Superannuation fund deriving amount from life insurance policy

When this section applies

(1) This section applies when a superannuation fund invests funds in a life insurance policy offered or entered into in New Zealand.

Excluded income

(2) An amount that the superannuation fund derives from the policy is excluded income.

Defined in this Act: amount, excluded income, life insurance policy, offered or entered into in New Zealand, superannuation fund

Compare: 2004 No 35 s CX 34

CX 41 Resident insurance underwriters

When this section applies

(1) This section applies when a natural person or an unincorporated body of natural persons—

(a) is resident in New Zealand; and

(b) carries on a business of providing general insurance or guarantees against loss, damage, or risk; and

(c) as part of the business, is liable under an insurance contract, whether or not named in it, to pay, or to contribute towards the payment of, some or all of an amount claimable by the person insured under the contract.

Excluded income

(2) Income that the natural person or persons derive from carrying on the business outside New Zealand is excluded income to the extent to which it is income not referred to in any of section YD 4(7) or (10) to (12) (Classes of income treated as having New Zealand source).

Defined in this Act: amount, business, excluded income, general insurance, income, insurance contract, New Zealand, pay, resident in New Zealand

Compare: 2004 No 35 s CX 35

Petroleum mining

CX 42 Disposal of ownership interests in controlled petroleum mining entities

Excluded income

(1) The consideration that a person derives from disposing of shares or trust interests in a controlled petroleum mining entity is excluded income of the person.

Application of Tax Administration Act 1994

(2) Section 65 of the Tax Administration Act 1994 applies when this section applies.

Defined in this Act: consideration, controlled petroleum mining entity, dispose, excluded income, share

Compare: 2004 No 35 s CX 36

CX 43 Farm-out arrangements for mining operations

Farm-in expenditure under a farm-out arrangement is excluded income of a petroleum miner or a mineral miner, as applicable, who is the farm-out party in the farm-out arrangement.

Defined in this Act: excluded income, farm-in expenditure, farm-out arrangement, mineral miner, petroleum miner

Section CX 43: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 21(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Mineral mining

[Repealed]

Heading: repealed, on 1 April 2014, by section 22 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CX 44 Disposal of mining shares

[Repealed]

Section CX 44: repealed, on 1 April 2014, by section 22 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CX 45 Disposal of mining shares acquired with reinvestment profit

[Repealed]

Section CX 45: repealed, on 1 April 2014, by section 23 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CX 46 Repayment of loans made from reinvestment profit

[Repealed]

Section CX 46: repealed, on 1 April 2014, by section 24 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Government grants

CX 47 Government grants to businesses

When this section applies

(1) This section applies when—

(a) a local authority, a public authority, or a public purpose Crown-controlled company makes a payment to a person for a business that the person carries on; and

(b) the payment—

(i) is in the nature of a grant or subsidy to the person; or

(ii) is a grant-related suspensory loan to the person; and

(c) the payment is not in the nature of an advance or loan other than a grant-related suspensory loan; and

(d) the payment corresponds to—

(i) expenditure that they incur and for which they would be allowed a deduction in the absence of section DF 1 (Government grants to businesses):

(ii) expenditure that they incur in acquiring, constructing, installing, or extending an asset for which they would have an amount of depreciation loss in the absence of section DF 1.

Excluded income

(2) The payment is excluded income of the person.

Exclusions

(3) This section does not apply to a grant made under the Agriculture Recovery Programme for the Lower North Island and Eastern Bay of Plenty, to the extent to which the grant relates to expenditure—

(a) incurred by the recipient before the grant; and

(b) for which the recipient would be allowed a deduction in the absence of section DF 1.

Further exclusion

(4) A person may choose that this section not apply to a payment under a grant to the extent to which—

(a) the grant is made to the person for the person's business as a research and development growth grant; and

(b) the payment is withheld until the conditions of the grant are satisfied; and

(c) in the absence of section DF 1, the person would be allowed for an income year before the income year of the payment,—

(i) a deduction for expenditure to which the payment corresponds:

(ii) depreciation loss resulting from expenditure to which the payment corresponds.

Another exclusion

(5) This section does not apply to an RDTI transition support payment.

Defined in this Act: amount, business, deduction, depreciation loss, excluded income, grant-related suspensory loan, local authority, pay, public authority, public purpose Crown-controlled company

Compare: 2004 No 35 s CX 41

Section CX 47(1)(a): substituted (with effect on 1 October 2010), on 21 December 2010, by section 35(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 47(1)(a): amended (with effect on 18 March 2019), on 31 March 2023, by section 30(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 47(1)(b): substituted (with effect on 1 October 2010), on 21 December 2010, by section 35(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 47(1)(c): substituted (with effect on 1 October 2010), on 21 December 2010, by section 35(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 47(1)(d): substituted (with effect on 1 October 2010), on 21 December 2010, by section 35(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 47(3) heading: substituted (with effect on 1 October 2009), on 6 October 2009, by section 56(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 47(3): substituted (with effect on 1 October 2009), on 6 October 2009, by section 56(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 47(4) heading: added (with effect on 1 October 2010), on 21 December 2010, by section 35(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 47(4): added (with effect on 1 October 2010), on 21 December 2010, by section 35(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 47(4)(a): amended, on 30 March 2017, by section 39 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 47(5) heading: inserted (with effect on 1 April 2019), on 30 March 2022, by section 60(1) (and see section 60(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CX 47(5): inserted (with effect on 1 April 2019), on 30 March 2022, by section 60(1) (and see section 60(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section CX 47 list of defined terms **large budget screen production grant**: repealed (with effect on 1 October 2009), on 6 October 2009, by section 52(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 47 list of defined terms **public purpose Crown-controlled company**: inserted (with effect on 18 March 2019), on 31 March 2023, by section 30(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CX 48 Amounts remitted as condition of new start grant

[Repealed]

Section CX 48: repealed, on 24 February 2016, by section 87 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CX 48B Issue of post-1989 forest land units

[Repealed]

Section CX 48B: repealed (with effect on 26 September 2008), on 6 October 2009, by section 58 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Government funding of film and television

Heading: inserted (with effect on 1 October 2009), on 6 October 2009, by section 59 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CX 48C Government funding additional to government screen production payments

When this section applies

(1) This section applies when a public authority makes a payment to a person for a project if—

(a) the payment is not in the nature of a grant or subsidy; and

(b) the payment is not a grant-related suspensory loan; and

(c) the person receives a government screen production payment for the project in addition to the payment.

Excluded income

(2) The payment is excluded income of the person.

Defined in this Act: excluded income, government screen production payment, grant-related suspensory loan, pay, public authority

Section CX 48C: inserted (with effect on 1 October 2009), on 6 October 2009, by section 59 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Research and development

[Repealed]

Heading: repealed (with effect on 1 April 2009), on 30 March 2017, by section 40(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CX 48D Tax credits for expenditure on research and development

[Repealed]

Section CX 48D: repealed (with effect on 1 April 2009), on 30 March 2017, by section 40(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Superannuation and savings

CX 49 Employer's superannuation contributions

An employer's superannuation contribution is excluded income of—

(a) the employee for whose benefit the contribution is provided; and

(b) the trustees of the superannuation scheme to whom the contribution is made.

Defined in this Act: employee, employer's superannuation contribution, excluded income, superannuation scheme, trustee

Compare: 2004 No 35 s CX 42

CX 50 Tax credits for KiwiSaver and complying superannuation funds

An amount paid as a tax credit under subpart MK (Tax credits for KiwiSaver schemes and complying superannuation funds) is excluded income of the person deriving the amount.

Defined in this Act: amount, Commissioner, excluded income, pay, tax credit

Compare: 2004 No 35 s CP 1

CX 50B Contributions to retirement savings schemes

Excluded income

(1) A retirement scheme contribution is excluded income of a person if they are—

(a) the person for whose benefit the contribution is made to the extent to which the contribution is an amount of—

(i) money:

(ii) an imputation credit or a Maori authority credit that is used to meet the liability of the retirement scheme contributor for RSCT on the contribution:

(b) the retirement savings scheme.

Exclusions

(2) Subsection (1)(a) does not apply if the person for whose benefit the contribution is made—

(a) is non-resident, and the contribution is non-resident passive income:

(b) supplies to the retirement scheme contributor or the retirement savings scheme, a tax rate applying to the amount of tax withheld that is less than the retirement scheme prescribed rate for the person:

(c) includes the amount of the contribution in a return of income for the income year in which the contribution is made.

Defined in this Act: excluded income, income year, non-resident, non-resident passive income, retirement savings scheme, retirement scheme contribution, retirement scheme contributor, retirement scheme prescribed rate, return of income

Compare: 2004 No 35 s CX 42B

Section CX 50B: inserted, on 1 April 2008, by section 334 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Farming, forestry, or fishing

CX 51 Income equalisation schemes

A refund under section EH 8 (Refund of excess deposit) or EH 68 (Refund of excess deposit) is excluded income.

Defined in this Act: excluded income

Compare: 2004 No 35 s CX 43

Section CX 51: amended, on 18 March 2019, by section 145(1) (and see section 145(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Emissions units under Climate Change Response Act 2002

Heading: inserted (with effect on 26 September 2008), on 6 October 2009, by section 61 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CX 51B Disposal of pre-1990 forest land emissions units

Who this section applies to

(1) This section applies to a person who disposes of a pre-1990 forest land emissions unit other than by surrender.

Excluded income: disposal

(2) An amount of income that the person derives from the disposal is excluded income if, at the time of the disposal, the person would not derive income, other than exempt income or excluded income, from a disposal without timber of the pre-1990 forest land to which the emissions unit relates.

Defined in this Act: amount, emissions unit, excluded income, income, pre-1990 forest land, pre-1990 forest land emissions unit, surrender

Section CX 51B: inserted (with effect on 26 September 2008), on 6 October 2009, by section 61 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

CX 51C Disposal of fishing quota emissions units

Who this section applies to

(1) This section applies to a person who disposes of a fishing quota emissions unit other than by surrender.

Excluded income: disposal

(2) An amount of income that the person derives from the disposal is excluded income if, at the time of the disposal, the person would not derive income, other than exempt income or excluded income, from a disposal of the individual transferable quota to which the emissions unit relates.

Defined in this Act: amount, emissions unit, excluded income, exempt income, fishing quota emissions unit

Section CX 51C: inserted (with effect on 1 July 2010), on 7 September 2010, by section 18 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Environmental restoration

CX 52 Refund from environmental restoration account

A refund to a person under section EK 9 (Refund of payment if excess, lacking details) is excluded income of the person.

Defined in this Act: excluded income

Compare: 2004 No 35 s CX 43B

Inflation-indexed instruments

CX 53 Credits for inflation-indexed instruments

When this section applies

(1) This section applies when—

(a) an amount payable to a person who is a lender for money lent is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand; and

(b) an amount on account of an increase in the amount payable is credited to the lender's account by the borrower; and

(c) the credit represents a recovery of a decrease, previously debited in account, in the amount payable over a previous period.

Excluded income

(2) The credit is excluded income of the lender.

Defined in this Act: amount, excluded income, money lent, New Zealand, pay

Compare: 2004 No 35 s CX 44

Share-lending arrangements and excepted financial arrangements

Heading: amended (with effect on 1 April 2018), on 26 June 2019, by section 49 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

CX 54 Share-lending collateral under share-lending arrangements

An amount of share-lending collateral derived by a person under a share-lending arrangement is excluded income of the person.

Defined in this Act: amount, excluded income, share-lending arrangement, share-lending collateral

Compare: 2004 No 35 s CX 44B

CX 54B Transfers of emissions units under certain excepted financial arrangements

An amount that relates to the market value of an emissions unit and is derived by a person in a transfer of the emissions unit under an arrangement that is an excepted financial arrangement under section EW 5(11C) (What is an excepted financial arrangement?) is excluded income of the person.

Defined in this Act: amount, arrangement, emissions unit, excepted financial arrangement, excluded income

Section CX 54B: inserted (with effect on 1 April 2018), on 26 June 2019, by section 50 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Portfolio investment income

CX 55 Proceeds from disposal of investment shares

What this section applies to

(1) This section applies in an income year to the following entities unless the entity is assured, under an arrangement with another person, of having a gain on the disposal:

(a) a portfolio investment entity other than a life fund PIE:

(b) the Crown as owner of the New Zealand Superannuation Fund:

(bb) a Fund investment entity that is treated as being wholly owned by the Crown under section HR 4B (Activities relating to New Zealand Superannuation Fund):

(bc) a company that is treated as being wholly owned by the Crown under section HR 4B:

(bd) the Crown as owner of the VCF:

(be) a VCF investment vehicle, as referred to in section 25 of the Venture Capital Fund Act 2019, that is treated as being wholly owned by the Crown under section HR 4B:

(c) a life insurer.

Excluded income

(2) An amount that the entity derives from the disposal in the income year of a share issued by a company referred to in subsection (3) is—

(a) excluded income of the entity for the income year, if the entity is described in subsection (1)(a), (b), (bb), or (bc); or

(b) excluded income of the entity for the income year to the extent to which the amount is actuarially determined to be policyholder base income, if the entity is a life insurer.

Particular company

(3) The company referred to in subsection (2) is,—

(a) at all times in the income year, a company resident in New Zealand and not treated under and for the purposes of a double tax agreement as not resident in New Zealand; or

(b) a company that meets the following requirements:

(i) a company that, at all times in the income year, is resident in Australia and not treated as resident in a country other than Australia under an agreement between Australia and the other country, that would be a double tax agreement if negotiated between New Zealand and the other country; and

(ii) a company that, at the start of the income year or at the time the shares are first acquired in the income year, is included on the official list of ASX Limited, a market licensee under Chapter 7 of the Corporations Act 2001 (Aust); and

(iii) a company that, at all times in the income year, is required under the Income Tax Assessment Act 1997 (Aust) and the Income Tax Assessment Act 1936 (Aust) to maintain a franking account.

Non-participating redeemable shares

(4) This section does not apply to—

(a) a fixed-rate share, within the meaning of paragraphs (a) to (d) of the definition of that term; or

(b) a share for which the amount payable on cancellation is no more than the available subscribed capital per share calculated under the slice rule.

Defined in this Act: actuarially determined, amount, arrangement, available subscribed capital, company, double tax agreement, excluded income, fixed-rate share, Fund investment entity, income, income year, life fund PIE, life insurer, pay, policyholder base income, portfolio investment entity, resident in Australia, resident in New Zealand, share, slice rule, VCF

Section CX 55: substituted, on 1 April 2010, by section 63(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 55(1)(b): replaced, on 23 October 2015, by section 5(1) of the Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94).

Section CX 55(1)(bb): amended, on 5 June 2024, by section 14(1) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section CX 55(1)(bc): inserted, on 23 October 2015, by section 5(1) of the Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94).

Section CX 55(1)(bd): inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section CX 55(1)(be): inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section CX 55(2)(a): amended, on 23 October 2015, by section 5(2) of the Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94).

Section CX 55(3)(b)(ii): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 9(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CX 55(4): replaced, on 2 November 2012, by section 17(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CX 55 list of defined terms **available subscribed capital**: inserted, on 2 November 2012, by section 17(2)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CX 55 list of defined terms **fixed-rate share**: inserted, on 2 November 2012, by section 17(2)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CX 55 list of defined terms **Fund investment entity**: inserted, on 5 June 2024, by section 14(2) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section CX 55 list of defined terms **non-participating redeemable share**: repealed, on 2 November 2012, by section 17(2)(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CX 55 list of defined terms **pay**: inserted, on 2 November 2012, by section 17(2)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CX 55 list of defined terms **slice rule**: inserted, on 2 November 2012, by section 17(2)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CX 55 list of defined terms **VCF**: inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

CX 55B Proceeds from disposal of certain shares and financial arrangements

Disposal of shares

(1) An amount that a foreign PIE equivalent derives for an income year from the disposal of a share is excluded income of the foreign PIE equivalent for the income year.

Disposal of financial arrangements

(2) An amount that a foreign PIE equivalent derives for an income year from the disposal of a financial arrangement is excluded income of the foreign PIE equivalent for the income year.

Exclusion

(3) Subsection (2) does not apply to an amount of interest referred to in schedule 6, table 1B, row 6 (Prescribed rates: PIE investments and retirement scheme contributions).

Defined in this Act: amount, excluded income, financial arrangement, foreign PIE equivalent, income year, interest, share

Section CX 55B: inserted, on 29 March 2018 (with effect on 1 April 2012 and applying for the 2012–13 and later income years), by section 39(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CX 56 Attributed income of certain investors in multi-rate PIEs

When this section applies

(1) This section applies when an investor in a multi-rate PIE derives income attributed under section CP 1 (Attributed income of investors in multi-rate PIEs) in an income year, and—

(a) the prescribed investor rate for the investor in the relevant calculation period is more than zero; and

(b) that rate is not more than the notified investor rate in relation to the investor when the PIE calculates—

(i) its income tax liability under section HM 47 (Calculation of tax liability or tax credit of multi-rate PIEs) in relation to the income; or

(ii) a voluntary payment under section HM 45 (Voluntary payments) that is intended to be a final payment of its income tax liability in relation to the income.

When this section also applies

(1B) This section also applies when a foreign investment PIE attributes income to an investor who is, for the calculation period in which the amount is attributed,—

(a) a notified foreign investor other than a person referred to in section HM 55D(6):

(b) a transitional resident who has chosen a prescribed investor rate referred to in schedule 6, table 1, row 10 (Prescribed rates: PIE investments and retirement scheme contributions):

(c) a transitional resident when the calculation period falls in the tax year in which the person becomes or ceases to be a transitional resident:

(d) an investor in the PIE when the calculation period falls in the tax year in which the person either becomes or ceases to be resident in New Zealand.

When this section also applies

(1C) When a trustee of a trust is an investor in a multi-rate PIE and an election is made in an income year (the **election year**) for the trust under section HC 33

(Choosing to satisfy income tax liability of trustee), this section also applies to the trustee for the income years that end before the election year and for which the election applies.

When this section does not apply

(2) This section does not apply when—

(a) the PIE calculates its income tax liability using the quarterly calculation option under section HM 43 (Quarterly calculation option) and the amount is attributed to an investor who is treated under section HM 61 (Certain exiting investors zero-rated) as zero-rated:

(b) an amount of attributed PIE income is derived by a trustee who has chosen a prescribed investor rate referred to in schedule 6, table 1, row 5 or 7, as applicable:

(c) a person to whom section HM 57B (Prescribed investor rates for new residents) applies chooses not to apply the section to determine their prescribed investor rate for a resident year.

(d) *[Repealed]*

When this section also does not apply

(2B) This section also does not apply for the purposes of an adjustment under section HM 36B (Calculating PIE schedular adjustments for natural person investors) when a natural person who is resident in New Zealand—

(a) is an investor in a multi-rate PIE; and

(b) derives attributed PIE income from the PIE for an income year; and

(c) has a rate of tax applied to their attributed PIE income that is not equal to their prescribed investor rate for the income year; and

(d) has an amount of PIE schedular income for the income year.

Excluded income

(3) The amount is excluded income of the investor.

Defined in this Act: amount, attribution period, calculation period, excluded income, foreign investment PIE, income, income tax liability, income year, investor, multi-rate PIE, natural person, notified foreign investor, notified investor rate, pay, PIE, PIE schedular income, prescribed investor rate, quarter, resident in New Zealand, tax year, transitional resident

Section CX 56: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 65(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 56(1): amended (with effect on 1 April 2020), on 30 March 2021, by section 22(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CX 56(1): amended, on 1 April 2020, by section 103(1) (and see section 103(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 56(1)(b): amended, on 1 October 2010, by section 5(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section CX 56(1B) heading: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 9(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56(1B): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 9(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56(1C) heading: inserted, on 1 April 2020, by section 103(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 56(1C): inserted, on 1 April 2020, by section 103(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 56(2)(b): amended, on 1 April 2012 (applying for the 2012–13 and later income years), by section 9(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56(2)(b): amended, on 29 August 2011, by section 9(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56(2)(b): amended, on 1 April 2010 (applying for income years beginning on or after 1 April 2010), by section 8(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section CX 56(2)(c): inserted, on 1 April 2012 (applying for the 2012–13 and later income years), by section 9(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56(2)(d): repealed (with effect on 1 April 2020), on 30 March 2021, by section 22(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CX 56(2B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 22(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CX 56(2B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 22(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CX 56 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 9(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56 list of defined terms **natural person**: inserted, on 1 April 2020, by section 103(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 56 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 9(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56 list of defined terms **notified investor rate**: inserted, on 1 October 2010, by section 5(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section CX 56 list of defined terms **PIE schedular income**: inserted, on 1 April 2020, by section 103(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CX 56 list of defined terms **resident in New Zealand**: inserted, on 29 August 2011, by section 9(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56 list of defined terms **tax year**: inserted, on 29 August 2011, by section 9(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56 list of defined terms **transitional resident**: inserted, on 29 August 2011, by section 9(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

CX 56B Distributions to investors in multi-rate PIEs

Excluded income

(1) An amount of income derived by an investor in a multi-rate PIE as a distribution of or dividend of the PIE is excluded income of the investor.

Treatment as non-resident passive income

(2) Despite subsection (1), an amount paid by a foreign investment PIE to a notified foreign investor in the PIE is not excluded income under this section to the extent to which it is treated under section HM 44B (NRWT calculation option) as non-resident passive income.

Defined in this Act: amount, dividend, excluded income, foreign investment PIE, income, investor, multi-rate PIE, non-resident passive income, notified foreign investor

Section CX 56B: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 65(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 56B(1) heading: inserted, on 29 August 2011, by section 10(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56B(2) heading: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 10(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56B(2): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 10(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56B list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 10(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56B list of defined terms **non-resident passive income**: inserted, on 29 August 2011, by section 10(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section CX 56B list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 10(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

CX 56C Distributions to investors by listed PIEs

Resident investors

(1) If an investor in a listed PIE derives an amount in an income year as a distribution by or dividend of the PIE, the amount is excluded income of the investor if they—

(a) are resident in New Zealand; and

(b) are a natural person or a trustee; and

(c) do not include the amount as income in a return of income for the income year.

Imputed dividends

(2) If subsection (1)(a) to (c) does not apply to the investor, the amount is excluded income to the extent to which the amount of the distribution or dividend is more than the amount that is fully credited as described in section CD 43(26) (Available subscribed capital amount).

Defined in this Act: amount, dividend, excluded income, income year, investor, listed PIE, PIE, resident in New Zealand, return of income, trustee

Section CX 56C: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 65(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section CX 56C(1)(a): amended (with effect on 1 April 2010), on 24 February 2016, by section 88(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CX 56C list of defined terms **resident**: repealed (with effect on 1 April 2010), on 24 February 2016, by section 88(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section CX 56C list of defined terms **resident in New Zealand**: inserted (with effect on 1 April 2010), on 24 February 2016, by section 88(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CX 57 Credits for investment fees

When this section applies

(1) This section applies when—

(a) a multi-rate PIE includes a credit for fees in the calculation of its tax liability under section HM 47 (Calculation of tax liability or tax credit of multi-rate PIEs) in relation to an investor in an investor class of the PIE; and

(b) an amount of the credit is attributed to the investor as a member of the class.

Excluded income

(2) The amount allocated is excluded income of the investor.

Defined in this Act: amount, excluded income, investor, investor class, multi-rate PIE, PIE

Section CX 57: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 66(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Foreign investment income

Heading: inserted, on 29 March 2018, by section 40 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CX 57B Amounts derived during periods covered by calculation methods

When this section applies

(1) This section applies when a person derives an amount, that is not FIF income from an attributing interest in a FIF or a dividend to which section CD 36(4) (Foreign investment fund income) applies, in a period for which they have used a calculation method referred to in section EX 59(1) (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method) to calculate their FIF income or loss.

Excluded income

(2) The amount derived is excluded income of the person.

Defined in this Act: amount, attributing interest, calculation method, excluded income, FIF, FIF income, FIF loss

Section CX 57B: inserted, on 29 March 2018, by section 40 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CX 57B(1): amended, on 1 April 2023, by section 31(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CX 57B(1): amended, on 1 April 2023, by section 31(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Minors' beneficiary income

CX 58 Amounts derived by minors from trusts

To the extent to which section HC 35 (Beneficiary income of minors) applies to an amount of beneficiary income, the amount is excluded income of the minor.

Defined in this Act: amount, beneficiary income, excluded income, minor

Compare: 2004 No 35 ss HH 3A–3F

Certain amounts from trusts

Heading: inserted, on 1 April 2024, by section 27(1) (and see section 27(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CX 58B Amounts derived by certain close companies from trusts

To the extent to which section HC 38 (Beneficiary income of certain close companies) applies to an amount of beneficiary income of a close company, the amount is excluded income of the close company.

Defined in this Act: amount, beneficiary income, close company, excluded income

Section CX 58B: inserted, on 1 April 2024, by section 27(1) (and see section 27(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CX 59 Taxable distributions from non-complying trusts

An amount that a person derives in an income year as a taxable distribution from a non-complying trust under section HC 19 (Taxable distributions from non-complying trusts) is excluded income of the person.

Defined in this Act: amount, exempt income, income year, non-complying trust, taxable distribution

Compare: 2004 No 35 s HH 3(4)

Transactions between companies in consolidated groups

CX 60 Intra-group transactions

When this section applies

(1) This section applies when a company that is part of a consolidated group derives an amount referred to in section FM 8 (Transactions between group companies: income) from a transaction or arrangement with another company that is part of the same group and the amount would not be income if the group were 1 company.

Excluded income

[Repealed]

(1B) *[Repealed]*

Excluded income

(2) The amount, except to the extent to which it is described in section FM 8(3), is excluded income of the company.

Defined in this Act: amount, company, consolidated group, excluded income, income

Compare: 2004 No 35 s HB 2(1)(a)

Section CX 60(1): replaced, on 1 April 2019, by section 41(1) (and see section 41(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CX 60(1): amended (with effect on 1 April 2019), on 30 March 2021, by section 23(1) (and see section 23(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CX 60(1B) heading: repealed (with effect on 1 April 2019), on 30 March 2021, pursuant to section 23(2) (and see section 23(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CX 60(1B): repealed (with effect on 1 April 2019), on 30 March 2021, by section 23(2) (and see section 23(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CX 60(2): replaced (with effect on 1 April 2019), on 26 June 2019, by section 52(1) (and see section 52(2) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section CX 60(2): amended (with effect on 1 April 2019), on 30 March 2021, by section 23(3) (and see section 23(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Avoidance arrangements

CX 61 Avoidance arrangements

An amount is excluded income if it is treated as excluded income under—

(a) section GA 1 (Commissioner's power to adjust):

(b) section GB 23 (Excessive remuneration to relatives).

Defined in this Act: amount, excluded income

Compare: 2004 No 35 ss GB 1(1)–(2C), GD 3(1), (2)

Partners and partnerships

Heading: added, on 1 April 2008, by section 9(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

CX 62 Amounts of excluded income for partners

A person who is a partner has an amount of excluded income to the extent to which an amount of excluded income results from the application of subpart HG (Joint venturers, partners, and partnerships) to them and their partnership.

Defined in this Act: amount, excluded income, partner, partnership

Section CX 62: added, on 1 April 2008, by section 9(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Look-through companies

Heading: added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 36 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

CX 63 Dividends derived after company ceased to be look-through company

Dividends

(1) A dividend derived by a person from a company after it has ceased to be a look-through company is excluded income of the person to the extent to which it is equal to or less than the amount given by subsection (2).

Excluded income formula

(2) For the purposes of subsection (1), the amount is calculated using the following formula:

exit dividends − dividends after look-through.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) and (5).

Exit dividends

(4) **Exit dividends** is the sum of the amounts that would be dividends if the company, immediately after it ceased to be a look-through company,—

(a) disposed of all of its property, other than cash, to an unrelated person at market value for cash; and

(b) met all its liabilities at market value, excluding income tax payable through disposing of the property or meeting the liabilities; and

(c) were liquidated, with the amount of cash remaining being distributed to its shareholders without imputation credits attached.

Dividends after look-through

(5) **Dividends after look-through** is the total dividends paid by the company after it ceases to be a look-through company and before it pays the dividend described in subsection (1) to the person.

Defined in this Act: amount, company, dispose, dividend, excluded income, imputation credit, income tax, liquidation, look-through company, shareholder

Section CX 63: added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 36 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section CX 63(4)(c): amended, on 1 April 2017, by section 41(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section CX 63 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 41(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CX 63B Amounts of excluded income for owners

A person who has an effective look-through interest for a look-through company has an amount of excluded income to the extent to which an amount of excluded income results from the application of subpart HB (Look-through companies).

Defined in this Act: amount, effective look-through interest, excluded income, look-through company

Section CX 63B: inserted (with effect on 1 April 2011), on 29 March 2025, by section 33(1) (and see section 33(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Financial instruments and hybrid mismatches

Heading: inserted, on 1 July 2018, by section 8(1) (and see section 8(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

CX 64 Income from financial instrument

An amount is excluded income if it is treated as excluded income under subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements).

Defined in this Act: amount, excluded income

Section CX 64: inserted, on 1 July 2018, by section 8(1) (and see section 8(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Tax credits paid in cash

Heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 34(1) (and see section 34(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CX 65 Tax credits paid in cash

An amount paid as a tax credit under Part M (Tax credits paid in cash) is excluded income of the person deriving the amount.

Defined in this Act: amount, excluded income, tax credit

Section CX 65: inserted (with effect on 1 April 2008), on 29 March 2025, by section 34(1) (and see section 34(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025

Subpart CZ—Terminating provisions

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CZ 1 Grandparented shares under employee share schemes

When this section applies

(1) This section applies when, for shares under an employee share scheme,—

(a) the shares were granted or acquired under the employee share scheme before the date that is 6 months after the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent, and—

(i) the shares were granted or acquired for purposes not including the purpose of avoiding the future application of the employee share scheme provisions in that Act (the **new ESS provisions**); and

(ii) the share scheme taxing date for the shares is before 1 April 2022:

(b) the shares were granted or acquired under the employee share scheme before 12 May 2016.

Grandparenting

(2) The new ESS provisions do not apply for the shares. Instead, the provisions of this Act that would apply ignoring the enactment of the new ESS provisions apply for the shares.

Defined in this Act: employee share scheme, income, share, share scheme taxing date

Section CZ 1: replaced, on 29 September 2018, by section 42 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

CZ 2 Mining company's 1970–71 tax year

[Repealed]

Section CZ 2: repealed, on 1 April 2014, by section 25 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CZ 3 Exchange variations on 8 August 1975

When this section applies

(1) This section applies when—

(a) a person carrying on a business in New Zealand—

(i) receives a loan in 2 or more instalments for the purposes of the business; or

(ii) makes a loan in 2 or more instalments in the course of carrying on the business; and

(b) an exchange variation arises in relation to the whole or partial repayment of the loan; and

(c) the person derives an amount or incurs a loss through the exchange variation.

Income or deduction

(2) The amount derived is income of the person and the loss incurred is a deduction that they are allowed.

Instalments and repayments

(3) For the purposes of this section, unless the terms of the loan expressly provide otherwise,—

(a) each instalment is treated as a separate loan; and

(b) repayments are applied so that the separate loans are repaid in the order in which they were received.

Exclusion

(4) This section does not apply to a financial arrangement to which the financial arrangements rules apply.

Some definitions

(5) In this section,—

exchange variation, for the repayment of some or all of the loan, excluding interest, means a variation by virtue of a fluctuation in the value of the currency or currencies of 1 or more countries other than New Zealand in relation to New Zealand currency, that occurs between—

(a) the amount of the repayment expressed in New Zealand currency at the time at which the repayment was made; and

(b) the amount expressed in New Zealand currency that would have been required to make that repayment on or at the later of 8 August 1975 and the time at which the loan was first made

loan means,—

(a) for money lent, to a person, on or after 1 January 1974 and on or before 22 January 1985, money that—

(i) was lent with the consent of the Minister under the Capital Issues (Overseas) Regulations 1965 or the Overseas Investment Regulations 1974 or with the consent of the Reserve Bank under the Exchange Control Regulations 1978, as applicable; and

(ii) was lent in a currency other than New Zealand currency; and

(iii) was expressed to be repayable in a currency other than New Zealand currency:

(b) for money lent, by a person, on or after 1 January 1974 and on or before 22 January 1985, money that—

(i) was lent with the consent of the Reserve Bank under the Exchange Control Regulations 1978 if required; and

(ii) was expressed to be repayable in a currency other than New Zealand currency:

(c) for money lent, to a person, on or after 23 January 1985, money that—

(i) is lent in a currency other than New Zealand currency; and

(ii) is expressed to be repayable in a currency other than New Zealand currency:

(d) in relation to money lent, by a person, on or after 23 January 1985, money that is expressed to be repayable in a currency other than New Zealand currency.

Defined in this Act: amount, business, deduction, exchange variation, financial arrangement, financial arrangements rules, income, loan, money lent, New Zealand, pay

Compare: 2004 No 35 s CZ 3

CZ 4 Mineral mining: company making loan before 1 April 1979

[Repealed]

Section CZ 4: repealed, on 1 April 2014, by section 26 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CZ 5 Exempt interest: overseas money lent to government or local or public authority before 29 July 1983

Exempt income

(1) Amounts that a non-resident derives are exempt income if they are derived from—

(a) stock or debentures issued before 29 July 1983 by the government of New Zealand or by a local authority or a public authority, the interest on which is payable out of New Zealand; or

(b) loans entered into before 29 July 1983, the interest on which was to be exempt from income tax in New Zealand under an agreement or arrangement made with the government of New Zealand.

Application posted or received before 29 July 1983

(2) For the purposes of subsection (1)(b), a loan entered into on or after 29 July 1983 is treated as having been entered into before that date if an exemption of a kind referred to in that provision was authorised as a result of an application received by or posted to the government of New Zealand before 29 July 1983.

Defined in this Act: amount, apply, arrangement, debenture, exempt income, income tax, interest, local authority, money lent, New Zealand, non-resident, pay, public authority

Compare: 2004 No 35 s CZ 5

Section CZ 5 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

CZ 6 Commercial bills before 31 July 1986

Income: redemption

(1) The amount that a person receives on the redemption of a commercial bill owned by the person is income of the person.

Income: disposal

(2) The value of a commercial bill on the day its owner disposes of it is income of the owner. This subsection does not apply if the disposal is a transfer under a relationship agreement.

Defined in this Act: amount, commercial bill, income, relationship agreement

Compare: 2004 No 35 s CZ 6

CZ 7 Primary producer co-operative companies: 1987–88 income year

Income: disposal of asset

(1) If a primary producer co-operative company disposes of an asset for which the company was allowed a deduction under section 200 of the Income Tax Act 1976 for the 1987–88 income year or an earlier income year, the company is treated as deriving income in the income year of disposal of an amount equal to the lesser of—

(a) the total of all deductions relating to the asset that were allowed under section 200; and

(b) the amount that the company derived from the disposal of the asset.

Income: payments to shareholders

(2) If a primary producer co-operative company has been allowed a deduction under section 200 for the 1987–88 income year or an earlier income year, and a payment has been made to a shareholder of the company either on the surrender of any of their shares or on the liquidation of the company, part of the payment is treated as income of the shareholder. The part that is income is determined under subsection (3).

Amounts attributable to deductions

(3) The part of the payment that is treated as income is only such part as—

(a) is more than the available subscribed capital per share calculated under the slice rule of the shares surrendered or held on liquidation by the shareholder; and

(b) is attributable to an increase in the value of the company's assets that was caused by the company applying or appropriating a deduction allowed under section 200.

Some definitions

(4) In this section,—

primary producer co-operative company means a company that, at the end of the 1987–88 income year,—

(a) was a primary producer co-operative company, as defined in section 200(1) and (9); and

(b) could qualify for a deduction under section 200(4)

section 200 means section 200 of the Income Tax Act 1976 as it was in force before it was repealed by section 41(1) of the Income Tax Amendment Act (No 5) 1988 (which, in general, allowed primary producer co-operative companies to claim a deduction for profits that were reinvested in certain defined primary produce activities and assets).

Defined in this Act: amount, available subscribed capital, income, income year, liquidation, pay, primary producer co-operative company, section 200, share, shareholder, slice rule

Compare: 2004 No 35 s CZ 7

Section CZ 7(1) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CZ 8 Farm-out arrangements for petroleum mining before 16 December 1991

Excluded income

(1) Excess expenditure under a farm-out arrangement entered into before 16 December 1991 is excluded income of the transferor.

Some definitions

(2) In subsection (1), **excess expenditure**, **farm-out arrangement**, and **transferor** have the same meanings as in section 214D of the Income Tax Act 1976 immediately before its repeal by section 15 of the Income Tax Amendment Act (No 5) 1992.

Defined in this Act: excess expenditure, excluded income, farm-out arrangement, transferor

Compare: 2004 No 35 s CZ 8

CZ 9 Available capital distribution amount: 1965 and 1985–1992

Section CD 44(7)(e)

(1) For the purposes of section CD 44(7)(e) (Available capital distribution amount), a company derives a capital gain amount if—

(a) before 1 April 1988, a net profit or gain was derived by the company to which section 4(5) of the Income Tax Act 1976 applied immediately before that provision was repealed by section 31(1) of the Income Tax Amendment Act (No 5) 1988; or

(b) an amount is derived by the company that is attributable to—

(i) a deduction allowed in the 1985–86 or 1986–87 tax year for livestock under section 86E of the Income Tax Act 1976; or

(ii) a revaluation of livestock in any of the 1986–87 to 1991–92 tax years under section 86A of the Income Tax Act 1976; or

(iii) a deduction allowed in the 1988–89 tax year for the revaluation of trading stock of wine, brandy, and whisky under section 87A of the Income Tax Act 1976.

Section CD 44(14)(b)

(2) For the purposes of section CD 44(14)(b),—

(a) the amount has been excluded by section 4(3) of the Land and Income Tax Act 1954 from treatment as a dividend; or

(b) the issue has been excluded by section 3(3) of the Income Tax Act 1976 from treatment as a bonus issue.

Defined in this Act: amount, bonus issue, company, dividend, trading stock

Compare: 2004 No 35 s CZ 9

Section CZ 9(1)(a): amended, on 29 March 2018 (with effect on 30 March 2017), by section 43 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section CZ 9(1)(a): amended, on 30 March 2017, by section 42 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CZ 9B Available capital distribution amount: 1988 to 2010

[Repealed]

Section CZ 9B: repealed, on 30 March 2017, by section 43 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CZ 10 Transitional relief for calculation of attributed repatriation dividends: 2 July 1992

[Repealed]

Section CZ 10: repealed, on 24 February 2016, by section 89 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CZ 11 Recovery of deductions for software acquired before 1 April 1993

What this section applies to

(1) This section applies to any of the following items for the acquisition of which a person was allowed a deduction before 1 April 1993:

(a) the copyright in software:

(b) the right to use the copyright in software:

(c) the right to use software.

Income

(2) An amount derived from the disposal of the item is income.

Relationship with sections EE 44 to EE 52 and EZ 20

(3) Sections EE 44 to EE 52 (which relate to disposals and similar events) apply to the item. Section EZ 20 (Adjusted tax value for software acquired before 1 April 1993) deals with the adjusted tax value of the item.

Defined in this Act: adjusted tax value, amount, income

Compare: 2004 No 35 s CZ 11

CZ 12 General insurance with risk period straddling 1 July 1993

When this section applies

(1) This section applies when—

(a) a company carries on a business of providing general insurance or guarantees against loss, damage, or risk, immediately before and on 1 July 1993; and

(b) the company holds a reinsurance contract for the general insurance that covers a period of risk starting before 1 July 1993 and ending after 1 July 1993; and

(c) the company pays the premiums under the contract outside New Zealand.

Income

(2) An amount derived by the company from a claim under the reinsurance contract is income of the company if the event giving rise to the claim occurs on or after 1 July 1993.

Timing

(3) The income is allocated to the income year in which the event giving rise to the claim occurs.

Defined in this Act: amount, business, company, general insurance, income, income year, New Zealand, pay, reinsurance contract

Compare: 2004 No 35 s CZ 12

CZ 13 Treatment of units and interests in unit trusts and group investment funds on issue as at 1 April 1996

Units and interests in unit trusts and group investment funds

(1) All units in a unit trust and interests in a group investment fund on issue on 1 April 1996 are treated, on and from that date, as not having been issued on terms that their redemption would be subject to the slice rule.

Election made for units or interests

(2) All units or interests to which subsection (1) applies and for which an election has been made relying on paragraph (c) of the definition of the term **shares of the same class** in section YA 1 (Definitions) are treated on and from 1 April 1996 as if the election made in reliance upon paragraph (c) had never been made.

Exclusion

(3) This section does not apply to a unit or interest if the manager or trustee of the unit trust or group investment fund so chooses, by giving notice to the Commissioner before 1 April 1996, in which case the relevant unit or interest is treated, on and from 1 April 1996, as having been issued on terms that its redemption would be subject to the slice rule.

Defined in this Act: Commissioner, group investment fund, notice, shares of the same class, slice rule, trustee, unit trust

Compare: 2004 No 35 s CZ 13

CZ 14 Treatment of superannuation fund interests in group investment funds on 1 April 1999

When this section applies

(1) This section applies when a superannuation fund has an interest in a group investment fund on 1 April 1999.

Exclusions from dividends

(2) Section CD 22(4) (Returns of capital: off-market share cancellations) does not apply to the interest.

Trustee's election

(3) If a trustee of a group investment fund chose on or before 31 March 1999 to treat a superannuation fund interest in a group investment fund as subject to section CD 22(4),—

(a) subsection (2) does not apply to the interest:

(b) section CD 22(2) applies to the interest on and after 1 April 1999.

Defined in this Act: dividend, group investment fund, interest, superannuation fund, trustee

Compare: 2004 No 35 s CZ 14

CZ 15 Accident insurance contracts before 1 July 2000

A premium or contribution referred to in section CX 16(2) (Contributions to life or health insurance) is—

(a) a premium or contribution paid for an accident insurance contract, as defined in section 13 of the Accident Insurance Act 1998, that was in force before 1 July 2000; or

(b) a premium or contribution paid for a contract to which section 188(1)(a) of that Act applied, to the extent to which it related to cover and entitlements for work-related personal injury, that was in force before 1 July 2000.

Defined in this Act: contribution, pay

Compare: 2004 No 35 s CZ 15

CZ 16 Interest payable to exiting company: 2001

Interest payable under schedule 4, clause 12 of the Dairy Industry Restructuring Act 2001 to an exiting company, as defined in section 5 of the Act, as a result of a buy-out of the company's interests in the New Zealand Dairy Board is exempt income.

Defined in this Act: exempt income, interest, pay

Compare: 2004 No 35 s CZ 16

CZ 17 Dividend of exiting company: 2001

If an exiting company, as defined in section 5 of the Dairy Industry Restructuring Act 2001, derives a dividend as a result of a buy-out of the company's

interests in the New Zealand Dairy Board under schedule 4 of the Act, the dividend is exempt income.

Defined in this Act: dividend, exempt income

Compare: 2004 No 35 s CZ 17

CZ 18 Benefit provider approved within 6 months of 25 November 2003

When this section applies

(1) This section applies when a person (the **provider**)—

(a) is—

(i) an incorporated body; or

(ii) a trustee; and

(b) provides accident insurance, health insurance, life insurance, or other health and welfare benefits to natural persons (the **recipients**); and

(c) either—

(i) was approved as a sickness, accident, or death benefit fund by the Commissioner on or before 24 November 2003; or

(ii) administers a fund that was approved as a sickness, accident, or death benefit fund by the Commissioner on or before 24 November 2003; and

(d) has been approved by the Commissioner as an organisation that the Commissioner considers operates on the principles of mutuality for recipients—

(i) within the 6 months starting on 25 November 2003; or

(ii) in a further period allowed by the Commissioner, if the provider satisfies the Commissioner that the provider was not aware of the requirement for the Commissioner's approval in sufficient time to obtain the approval under subparagraph (i).

Exempt income

(2) An amount derived by a provider is exempt income if—

(a) the amount is not derived from a business carried on by the provider beyond the circle of the recipients; and

(b) each of the recipients is—

(i) a beneficiary of the trust for which the provider is the trustee:

(ii) a member of the provider:

(iii) a member of an organisation that directly or indirectly controls the provider:

(iv) a relative of a person described in any of subparagraphs (i) to (iii).

Defined in this Act: amount, business, Commissioner, exempt income, life insurance, relative, sickness, accident, or death benefit fund, trustee

Compare: 2004 No 35 s CZ 18

CZ 19 Community trust receipts in 2004–05 or 2005–06 tax year

An amount of income derived by a trustee or company is exempt income if—

(a) the amount would be exempt income under section CW 41 (Charities: non-business income) or CW 42 (Charities: business income) but for the trustee or company making a dividend, distribution, or settlement to a community trust in the 2004–05 or 2005–06 tax year on the winding up of the trust or company; and

(b) either—

(i) the corpus of the trust was provided by the community trust; or

(ii) the company is wholly owned by the community trust.

Defined in this Act: amount, community trust, company, corpus, dividend, exempt income, income, tax year, trustee

Compare: 2004 No 35 s CZ 19

CZ 20 Disposal of personal property lease asset under specified lease

When this section applies

(1) This section applies for the purposes of section FZ 2 (Effect of specified lease on lessor and lessee) when a personal property lease asset that is leased under a specified lease is sold, assigned or leased on or after the term of the lease.

Income of lessor: when lease ends before term

(2) The amount of the excess described in section FZ 2(5)(c) is treated as income derived by the lessor in the income year in which the lease is terminated.

Income of lessor: when lease ends

(3) The amount of the excess described in section FZ 2(7) is treated as income derived by the lessor in the income year in which the term of the lease ends.

Income of lessee

(4) The amount of the excess described in section FZ 2(8) is income of the lessee in the income year in which the asset is disposed of.

Defined in this Act: amount, income year, lessee, lessor, personal property lease asset, specified lease, term of the lease

Compare: 2004 No 35 s FC 6(7), (8)

CZ 21 Superannuation fund loans made to members before 1 April 1989

When this section applies

(1) This section applies for the purposes of section CS 18 (Value of loan treated as fund income) in the case of a loan made by a superannuation fund to a member if—

(a) it was made before 1 April 1989; and

(b) the rate of interest payable on the loan cannot be reviewed.

Prescribed rate of interest varied

(2) The prescribed rate of interest is treated as being—

(a) the non-concessionary rate of interest for the tax year in which the loan agreement was signed or, if not in writing, agreed to by all parties, in the case of a loan made before 1 April 1985:

(b) the prescribed rate of interest for the quarter in which the loan agreement was signed or, if not in writing, agreed to by all parties, in any other case.

Defined in this Act: interest, member, non-concessionary rate of interest, pay, prescribed rate of interest, quarter, superannuation fund, tax year

Compare: 2004 No 35 s GD 6(3)

CZ 21B Optional treatment of withdrawals from foreign superannuation schemes not included in return or assessed before 1 April 2014

When this section applies

(1) This section applies when a person—

(a) derives an amount from a foreign superannuation scheme as a withdrawal other than a pension or annuity, or applies for the withdrawal of such an amount, in the period beginning on 1 January 2000 and ending with 31 March 2014; and

(b) does not include the withdrawal (the **omitted withdrawal**) in a return of income for the income year in which the amount was derived; and

(c) is not assessed before 1 April 2014 for income included in the omitted withdrawal; and

(d) chooses to include in a return of income for an income year (the **return year**) that is the 2013–14 or 2014–15 income year an amount of assessable income as relating to all omitted withdrawals from the foreign superannuation scheme.

Amount of income

(2) The person is treated as deriving, in the return year, from the omitted withdrawals an amount of assessable income (the **withdrawal income**) equal to 15% of the total amount of the omitted withdrawals.

Tax on omitted withdrawal

(3) The amount of the liability of the person for income tax (the **withdrawal tax liability**) arising from the omitted withdrawals is the difference between the person's income tax liability for the return year, with the withdrawal income included in the person's assessable income for that year, and the income tax liability that the person would have for the return year if the withdrawal income were not included in the person's assessable income for that year.

Relationship with law otherwise applicable to withdrawal and interest in scheme

(4) This section overrides—

(a) section CF 3 (Withdrawals from foreign superannuation scheme):

(b) for omitted withdrawals derived on or before 31 March 2014, the law that would apply in the absence of this section to the withdrawal at the time of the derivation of the withdrawal:

(c) the law that would apply in the absence of this section to the person's interest in the foreign superannuation scheme for the period ending by 31 March 2014.

Defined in this Act: assessable income, foreign superannuation scheme, income tax, income tax liability, income year, return of income, terminal tax

Section CZ 21B: inserted, on 1 April 2014, by section 27 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CZ 22 Geothermal wells between 31 March 2003 and 17 May 2006

When this section applies

(1) This section applies to a person's geothermal well when—

(a) the well is—

(i) both started and completed between 31 March 2003 and 17 May 2006:

(ii) acquired between 31 March 2003 and 17 May 2006; and

(b) the person—

(i) uses the well, or has the well available for use, after the end of the well's geothermal energy proving period in deriving income or carrying on a business for the purpose of deriving income:

(ii) disposes of the well.

Income: using well

(2) For a person to whom subsection (1)(b)(i) applies, the person has, for the first income year in which this section applies, an amount of income equal to the total amount of deductions that the person is allowed for the well under section DZ 7 of the Income Tax Act 1994, section DZ 15 of the Income Tax Act 2004,

and section DZ 16 (Geothermal wells between 31 March 2003 and 17 May 2006) for all income years.

Income: disposing of well

(3) For a person to whom subsection (1)(b)(ii) applies, the person has, for the first income year in which this section applies, an amount of income equal to the lesser of—

(a) the amount derived from disposing of the well; and

(b) the total amount of deductions that the person is allowed for the well under section DZ 7 of the Income Tax Act 1994, section DZ 15 of the Income Tax Act 2004, and section DZ 16 for all income years.

Defined in this Act: amount, business, deduction, dispose, geothermal energy proving period, geothermal well, income, income year

Compare: 2004 No 35 s CZ 20

CZ 23 Insurance or compensation for buildings replaced as revenue account property affected by Canterbury earthquakes

[Repealed]

Section CZ 23: repealed (with effect on 4 September 2010), on 2 November 2012, by section 18 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

CZ 23 Employee benefits for Canterbury earthquake relief: exempt income

Exempt income

(1) Income derived by an employee from an employer is exempt income to the extent given by subsection (2) if the income—

(a) would be assessable income in the absence of this section; and

(b) is provided by the employer for the purpose of relief of employees from the adverse effects of a Canterbury earthquake, as defined in section 4 of the Canterbury Earthquake Recovery Act 2011, of 4 September 2010 or 22 February 2011; and

(c) is derived in the period of 8 weeks beginning on the day of that Canterbury earthquake; and

(d) does not replace a PAYE income payment; and

(e) does not depend on the seniority of the employee; and

(f) is available to another employee, who is not an associated person of the employer and is or was immediately before a Canterbury earthquake in full-time employment with the employer, if the employee is an associated person of the employer; and

(g) is treated by the employer as being exempt income for the employee.

Extent of exemption

(2) Income satisfying subsection (1) is exempt income to the extent that the income is—

(a) accommodation:

(b) less than or equal to $3,200 in total, if the income is in a form other than accommodation.

Defined in this Act: accommodation, assessable income, employee, employer, exempt income, fringe benefit, income

Section CZ 23: inserted (with effect on 4 September 2010), on 24 May 2011, by section 4 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

Section CZ 23(2)(a): amended (with effect on 4 September 2010), on 30 June 2014, by section 36(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CZ 23 list of defined terms **accommodation**: inserted (with effect on 4 September 2010), on 30 June 2014, by section 36(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CZ 23B Employee benefits for North Island flooding events: exempt income

Exempt income

(1) Income derived by an employee from an employer is exempt income to the extent given by subsection (2) if the income—

(a) would be assessable income in the absence of this section; and

(b) is provided by the employer for the purpose of relief of employees from the adverse effects of a North Island flooding event; and

(c) is derived in the period of 8 weeks beginning on the first day of the relevant North Island flooding event; and

(d) does not replace a PAYE income payment; and

(e) does not depend on the seniority of the employee; and

(f) is available to another employee, who is not an associated person of the employer and is or was immediately before a North Island flooding event in full-time employment with the employer, if the employee is an associated person of the employer; and

(g) is treated by the employer as being exempt income for the employee.

Extent of exemption

(2) Income satisfying subsection (1) is exempt income to the extent to which the income is—

(a) accommodation:

(b) less than or equal to $5,000 in total, if the income is in a form other than accommodation.

Defined in this Act: accommodation, assessable income, employee, employer, exempt income, fringe benefit, income, North Island flooding event

Section CZ 23B: inserted (with effect on 8 January 2023), on 31 March 2023, by section 32(1) (and see section 32(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CZ 24 Employee benefits for Canterbury earthquake relief: not fringe benefits

When this section applies

(1) This section applies when an employee receives from an employer a benefit that—

(a) would be a fringe benefit in the absence of this section; and

(b) is for the purpose of the relief of employees from the adverse effects of a Canterbury earthquake, as defined in section 4 of the Canterbury Earthquake Recovery Act 2011, of 4 September 2010 or 22 February 2011; and

(c) is received in the period of 8 weeks beginning on the day of that Canterbury earthquake; and

(d) does not replace a PAYE income payment; and

(e) does not depend on the seniority of the employee; and

(f) is available to another employee, who is not an associated person of the employer and is or was immediately before a Canterbury earthquake in full-time employment with the employer, if the employee is an associated person of the employer; and

(g) is treated by the employer as not being a fringe benefit.

Benefits with known value for employee

(2) Benefits satisfying subsection (1) that would, in the absence of this section, be fringe benefits having a value for the employee that the employer could estimate, are not fringe benefits to the extent that their total value as fringe benefits for the period would be less than or equal to the amount by which $3,200 exceeds the income that is—

(a) exempt income under section CZ 23(2)(b); and

(b) derived by the employee from the employer in the same period.

Benefits with unknown value for employee

(3) Benefits satisfying subsection (1) that would, in the absence of this section, be fringe benefits having a value for the employee that the employer could not estimate, are not fringe benefits.

Defined in this Act: associated person, employee, employer, exempt income, fringe benefit, income, PAYE income payment

Section CZ 24: added (with effect on 4 September 2010), on 24 May 2011, by section 4 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

CZ 24B Employee benefits for North Island flooding events relief: not fringe benefits

When this section applies

(1) This section applies when an employee receives from an employer a benefit that—

(a) would be a fringe benefit in the absence of this section; and

(b) is for the purpose of the relief of employees from the adverse effects of a North Island flooding event; and

(c) is received in the period of 8 weeks beginning on the first day of the relevant North Island flooding event; and

(d) does not replace a PAYE income payment; and

(e) does not depend on the seniority of the employee; and

(f) is available to another employee, who is not an associated person of the employer and is or was immediately before the relevant North Island flooding event in full-time employment with the employer, if the employee is an associated person of the employer; and

(g) is treated by the employer as not being a fringe benefit.

Benefits with known value for employee

(2) Benefits satisfying subsection (1) that would, in the absence of this section, be fringe benefits having a value for the employee that the employer could estimate, are not fringe benefits to the extent to which their total value as fringe benefits for the period would be less than or equal to the amount by which $5,000 exceeds the income that is—

(a) exempt under section CZ 23B(2)(b); and

(b) derived by the employee from the employer in the same period.

Benefits without known value for employee

(3) Benefits satisfying subsection (1) that would, in the absence of this section, be fringe benefits having a value for the employee that the employer could not estimate, are not fringe benefits.

Defined in this Act: associated person, employee, employer, exempt income, fringe benefit, income, PAYE income payment, North Island flooding event

Section CZ 24B: inserted (with effect on 8 January 2023), on 31 March 2023, by section 33(1) (and see section 33(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

CZ 25 Land and buildings as revenue account property affected by Canterbury earthquakes and replaced—insurance or compensation, Government purchase

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2024–25 income year when the person,—

(a) in or before the current year, derives for buildings or land (the **affected property**), all of which is revenue account property,—

(i) insurance or compensation, if a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011 damages the land and damages each building, or

the neighbourhood of the building, causing the building to be useless for the purpose of deriving income and consequently to be demolished or abandoned for later demolition:

(ii) an amount from a purchase by the Crown from the person under section 91, 103, or 104 of the Greater Christchurch Regeneration Act 2016; and

(b) in the absence of this section, would have in or before the current year a total amount of income (the **insurance income**) under sections CB 6, CB 7, CB 12, CB 13, and CG 6 (which relate to income from certain disposals of land and from compensation for trading stock) from the consideration, compensation, or insurance for the affected property that exceeds the total amount of deductions under sections DB 23 and DB 27 (which relate to deductions for the cost or value of land) for the affected property; and

(c) plans, in the current year, to acquire property (the **replacement property**)—

(i) replacing affected property; and

(ii) meeting the requirements of subsection (4); and

(iii) having a cost exceeding the total amount of deductions under sections DB 23 and DB 27 for the affected property; and

(d) notifies the Commissioner under subsection (6) in relation to the affected property.

Suspended recovery income

(2) The amount (the **excess recovery**) by which the insurance income referred to in subsection (1)(b) exceeds the deductions referred to in subsection (1)(b) is not income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under subsection (3) that is attributed to an income year by subsection (5).

Effect of purchase of replacement property

(3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property,—

(a) for the purposes of determining the value of the replacement property for section EA 2 (Other revenue account property), the amount of the person's expenditure on the replacement property is reduced by—

(i) the amount calculated by dividing the replacement cost by the total amount of deductions under sections DB 23 and DB 27 for the affected property and multiplying the result by the excess of the insurance income over the replacement cost, if the insurance income exceeds the replacement cost and the calculated amount is less than or equal to the amount of insurance income; or

(ii) the amount of the excess recovery, if the insurance income does not exceed the replacement cost or is less than the amount calculated in subparagraph (i); and

(b) the amount of the suspended recovery income immediately before the expenditure is reduced by an amount equal to the reduction of expenditure under paragraph (a) for the purposes of section EA 2.

Requirements for replacement property

(4) For an item of affected property, replacement property must be a building or land that is revenue account property—

(a) acquired in or before the person's 2023–24 income year; and

(b) located in greater Christchurch as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011.

Amount remaining at end of 2023–24 income year or when person changes intentions, is liquidated, or becomes bankrupt

(5) The person has an amount of income for the affected property in the current year equal to the amount of suspended recovery income when—

(a) the current year ends, if the current year is the 2023–24 income year:

(b) in the current year, the person decides not to replace the affected property:

(c) in the current year, the person goes into liquidation or becomes bankrupt.

Notice of election for affected property

(6) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance for affected property must notify the Commissioner—

(a) by the later of 31 January 2012 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance for the affected property can be reasonably estimated; and

(b) if the current year is after the estimate year,—

(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and

(ii) for the current year, by the date on which the return of income is filed for the current year.

Contents of notice of election

(7) A notice under subsection (6) must—

(a) describe the affected property; and

(b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and

(c) give the cost of the replacement property and the reduction under subsection (3) of that cost for the purposes of section EA 2; and

(d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under this section at the end of the current year.

Relationship to section CG 6

(8) This section overrides section CG 6.

Defined in this Act: amount, deduction, income, income year, notice, notify, return of income

Section CZ 25: inserted (with effect on 4 September 2010), on 2 November 2012, by section 19 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section CZ 25(1): amended (with effect on 4 September 2010), on 18 March 2019, by section 147(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CZ 25(1): amended (with effect on 4 September 2010), on 27 February 2014, by section 28(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(1)(a)(i): amended (with effect on 4 September 2010), on 27 February 2014, by section 28(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(1)(a)(ii): amended (with effect on 19 April 2016), on 2 June 2016, by section 10(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CZ 25(1)(a)(ii): amended (with effect on 4 September 2010), on 27 February 2014, by section 28(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(1)(b): replaced (with effect on 4 September 2010), on 27 February 2014, by section 28(5) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(1)(c): replaced (with effect on 4 September 2010), on 27 February 2014, by section 28(6) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(1)(d): amended, on 2 June 2016, by section 10(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CZ 25(2): amended (with effect on 4 September 2010), on 27 February 2014, by section 28(7) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(3)(a): replaced (with effect on 4 September 2010), on 27 February 2014, by section 28(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(4)(a): amended (with effect on 4 September 2010), on 18 March 2019, by section 147(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CZ 25(4)(a): amended (with effect on 4 September 2010), on 27 February 2014, by section 28(9) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(5) heading: amended (with effect on 4 September 2010), on 18 March 2019, by section 147(3)(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CZ 25(5) heading: amended (with effect on 4 September 2010), on 27 February 2014, by section 28(10) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(5)(a): amended (with effect on 4 September 2010), on 18 March 2019, by section 147(3)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section CZ 25(5)(a): amended (with effect on 4 September 2010), on 27 February 2014, by section 28(11) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 25(6): amended, on 2 June 2016, by section 10(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CZ 25 list of defined terms **notify**: inserted, on 2 June 2016, by section 10(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

CZ 25B Land and buildings as revenue account property affected by Hurunui/Kaikōura earthquakes and replaced—insurance or compensation

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2024–25 income year when the person,—

(a) in or before the current year, derives for buildings or land (the **affected property**), all of which is revenue account property, insurance or compensation, if a Hurunui/Kaikōura earthquake as that term is defined in section 4 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016 damages the land and damages each building, or the neighbourhood of the building, causing the building to be useless for the purpose of deriving income and consequently to be demolished or abandoned for later demolition; and

(b) in the absence of this section, would have in or before the current year a total amount of income (the **insurance income**) under sections CB 6, CB 7, CB 12, CB 13, and CG 6 (which relate to income from certain disposals of land and from compensation for trading stock) from the compensation or insurance for the affected property that exceeds the total amount of deductions under sections DB 23 and DB 27 (which relate to deductions for the cost or value of land) for the affected property; and

(c) plans, in the current year, to acquire property (the **replacement property**)—

(i) replacing affected property; and

(ii) meeting the requirements of subsection (4); and

(iii) having a cost exceeding the total amount of deductions under sections DB 23 and DB 27 for the affected property; and

(d) notifies the Commissioner under subsection (6) in relation to the affected property.

Suspended recovery income

(2) The amount (the **excess recovery**) by which the insurance income referred to in subsection (1)(b) exceeds the deductions referred to in subsection (1)(b) is not income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under subsection (3) that is attributed to an income year by subsection (5).

Effect of purchase of replacement property

(3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property,—

(a) for the purposes of determining the value of the replacement property for section EA 2 (Other revenue account property), the amount of the person's expenditure on the replacement property is reduced by—

(i) the amount calculated by dividing the replacement cost by the total amount of deductions under sections DB 23 and DB 27 for the affected property and multiplying the result by the excess of the insurance income over the replacement cost, if the insurance income exceeds the replacement cost and the calculated amount is less than or equal to the amount of insurance income; or

(ii) the amount of the excess recovery, if the insurance income does not exceed the replacement cost or is less than the amount calculated in subparagraph (i); and

(b) the amount of the suspended recovery income immediately before the expenditure is reduced by an amount equal to the reduction of expenditure under paragraph (a) for the purposes of section EA 2.

Requirements for replacement property

(4) For an item of affected property, replacement property must be a building or land that is revenue account property—

(a) acquired in or before the person's 2023–24 income year; and

(b) located in the earthquake-affected area as that term is defined in section 4 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016, relating to—

(i) the Canterbury Regional Council (Environment Canterbury), the Hurunui District Council, the Kaikoura District Council, or the Marlborough District Council, if the affected property is located in an earthquake-affected area relating to 1 of those councils; or

(ii) the Wellington City Council, the Hutt City Council, or the Wellington Regional Council (Greater Wellington), if the affected property is located in an earthquake-affected area relating to 1 of those councils.

Amount remaining at end of 2023–24 income year or when person changes intentions, is liquidated, or becomes bankrupt

(5) The person has an amount of income for the affected property in the current year equal to the amount of suspended recovery income when—

(a) the current year ends, if the current year is the 2023–24 income year:

(b) in the current year, the person decides not to replace the affected property:

(c) in the current year, the person goes into liquidation or becomes bankrupt.

Notice of election for affected property

(6) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance for affected property must notify the Commissioner.

Contents of notice of election

(7) A notice under subsection (6) must—

(a) describe the affected property; and

(b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and

(c) give the cost of the replacement property and the reduction under subsection (3) of that cost for the purposes of section EA 2; and

(d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under this section at the end of the current year.

Relationship to section CG 6

(8) This section overrides section CG 6.

Defined in this Act: amount, deduction, income, income year, notice, notify

Section CZ 25B: inserted (with effect on 30 March 2017), on 18 March 2019, by section 148(1) (and see section 148(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

CZ 25C Land or buildings as revenue account property affected by North Island flooding events and replaced—insurance or compensation

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,—

(a) in or before the current year, derives for buildings or land (the **affected property**), all of which is revenue account property under section CB 6, CB 7, CB 12, or CB 13 (which relate to income from certain disposals of land), insurance, a government or local authority buy-out or other compensation, or a combination of these, if a North Island flooding event damages the land or the building, or the neighbourhood of the building,

causing the building to be useless for the purpose of deriving income and consequently to be demolished or abandoned for later demolition; and

(b) in the absence of this section, would have, in or before the current year, a total amount of income (the **insurance income**) under section CB 6, CB 7, CB 12, CB 13, or CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) from the compensation or insurance for the affected property that exceeds the total amount of deductions under section DB 23 (Cost of revenue account property) for the affected property; and

(c) plans, in the current year, to acquire property (the **replacement property**)—

(i) replacing affected property; and

(ii) meeting the requirements of subsection (4); and

(iii) having a cost exceeding the total amount of deductions under section DB 23 for the affected property; and

(d) notifies the Commissioner under subsection (6) in relation to the affected property.

Suspended recovery income

(2) The amount (the **excess recovery**) by which the insurance income referred to in subsection (1)(b) exceeds the deductions referred to in subsection (1)(b) is not income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under subsection (3) that is attributed to an income year by subsection (5).

Effect of purchase of replacement property

(3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property,—

(a) for the purposes of determining the value of the replacement property for section EA 2 (Other revenue account property), the amount of the person's expenditure on the replacement property is reduced by—

(i) the amount calculated by dividing the replacement cost by the total amount of deductions under section DB 23 for the affected property and multiplying the result by the excess of the insurance income over the replacement cost, if the insurance income exceeds the replacement cost and the calculated amount is less than or equal to the amount of insurance income; or

(ii) the amount of the excess recovery, if the insurance income does not exceed the replacement cost or is less than the amount calculated in subparagraph (i); and

(b) the amount of the suspended recovery income immediately before the expenditure is reduced by an amount equal to the reduction of expenditure under paragraph (a) for the purposes of section EA 2.

Requirements for replacement property

(4) For an item of affected property, replacement property must be a building or land that is revenue account property—

(a) acquired in or before the person's 2027–28 income year; and

(b) located in New Zealand.

Amount remaining at end of 2027–28 income year or when person changes intentions, is liquidated, or becomes bankrupt

(5) The person has an amount of income for the affected property in the current year equal to the amount of suspended recovery income when—

(a) the current year ends, if the current year is the 2027–28 income year:

(b) in the current year, the person decides not to replace the affected property:

(c) in the current year, the person goes into liquidation or becomes bankrupt.

Notice of election for affected property

(6) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance for affected property must notify the Commissioner—

(a) by the later of 30 April 2024 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance for the affected property can be reasonably estimated; and

(b) if the current year is after the estimate year,—

(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and

(ii) for the current year, by the date on which the return of income is filed for the current year.

Later deadline for notice of election

(7) The Commissioner may allow the person to file the notice under subsection (6) at a later time if the Commissioner considers there are exceptional circumstances.

Contents of notice of election

(8) A notice under subsection (6) must—

(a) describe the affected property; and

(b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and

(c) give the cost of the replacement property and the reduction under subsection (3) of that cost for the purposes of section EA 2; and

(d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under this section at the end of the current year.

Relationship to other sections

(9) This section overrides sections CB 6, CB 7, CB 12, CB 13, and CG 6.

Defined in this Act: amount, Commissioner, deduction, income, income year, land, liquidation, New Zealand, North Island flooding events, notice, notify, return of income, revenue account property

Section CZ 25C: inserted (with effect on 1 April 2022), on 28 March 2024, by section 28(1) (and see section 28(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CZ 25D Improvements to farmland and horticultural plants affected by North Island flooding events and replaced—insurance or compensation

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,—

(a) in or before the current year, receives an amount of insurance or compensation for improvements to land subject to section DO 4 or DO 5 (which relate to improvements to land) (the **affected property**) that was damaged or destroyed by a North Island flooding event; and

(b) in the absence of this section, would have, in or before the current year, a total amount of income (the **insurance income**) under section CG 4 (Receipts for expenditure or loss from insurance, indemnity, or otherwise) from the compensation or insurance for the affected property; and

(c) has claimed deductions for the affected property under 1 or more of section DO 4, DO 5, or DO 11 (which relate to improvements to land); and

(d) plans, in the current year, to acquire property (the **replacement property**)—

(i) replacing the affected property; and

(ii) meeting the requirements of subsection (5); and

(e) notifies the Commissioner under subsection (7) in relation to the affected property.

Insurance or compensation not income

(2) The amount of the insurance or compensation is not income unless subsection (3) or (6) applies.

Income where insurance or compensation proceeds exceed replacement cost

(3) Where the person incurs expenditure (the **replacement cost**) in the current year to acquire replacement property and the amount of the insurance or compensation exceeds the replacement cost,—

(a) the amount of the insurance or compensation is income in the current year to the extent to which it exceeds the replacement cost; but

(b) the amount of that income is reduced to the extent to which the amount of the insurance or compensation is also greater than the original cost of the affected property.

Value of replacement property

(4) If the person acquires replacement property, the value attributed to the expenditure to acquire the replacement property for the purposes of section DO 4 or DO 5, as applicable, is,—

(a) if the insurance income is equal to or greater than the replacement cost, zero:

(b) if the insurance income is less than the replacement cost, the extent to which the replacement cost exceeds the insurance income.

Requirements for replacement property

(5) For an item of affected property, replacement property must be an improvement to farm land as described in schedule 20, part A (Expenditure on farming, horticultural, aquacultural, and forestry improvements) or a listed horticultural plant—

(a) acquired in or before the person's 2027–28 income year; and

(b) located in New Zealand.

Income if replacement property not acquired by end of 2027–28 income year or when person changes intentions, is liquidated, or becomes bankrupt

(6) The person has an amount of income for the affected property in the current year equal to the insurance income when—

(a) the current year ends, if the current year is the 2027–28 income year:

(b) in the current year, the person decides not to replace the affected property:

(c) in the current year, the person goes into liquidation or becomes bankrupt.

Notice of election for affected property

(7) A person choosing to rely on this section to suspend in a current year the recognition of income from the insurance for affected property must notify the Commissioner—

(a) by the later of 30 April 2024 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the

amount of the insurance for the affected property can be reasonably estimated; and

(b) if the current year is after the estimate year,—

(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and

(ii) for the current year, by the date on which the return of income is filed for the current year.

Later deadline for notice of election

(8) The Commissioner may allow the person to file the notice under subsection (7) at a later time if the Commissioner considers there are exceptional circumstances.

Contents of notice of election

(9) A notice under subsection (7) must—

(a) describe the affected property; and

(b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and

(c) give the cost of the replacement property and the value attributed to that cost under subsection (4) for the purposes of section DO 4 or DO 5, as applicable; and

(d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under subsection (2) at the end of the current year.

Relationship to section CG 4

(10) This section overrides section CG 4.

Defined in this Act: amount, Commissioner, deduction, income, income year, land, liquidation, New Zealand, North Island flooding events, notice, notify, return of income

Section CZ 25D: inserted (with effect on 1 April 2022), on 28 March 2024, by section 29(1) (and see section 29(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 25D(1)(d)(ii): amended (with effect on 1 April 2022), on 29 March 2025, by section 35 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CZ 26 Land and buildings affected by Canterbury earthquakes—sections CB 9 to CB 11 and CB 14 overridden for Crown purchases

Sections CB 9 to CB 11 and CB 14 (which relate to disposals within 10 years of acquisition) do not apply to a person and land or buildings purchased by the Crown from the person under section 91, 103, or 104 of the Greater Christchurch Regeneration Act 2016.

Defined in this Act: land

Section CZ 26: replaced (with effect on 4 September 2010), on 27 February 2014, by section 29(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 26 heading: amended, on 27 February 2014, by section 29(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 26: amended (with effect on 19 April 2016), on 2 June 2016, by section 11 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section CZ 26: amended, on 27 February 2014, by section 29(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CZ 26B Land and buildings affected by North Island adverse weather event—sections CB 6A and CB 9 to CB 11 overridden for local authority and Crown purchases

Sections CB 6A and CB 9 to CB 11 (which relate to income from disposals of land) do not apply to a person and land or buildings, or both, purchased by the Crown or a local authority from the person if the land or buildings, or both, were damaged by a North Island adverse weather event.

Defined in this Act: land, local authority, North Island adverse weather event

Section CZ 26B: inserted (with effect on 1 April 2022), on 28 March 2024, by section 30(1) (and see section 30(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 26B heading: amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 26B: amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CZ 27 Prior bad debt deductions clawback

When this section applies

(1) This section applies when—

(a) a person acquires a debt before the introduction of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill (the **introduction day**); and

(b) the debt exists on the first day of the 2014–15 income year and a base price adjustment under section EW 31 (Base price adjustment formula) is not calculated for the debt in the 2014–15 income year or an earlier income year; and

(c) the person has taken, in a return of income, a deduction for the debt under section DB 31 (Bad debts) for an income year that starts before the introduction day (a **prior bad debt deduction**); and

(d) the prior bad debt deduction arose before the introduction day; and

(e) the person does not have a dispute with the Commissioner on the introduction day in relation to any prior bad debt deduction for the debt.

Income: prior bad debt deductions clawback

(2) The person has an amount of income equal to the difference between their total prior bad debt deductions for the debt, and the amount of deductions that they

would have had for the debt under section DB 31 for the same period of the prior bad debt deductions if section DB 31(3B), (4B), (4C), and (5B) were treated as applying on and after the first day that the person acquires the debt.

Defined in this Act: Commissioner, deduction, income, income year, return of income

Section CZ 27: inserted (with effect on 20 May 2013), on 27 February 2014, by section 30 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section CZ 27(2): amended (with effect on 20 May 2013), on 24 February 2016, by section 90 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CZ 28 Transitional provision for mineral mining: previously appropriated mining expenditure

When this section applies

(1) This section applies when—

(a) a mineral miner appropriates an amount of income for an income year to mining exploration expenditure or mining development expenditure; and

(b) the income year precedes the 2014–15 income year; and

(c) the mineral miner has a deduction under section DU 4 (Income appropriated to expenditure) and a corresponding amount of income under section CU 9 (Previous deduction for income appropriated) as those sections were immediately before the enactment of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014; and

(d) as a result of the application of those sections, the mineral miner has an income tax liability for the 2014–15 income year.

Timing

(2) The mineral miner may allocate the corresponding amount of income equally to the 2014–15 and 2015–16 income years.

Defined in this Act: amount, deduction, income, income tax liability, income year, mineral miner, mining development expenditure, mining exploration expenditure

Section CZ 28: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 31(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

CZ 29 Accommodation expenditure: Canterbury earthquake relief

When this section applies

(1) This section applies for the purposes of section CW 16B (Accommodation expenditure: out-of-town secondments and projects) when—

(a) the employment duties of an employee require them to work on a project of limited duration for rebuilding or recovery, including the repair and reconstruction of land, infrastructure, and other property in greater Christchurch as a result of the Canterbury earthquakes; and

(b) the distant workplace is a workplace in greater Christchurch.

Exempt income

(2) The value provided or expenditure incurred by the employer of the employee for or in relation to the accommodation is exempt income of the employee.

Modified definition of project of limited duration

(3) Despite paragraph (c)(iii) of the definition of **project of limited duration** and section CW 16C(2)(d) (Time periods for certain accommodation expenditure), for the purposes of this section, the 3-year limit is ignored and is replaced by the following:

(a) 5 years, if the employee starts work at the distant workplace in the period commencing on 4 September 2010 and ending on 31 March 2015:

(b) 4 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2015 and ending on 31 March 2016:

(c) 3 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2016 and ending on 31 March 2017:

(d) 3 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2017 and ending on 31 March 2018:

(e) 3 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2018 and ending on 31 March 2019.

Project periods: basis of time limits

(4) For the purposes of this section and section CW 16C,—

(a) in subsection (3)(a), the time limit is determined by whether the actual period of continuous work of the employee at the distant workplace is for a period of no more than 5 years:

(b) in subsection (3)(b) to (e), the time limits apply based on the employer's expectation of the employee's involvement in the project.

Definitions for this section

(5) In this section, **Canterbury earthquakes**, **greater Christchurch**, **rebuilding**, and **recovery** have the meanings given in section 4 of the Canterbury Earthquake Recovery Act 2011.

Relationship with section CZ 30

(6) Section CZ 30 does not apply to modify the application of this section.

Related provisions

(7) For the purposes of this section, the commencement and application provisions in sections 2 and 24 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 are treated as—

(a) commencing on 4 September 2010:

(b) applying for the person's income year that includes 4 September 2010 and for all later income years.

Defined in this Act: accommodation, amount, Canterbury earthquakes, distant workplace, employee, employer, exempt income, greater Christchurch, land, pay, period of continuous work, project of limited duration, rebuilding, recovery

Section CZ 29: inserted (with effect on 4 September 2010 and applying for a person's income year that includes that date and for all later income years), on 30 June 2014, by section 37(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CZ 29(3) heading: inserted (with effect on 4 September 2010), on 24 February 2016, by section 91 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CZ 29B Accommodation expenditure: North Island flooding events

When this section applies

(1) This section applies for the purposes of section CW 16B (Accommodation expenditure: out-of-town secondments and projects) when—

(a) the employment duties of an employee require them to work on a project of limited duration for rebuilding or recovery, including the repair and reconstruction of land, infrastructure, and other property in the areas affected by the North Island flooding events; and

(b) the distant workplace is a workplace in the areas affected by the North Island flooding events.

Exempt income

(2) The value provided or expenditure incurred by the employer of the employee for or in relation to the accommodation is exempt income of the employee.

Modified definition of project of limited duration

(3) Despite paragraph (c)(iii) of the definition of **project of limited duration** and section CW 16C(2)(d) (Time periods for certain accommodation expenditure), for the purposes of this section, the 3-year limit is ignored and is replaced by 5 years, if the employee starts work at the distant workplace in the period commencing on the date of the first relevant North Island flooding event, being 8 January 2023, 26 January 2023, or 12 February 2023, as the case may be, and ending 5 years after that date.

How time limit determined

(3B) For the purposes of this section and section CW 16C, the time limit is determined by whether the actual period of continuous work of the employee at the distant workplace is for a period of no more than 5 years.

Time limit extension

(4) Any time limit imposed by subsection (3) may be extended or modified by Order in Council made—

(a) on the recommendation of the Minister of Revenue; and

(b) before the expiry of the relevant time limit in subsection (3) that applies immediately before the Order in Council comes into force.

Definitions for this section

(5) In this section and section FP 22 (Accommodation expenditure incurred during emergency events),—

(a) **rebuilding** includes—

(i) extending, repairing, improving, subdividing, or converting any land, infrastructure, or other property; and

(ii) rebuilding communities:

(b) **recovery** includes restoration and enhancement.

Relationship with section CZ 30

(6) Section CZ 30 does not apply to modify the application of this section.

Secondary legislation

(7) An Order in Council under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Defined in this Act: accommodation, distant workplace, employee, employer, exempt income, land, North Island flooding events, period of continuous work, project of limited duration

Section CZ 29B: inserted (with effect on 8 January 2023), on 31 March 2023, by section 34 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section CZ 29B(3): amended (with effect on 8 January 2023), on 28 March 2024, by section 31(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B(3B) heading: inserted (with effect on 8 January 2023), on 28 March 2024, by section 31(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B(3B): inserted (with effect on 8 January 2023), on 28 March 2024, by section 31(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B(4): amended (with effect on 8 January 2023), on 28 March 2024, by section 31(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B(4)(b): amended (with effect on 8 January 2023), on 28 March 2024, by section 31(4) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B(5): amended, on 1 April 2025, by section 36(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CZ 29B(7) heading: inserted (with effect on 8 January 2023), on 29 March 2025, by section 36(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CZ 29B(7): inserted (with effect on 8 January 2023), on 29 March 2025, by section 36(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section CZ 29B list of defined terms **North Island flooding event**: repealed (with effect on 8 January 2023), on 28 March 2024, by section 31(6) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B list of defined terms **North Island flooding events**: inserted (with effect on 8 January 2023), on 28 March 2024, by section 31(6) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B list of defined terms **period of continuous work**: inserted (with effect on 8 January 2023), on 28 March 2024, by section 31(5) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section CZ 29B list of defined terms **project of limited duration**: inserted (with effect on 8 January 2023), on 28 March 2024, by section 31(5) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CZ 30 Transitional provision: application of certain accommodation provisions

When this section applies

(1) This section applies for the purposes of sections CE 1B, CW 16B to CW 16F, and CW 17CB (which relate to expenditure on accommodation and work-related meals) when an employer provides accommodation or incurs expenditure that meets the requirements of those provisions in the period that starts on 1 January 2011 or 1 April 2011, as applicable, and ends on 31 March 2015.

Transitional period: accommodation

(2) Despite the commencement and application provisions in the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 relating to the accommodation provisions, the employer may choose to apply those provisions to the expenditure incurred in the period, but only if they have not, before 6 December 2012, taken a tax position that the accommodation expenditure is taxable.

Transitional period: work-related meals

(3) Despite the commencement and application provisions in the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 relating to the work-related meal provisions, the employer may choose to apply those provisions to expenditure incurred in the period on work-related meals, but only if they have not already taken a tax position that the expenditure is taxable.

Basis of time limits for and after transitional period

(4) For the purposes of this section and section CW 16C, and for the period referred to in subsection (1), a time limit may be either—

(a) the actual period of continuous work of the employee at the distant workplace; or

(b) a time limit based on the employer's expectation of the employee's involvement in an out-of-town secondment or project of limited duration.

Related provisions

(5) For the purposes of this section, the commencement and application provisions in sections 2, 15, 24, and 26 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 are treated as—

(a) commencing on 1 January 2011 for the accommodation provisions, and 1 April 2011 for the work-related meal provisions:

(b) applying for the person's income year that includes 1 January 2011 or 1 April 2011, as applicable, and for all later income years.

Defined in this Act: accommodation, distant workplace, employee, employer, out-of-town secondment, period of continuous work, project of limited duration, tax, tax position

Section CZ 30: inserted (with effect on 1 January 2011 and applying for a person's income year that includes that date and for later income years), on 30 June 2014, by section 38(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section CZ 30 list of defined terms **tax position**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CZ 31 Accommodation expenditure: New Zealand Defence Force

When this section applies

(1) This section applies for the period that starts on 6 December 2012 and ends on 31 March 2015 for the purposes of section CE 1(1B) (Amounts derived in connection with employment) when—

(a) accommodation is provided to a person who is a member of the Defence Force by the Navy, Army, or Air Force, as those terms are defined in the Defence Act 1990; and

(b) the accommodation is provided in relation to the employment or service of the person.

Market value

(2) The value is an amount equal to the rent paid by the person for the accommodation.

Defined in this Act: accommodation, amount, employment

Section CZ 31: inserted (with effect on 6 December 2012), on 30 June 2014, by section 39 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CZ 32 Treatment of certain petroleum storage facilities

When this section applies

(1) This section applies for an income year when a petroleum miner disposes of an underground gas storage facility in relation to which they have been allowed a deduction under section DT 5 (Petroleum development expenditure)

for expenditure incurred before the date of enactment of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014.

Income

(2) Despite section CT 1(2) (Disposal of exploratory material or petroleum mining asset), the miner has an amount of income from the disposal of the storage facility for the income year calculated using the formula—

(past expenditure ÷ total expenditure) × amount on disposal.

Definition of items in formula

(3) In the formula,—

(a) **past expenditure** is the total amount of expenditure that the miner incurs in relation to the storage facility for which they have been allowed a deduction under section DT 5:

(b) **total expenditure** is the sum of—

(i) the amount of expenditure that the miner incurs in relation to the storage facility after the date of enactment of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 for which a deduction is allowed; and

(ii) the amount of past expenditure referred to in paragraph (a):

(c) **amount on disposal** is the total amount that the miner derives on the disposal of the storage facility.

Transitional provision for certain facilities

(4) Despite section CT 7(2) (Meaning of petroleum mining asset), an underground gas storage facility covered by petroleum mining permit number 52278 is a petroleum mining asset to the extent to which the expenditure incurred by the permit holder relates to activities specified in the work programme set out in schedule 3 of the permit. Permit number 52278 includes a replacement or supplementary permit to the extent to which it covers activities specified in the work programme in schedule 3 of permit 52278.

Defined in this Act: amount, deduction, income year, petroleum miner, petroleum mining asset, petroleum mining permit

Section CZ 32: inserted, on 30 June 2014, by section 40 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

CZ 33 Transitional exception for accommodation provided to ministers of religion

When this section applies

(1) This section applies for the period that starts on 1 July 2013 and ends on 31 March 2015 when accommodation is provided to a person who is a minister of religion and the property in which the accommodation is provided is supplied by the religious society or organisation of which they are a minister.

Income

(2) Despite section CE 1 (Amounts derived in connection with employment), the value of the accommodation is income of the person but is limited to the extent described in subsection (3).

Limited amount

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

remuneration × (1 − adjustment).

Definition of items in formula

(4) In the formula,—

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

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

Calculation of remuneration for purposes of section

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

Adjustments

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

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

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

Part years

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

Meaning of minister of religion

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

(a) means a person—

(i) who is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a

minister of a religious denomination or community that meets the charitable purpose of the advancement of religion; and

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

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

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

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

Section CZ 33: inserted (with effect on 1 July 2013), on 24 February 2016, by section 92 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

CZ 34 Income arising from tax accounting provision for aircraft engine overhauls

Income arising for a person under section DZ 23(2)(b) (Aircraft maintenance: tax accounting provisions for expenditure incurred after 2016–17 income year) is income of the person.

Section CZ 34: inserted, on 1 April 2017, by section 44 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

CZ 35 Treatment of backdated payments for social rehabilitation: 2008–09 to 2017–18 income years

[Repealed]

Section CZ 35: repealed (with effect on 1 April 2008), on 26 June 2019, by section 53 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

CZ 35 Amounts derived by Te Kōwhatu Tū Moana

Exempt income

(1) Income derived by Te Kōwhatu Tū Moana (the **trust**) is exempt income of the trustees and beneficiaries of the trust if it is derived by the trust in the 6-month period starting on 17 March 2019.

Meaning

(2) In this section, **Te Kōwhatu Tū Moana** has the meaning given in section 4 of the New Plymouth District Council (Waitara Lands) Act 2018.

Defined in this Act: beneficiary, exempt income, income, Te Kōwhatu Tū Moana, trustee

Section CZ 35: inserted, on 17 March 2019, by section 65(2) of the New Plymouth District Council (Waitara Lands) Act 2018 (2018 No 2 (L)).

Section CZ 35 list of defined terms **Te Kōwhatu Tū Moana**: inserted (with effect on 17 March 2019), on 23 March 2020, by section 104(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section CZ 35 list of defined terms **month**: repealed (with effect on 17 March 2019), on 23 March 2020, by section 104(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

CZ 36 Treatment of backdated payments for social rehabilitation: 2008–09 to 2017–18 income years

When this section applies

(1) This section applies for income years from the 2008–09 income year to the 2017–18 income year when—

(a) a person is paid an amount as a personal service rehabilitation payment; and

(b) the person pays an amount to another person for providing them with a key aspect of social rehabilitation, referred to in the definition of **personal service rehabilitation payment**, in an income year; and

(c) the payment referred to in paragraph (a) that is paid in relation to the service referred to in paragraph (b) is made in an income year that is later than the income year in which the service is provided to the person.

Treatment of payment

(2) If the Commissioner is satisfied that the tax obligations relating to the personal service rehabilitation payment have been met, the payment is treated as exempt income for the income year in which the person derives the payment.

Defined in this Act: amount, Commissioner, exempt income, income year, pay, personal service rehabilitation payment

Section CZ 36: inserted (with effect on 1 July 2008), on 26 June 2019, by section 54 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

CZ 37 Income equalisation schemes

Income

(1) A refund made to a person under section EZ 80 (Refund of excess deposit in main income equalisation account as consequence of election under section EZ 4B or FP 23) or EZ 81 (Refund of excess deposit in adverse event income equalisation account as consequence of election under section EZ 4B or FP 23) is, to the extent to which the refund is interest payable under section EH 6 (Interest on deposits in main income equalisation account) or EH 40 (Interest on deposits in adverse event income equalisation account), income of the person and is allocated to the income year in which the person receives the refund.

Excluded income

(2) A refund under section EZ 80 or EZ 81 is, to the extent to which the refund is not interest payable under section EH 6 or EH 40, excluded income.

Defined in this Act: excluded income, income, income year, interest, pay

Section CZ 37: inserted (with effect on 1 April 2017), on 30 March 2021, by section 24(1) (and see section 24(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section CZ 37(1): amended, on 1 April 2025, by section 37 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

CZ 38 Disposals of trading stock to non-associates without business purpose

[Repealed]

Section CZ 38: repealed, on 1 April 2024, by section 32 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CZ 39 Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018

[Repealed]

Section CZ 39: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CZ 40 Main home exclusion for bright-line: acquisition on or after 29 March 2018

[Repealed]

Section CZ 40: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

CZ 41 Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years

What this section applies to

(1) This section applies to a distribution by Fonterra to a supplying shareholder if the distribution is made for Fonterra's 2022–23, 2023–24, or 2024–25 income year.

Treatment of distribution

(2) The distribution is not a dividend to the extent to which the distribution is for the supplying shareholder's—

(a) transaction shares:

(b) projected transactions shareholding:

(c) qualifying non-transaction shares:

(d) projected qualifying non-transaction shareholding.

Companies Act 1993

(3) The 20-working-day rule for fixing a date in section 125(2) of the Companies Act 1993 does not apply to shareholders' entitlements to receive distributions from Fonterra if, for the purposes of subsection (1) of that section, the board of Fonterra has fixed a date in relation to shareholders' entitlements to receive distributions before the entitlements arise and that date is within the year or period to which the distributions relate.

Some definitions

(4) In this section,—

Fonterra means Fonterra Co-operative Group Limited

projected qualifying non-transaction shareholding means the number of qualifying non-transaction shares in Fonterra that the supplying shareholder would have held if the trading transactions actually had occurred that the supplying shareholder had projected, using reasonable assumptions, would occur in the period to which the distribution relates

projected transactions shareholding means the number of shares in Fonterra that the supplying shareholder would have had to hold if the trading transactions actually had occurred that the supplying shareholder had projected, using reasonable assumptions, would occur in the period to which the distribution relates. The number of shares must determine the value of the trading transactions

qualifying non-transaction shares means the number of shares in Fonterra that the supplying shareholder holds—

(a) that are not transaction shares and are not their projected transactions shareholding; but

(b) not including any shares in Fonterra that the supplying shareholder holds described in paragraph (a) in excess of the nearest whole number to the number calculated by multiplying the supplying shareholder's transaction shares on the date of entitlement for the distribution under section 125 of the Companies Act 1993 by 2.0303

supplying shareholder means a supplying shareholder, within the meaning of that term in section 34 of the Co-operative Companies Act 1996, in relation to Fonterra

trading transactions means transactions between the supplying shareholder and Fonterra that are—

(a) the disposal and acquisition of trading stock of the vendor that is not intangible property; and

(b) not subject to section CB 2 (Amounts received on disposal of business assets that include trading stock)

transaction shares means the number of shares in Fonterra that the supplying shareholder holds for trading transactions that occurred in the period to which the distribution relates. The number of shares must determine the value of the trading transactions.

Defined in this Act: dividend, Fonterra, income year, projected qualifying non-transaction shareholding, projected transactions shareholding, qualifying non-transaction shares, share, supplying shareholder, trading stock, trading transactions, transaction shares

Section CZ 41: inserted (with effect on 1 July 2022), on 28 March 2024, by section 34 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Part D
Deductions

Subpart DA—General rules

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DA 1 General permission

Nexus with income

(1) A person is allowed a deduction for an amount of expenditure or loss, including an amount of depreciation loss, to the extent to which the expenditure or loss is—

(a) incurred by them in deriving—

(i) their assessable income; or

(ii) their excluded income; or

(iii) a combination of their assessable income and excluded income; or

(b) incurred by them in the course of carrying on a business for the purpose of deriving—

(i) their assessable income; or

(ii) their excluded income; or

(iii) a combination of their assessable income and excluded income.

General permission

(2) Subsection (1) is called the **general permission**.

Avoidance arrangements

(3) Section GB 33 (Arrangements involving depreciation loss) may apply to override the general permission in relation to an amount of depreciation loss.

Defined in this Act: amount, assessable income, business, deduction, depreciation loss, excluded income, general permission, loss

Compare: 2004 No 35 s DA 1

DA 2 General limitations

Capital limitation

(1) A person is denied a deduction for an amount of expenditure or loss to the extent to which it is of a capital nature. This rule is called the **capital limitation**.

Private limitation

(2) A person is denied a deduction for an amount of expenditure or loss to the extent to which it is of a private or domestic nature. This rule is called the **private limitation**.

Exempt income limitation

(3) A person is denied a deduction for an amount of expenditure or loss to the extent to which it is incurred in deriving exempt income. This rule is called the **exempt income limitation**.

Employment limitation

(4) A person is denied a deduction for an amount of expenditure or loss to the extent to which it is incurred in deriving income from employment. This rule is called the **employment limitation**.

Withholding tax limitation

(5) A person is denied a deduction for an amount of expenditure or loss to the extent to which it is incurred in deriving non-resident passive income of the kind referred to in section RF 2(3) (Non-resident passive income). This rule is called the **withholding tax limitation**.

Non-residents' foreign-sourced income limitation

(6) A person is denied a deduction for an amount of expenditure or loss to the extent to which it is incurred in deriving non-residents' foreign-sourced income. This rule is called the **non-residents' foreign-sourced income limitation**.

Relationship of general limitations to general permission

(7) Each of the general limitations in this section overrides the general permission.

Defined in this Act: amount, capital limitation, deduction, employment limitation, exempt income, exempt income limitation, general limitation, general permission, income from employment, loss, non-residents' foreign-sourced income, non-residents' foreign-sourced income limitation, private limitation, withholding tax limitation

Compare: 2004 No 35 s DA 2

DA 3 Effect of specific rules on general rules

Supplements to general permission

(1) A provision in any of subparts DB to DZ may supplement the general permission. In that case, a person to whom the provision applies does not have to satisfy the general permission to be allowed a deduction.

Express reference needed to supplement

(2) A provision in any of subparts DB to DZ takes effect to supplement the general permission only if it expressly states that it supplements the general permission.

Relationship of general limitations to supplements to general permission

(3) Each of the general limitations overrides a supplement to the general permission in any of subparts DB to DZ, unless the provision creating the supplement expressly states otherwise.

Relationship between other specific provisions and general permission or general limitations

(4) A provision in any of subparts DB to DZ may override any 1 or more of the general permission and the general limitations.

Express reference needed to override

(5) A provision in any of subparts DB to DZ takes effect to override the general permission or a general limitation only if it expressly states that—

(a) it overrides the general permission or the relevant limitation; or

(b) the general permission or the relevant limitation does not apply.

Part E

(6) No provision in Part E (Timing and quantifying rules) supplements the general permission or overrides the general permission or a general limitation.

Defined in this Act: deduction, general limitation, general permission, supplement

Compare: 2004 No 35 s DA 3

DA 4 Treatment of amount of depreciation loss

The capital limitation does not apply to an amount of depreciation loss merely because the item of property is itself of a capital nature.

Defined in this Act: amount, capital limitation, depreciation loss

Compare: 2004 No 35 s DA 4

DA 5 Treatment of expenditure for commercial fit-out

[Repealed]

Section DA 5: repealed (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 93(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

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Taxes and other amounts

Heading: substituted (with effect on 1 April 2008), on 29 August 2011, by section 12 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

DB 1 Taxes, other than GST, and penalties

No deduction

(1) A person is denied a deduction for the following:

(a) income tax:

(b) a tax imposed in a country or territory outside New Zealand that is 1 or more of the following:

(i) substantially the same as income tax:

(ii) based on Articles 2.1 to 2.3 of the global anti-base erosion model rules:

(iii) based on Articles 2.4 to 2.6 of those model rules:

(iv) a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of those model rules:

(v) substantially the same as multinational top-up tax payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules):

(bb) an amount withheld under section 1471 or 1472 of the Internal Revenue Code of 1986 (USA), as amended from time to time:

(c) ancillary tax, unless listed in subsection (2):

(d) a civil penalty under Part 9 of the Tax Administration Act 1994:

(e) a tax, a penalty, or interest on unpaid tax that is—

(i) payable under the laws of a country or territory outside New Zealand; and

(ii) substantially the same as a civil penalty as defined in section 3(1) of the Tax Administration Act 1994, or a criminal penalty under Part 9 of the Act, or interest imposed under Part 7 of the Act.

Some ancillary tax excluded

(2) Subsection (1) does not apply to—

(a) pay-as-you-earn (PAYE):

(b) fringe benefit tax (FBT):

(c) employer's superannuation contribution tax (ESCT):

(d) resident withholding tax (RWT):

(e) non-resident withholding tax (NRWT).

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: ancillary tax, deduction, ESCT, FBT, general permission, global anti-base erosion model rules, income tax, multinational top-up tax, New Zealand, NRWT, pay, PAYE, RWT, tax

Compare: 2004 No 35 s DB 1

Section DB 1(1)(b): replaced (with effect on 1 January 2024), on 28 March 2024, by section 35(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 1(1)(b)(v): replaced, on 1 January 2026, by section 35(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 1(1)(bb): inserted, on 1 July 2014, by section 41 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 1 list of defined terms **global anti-base erosion model rules**: inserted (with effect on 1 January 2024), on 28 March 2024, by section 35(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 1 list of defined terms **multinational top-up tax**: inserted, on 1 January 2026, by section 35(4) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DB 2 Goods and services tax

No deduction

(1) A registered person is denied a deduction for the following:

(a) input tax on a supply of goods or services to them:

(ab) a flat-rate credit, as defined in section 2(1) of the Goods and Services Tax Act 1985:

(b) goods and services tax (GST) payable by them to the Commissioner.

Deduction

(2) A registered person is allowed a deduction for deductible output tax but only to the extent to which—

(a) they are allowed a deduction for expenditure that they incur in acquiring or producing the goods or services; or

(b) they are allowed a deduction for an amount of depreciation loss for the goods or services.

Treatment of flat-rate credit

(2B) For the purposes of subsections (1) and (2), an underlying supplier referred to in section 8C of the Goods and Services Tax Act 1985 who is not a registered person is treated as if they were a registered person for the purposes of this section in relation to a deduction for expenditure to the extent to which the expenditure is attributable to a supply of listed services. However, this subsection does not apply if the underlying supplier has received a flat-rate credit, as defined in section 2(1) of that Act, in an income year and has chosen as described in section CH 5B (Adjustments for certain flat-rate credits under platform economy rules) to include the amount of the credit in their income for the income year.

Exclusion

(3) Subsection (2) does not apply to an adjustment made in relation to a capital asset.

Depreciable property

(4) The provisions that apply when an amount of depreciation loss is quantified by reference to the cost of an item of depreciable property to a person are in section EE 54 (Cost: GST).

Link with subpart DA

(5) The link between this section and subpart DA (General rules) is as follows:

(a) subsection (1) overrides the general permission:

(b) subsection (2) supplements the general permission; the general limitations still apply.

Defined in this Act: amount, Commissioner, deductible output tax, deduction, depreciable property, depreciation loss, general limitation, general permission, goods, GST, GST payable, income, income year, input tax, output tax, pay, registered person, services, supplement

Compare: 2004 No 35 s DB 2

Section DB 2(1)(ab): inserted (with effect on 1 April 2024), on 29 March 2025, by section 38(1) (and see section 38(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DB 2(2): amended, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 37(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DB 2(2): amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 37(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DB 2(2): amended (with effect on 1 April 2008), on 7 December 2009, by section 10 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB (2B) heading: inserted, on 1 April 2024, by section 36 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DB (2B): inserted, on 1 April 2024, by section 36 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DB 2(2B): amended (with effect on 1 April 2024), on 29 March 2025, by section 38(2) (and see section 38(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DB 2(3): substituted, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 37(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DB 2 list of defined terms **deductible output tax**: inserted, on 21 December 2010, by section 37(4)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DB 2 list of defined terms **income year**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 38(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DB 2 list of defined terms **taxable supply**: repealed, on 21 December 2010, by section 37(4)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

DB 3 Determining tax liabilities

Deduction

(1) A person is allowed a deduction for expenditure that they incur in connection with the following matters:

(a) calculating or determining their income tax liability for a tax year:

(b) calculating or determining the GST payable by them in a taxable period:

(c) preparing, instituting, or presenting an objection or challenge to, or an appeal following, a determination or assessment made under this Act or an earlier Act, the Tax Administration Act 1994, or the Goods and Services Tax Act 1985:

(d) making a contribution towards the expenditure incurred by another person if—

(i) the other person is allowed a deduction for that expenditure; and

(ii) the expenditure relates to a matter affecting the determination of the first person's liability for income tax or GST; and

(iii) the first person has objected to, challenged, or appealed against an assessment or determination made in relation to the matter under this Act or an earlier Act, the Tax Administration Act 1994, or the Goods and Services Tax Act 1985.

Exclusions

(2) This section does not apply to expenditure that a person incurs in connection with the following matters:

(a) a matter arising from a return of income or a return under the Goods and Services Tax Act 1985 that was fraudulent or wilfully misleading:

(b) an offence under any of the Inland Revenue Acts:

(c) a shortfall penalty assessed under this Act or an earlier Act, the Tax Administration Act 1994, or the Goods and Services Tax Act 1985 (but not an assessment that is later cancelled):

(d) an objection, challenge, or appeal that is inconsequential or frivolous:

(e) a matter arising under the Goods and Services Tax Act 1985 to the extent to which it relates to a taxable activity that does not constitute a business for the purposes of this Act.

Taxable activity

(3) In this section, **taxable activity** is defined in section 6 of the Goods and Services Tax Act 1985.

Link with subpart DA

(4) This section supplements the general permission and overrides the capital limitation, the private limitation, and the employment limitation. The other general limitations still apply.

Defined in this Act: amount, assessment, business, capital limitation, deduction, employment limitation, general limitation, general permission, GST, GST payable, income tax liability, Inland Revenue Acts, pay, private limitation, return of income, supplement, tax year, taxable activity, taxable period

Compare: 2004 No 35 s DB 3

Section DB 3(4): substituted (with effect on 1 April 2008), on 6 October 2009, by section 68(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 3(4) list of defined terms **capital limitation**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 68(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DB 3B Use of money interest

Deduction

(1) A person is allowed a deduction for an amount of interest they are liable to pay under Part 7 of the Tax Administration Act 1994.

Timing of deduction

(2) The deduction is allocated under section EF 5 (Use of money interest payable by person).

Link with subpart DA

(3) This section supplements the general permission and overrides the capital limitation, the private limitation, and the employment limitation. The other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, employment limitation, general limitation, general permission, private limitation

Section DB 3B: inserted (with effect on 1 April 2008), on 29 August 2011, by section 13(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

DB 4 Chatham Islands dues

Deduction

(1) A person is allowed a deduction for expenditure incurred on dues levied under the Chatham Islands Council Act 1995 that relate to goods that the person uses in connection with carrying on a business.

Timing of deduction

(2) The deduction is allocated to the income year in which the dues are paid.

Exclusion of expenditure: other deductions

(3) Expenditure to which subsection (1) applies must not be taken into account in calculating the cost of the goods for the purpose of a deduction relating to the goods under any other provision of this Act.

Link with subpart DA

(4) The link between this section and subpart DA (General rules) is as follows:

(a) subsection (1) supplements the general permission and overrides the capital limitation; the other general limitations still apply:

(b) subsection (3) overrides the general permission.

Defined in this Act: business, capital limitation, deduction, general permission, general limitation, income year, pay, supplement

Compare: 2004 No 35 s DB 4

DB 4B Fees to purchase funds in tax pooling accounts

Deduction

(1) A person is allowed a deduction for expenditure incurred in purchasing an amount held in a tax pooling account to pay a liability for provisional tax,

terminal tax, or an increase in an assessment of tax as described in sections RP 17 to RP 21 (which relate to tax pooling intermediaries).

Timing of deduction

(2) The deduction is allocated to the income year in which the amount is transferred into the person's tax account by the Commissioner to satisfy the person's obligation to pay the tax.

Link with subpart DA

(3) This section supplements the general permission and overrides the private limitation, the employment limitation, and the withholding tax limitation. The other general limitations still apply.

Defined in this Act: amount, assessment, Commissioner, deduction, employment limitation, general permission, income year, intermediary, pay, private limitation, provisional tax, tax account with the Commissioner, tax pooling account, terminal tax, withholding tax limitation

Section DB 4B: inserted, on 29 August 2011, by section 14 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Financing costs

DB 5 Transaction costs: borrowing money for use as capital

Deduction

(1) A person is allowed a deduction for expenditure incurred in borrowing money that is used as capital in deriving their income.

Relationship with subpart DG

(1B) Subpart DG (Expenditure related to use of certain assets) overrides this section for expenditure to which that subpart relates.

Link with subpart DA

(2) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, income

Compare: 2004 No 35 s DB 5

Section DB 5(1B) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 24(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 5(1B): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 24(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DB 6 Interest: not capital expenditure

Deduction

(1) A person is allowed a deduction for interest incurred.

Exclusion

(2) Subsection (1) does not apply to interest for which a person is denied a deduction under section DB 1.

Conduit financing arrangements

[Repealed]

(3) *[Repealed]*

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, interest

Compare: 2004 No 35 s DB 6

Section DB 6(3) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 69(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 6(3): repealed (with effect on 30 June 2009), on 6 October 2009, by section 69(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DB 7 Interest: most companies need no nexus with income

Deduction

(1) A company is allowed a deduction for interest incurred.

Exclusion: qualifying company

(2) Subsection (1) does not apply to a qualifying company.

Exclusion: exempt income

(3) If a company (**company A**) derives exempt income or another company (**company B**) that is part of the same wholly-owned group of companies derives exempt income, subsection (1) applies to company A only if all the exempt income is 1 or more of the following:

(a) dividends:

(b) income exempted under section CW 58 (Disposal of companies' own shares):

(bb) income exempted under section CW 59C (Life reinsurance claims from reinsurer outside New Zealand):

(c) income exempted under section CW 60 (Stake money) and ancillary to the company's business of breeding.

Exclusion: non-resident company

(4) If a company is a non-resident company, subsection (1) applies only to the extent to which the company incurs interest in the course of carrying on a business through a fixed establishment in New Zealand.

Exclusion: interest related to tax

(5) Subsection (1) does not apply to interest for which a person is denied a deduction under section DB 1.

Consolidated groups

(6) Section FM 12 (Expenditure when deduction would be denied to consolidated group) may apply to allow a deduction under this section to a company that is part of a consolidated group.

Relationship with subpart DE

(6BA) Subpart DE (Motor vehicle expenditure) overrides this section for expenditure to which that subpart relates, if a company is a close company that has chosen to apply that subpart instead of the FBT rules, in accordance with section CX 17(4B)(c) (Benefits provided to employees who are shareholders or investors).

Relationship with subpart DG

(6B) Subpart DG (Expenditure related to use of certain assets) overrides this section for expenditure to which that subpart relates.

Relationship with subpart DH

[Repealed]

(6C) *[Repealed]*

Conduit financing arrangements

[Repealed]

(7) *[Repealed]*

Link with subpart DA

(8) This section supplements the general permission and overrides the capital limitation, the exempt income limitation, and the withholding tax limitation. The other general limitations still apply.

Defined in this Act: business, capital limitation, close company, company, consolidated group, deduction, dividend, exempt income, exempt income limitation, FBT rules, fixed establishment, general limitation, general permission, income, interest, New Zealand, non-resident company, qualifying company, supplement, wholly-owned group of companies, withholding tax limitation

Compare: 2004 No 35 s DB 7

Section DB 7(3)(a): amended (with effect on 1 July 2010 and applying for the income year including 1 July 2010 and later income years), on 30 March 2017, by section 45(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 7(3)(b): amended (with effect on 1 July 2010 and applying for the income year including 1 July 2010 and later income years), on 30 March 2017, by section 45(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 7(3)(bb): inserted (with effect on 1 July 2010 and applying for the income year including 1 July 2010 and later income years), on 30 March 2017, by section 45(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 7(3)(bb): amended, on 1 July 2018, by section 9 of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DB 7(6BA) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DB 7(6BA): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DB 7(6B) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 25(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 7(6B): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 25(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 7(6C) heading: repealed, on 1 April 2025, pursuant to section 36 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 7(6C): repealed, on 1 April 2025, by section 36 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 7(7) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 70(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 7(7): repealed (with effect on 30 June 2009), on 6 October 2009, by section 70(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 7 list of defined terms **close company**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DB 7 list of defined terms **FBT rules**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

DB 8 Interest: money borrowed to acquire shares in group companies

Deduction: borrowing to acquire group company shares

(1) A company is allowed a deduction for interest incurred on money borrowed to acquire shares in another company that is part of the same group of companies.

Exclusion: group not in existence at year end

(2) Subsection (1) does not apply if the 2 companies are not part of the same group of companies at the end of the tax year that corresponds to the income year in which the deduction is allowed.

Deduction: interest after resident's restricted amalgamation

(3) A company is allowed a deduction for interest incurred on money borrowed to acquire shares in another company that has ended its existence on a resident's restricted amalgamation.

Exclusion: group not in existence immediately before resident's restricted amalgamation

(4) Subsection (3) does not apply if the 2 companies were not part of the same group of companies immediately before the resident's restricted amalgamation.

Application from income year of resident's restricted amalgamation

(5) Subsection (3) applies in the income year in which the resident's restricted amalgamation occurs and in later income years.

Consolidated groups

(6) Section FM 12 (Expenditure when deduction would be denied to consolidated group) may apply to allow a deduction under this section to a company that is part of a consolidated group.

Relationship with subpart DE

(6BA) Subpart DE (Motor vehicle expenditure) overrides this section for expenditure to which that subpart relates, if a company is a close company that has chosen to apply that subpart instead of the FBT rules, in accordance with section CX 17(4B)(c) (Benefits provided to employees who are shareholders or investors).

Relationship with subpart DG

(6B) Subpart DG (Expenditure related to use of certain assets) overrides this section for expenditure to which that subpart relates.

Relationship with subpart DH

[Repealed]

(6C) *[Repealed]*

Conduit financing arrangements

[Repealed]

(7) *[Repealed]*

Link with subpart DA

(8) This section supplements the general permission and overrides the capital limitation, the exempt income limitation, and the withholding tax limitation. The other general limitations still apply.

Defined in this Act: close company, company, consolidated group, deduction, exempt income limitation, FBT rules, general limitation, general permission, group of companies, income year, interest, resident's restricted amalgamation, share, supplement, withholding tax limitation

Compare: 2004 No 35 s DB 8

Section DB 8(6BA) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 70(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DB 8(6BA): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 70(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DB 8(6B) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 26(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 8(6B): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 26(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 8(6C) heading: repealed, on 1 April 2025, pursuant to section 37 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 8(6C): repealed, on 1 April 2025, by section 37 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 8(7) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 71(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 8(7): repealed (with effect on 30 June 2009), on 6 October 2009, by section 71(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 8 list of defined terms **close company**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 70(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DB 8 list of defined terms **FBT rules**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 70(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

DB 9 Interest incurred on money borrowed to acquire shares in qualifying companies

Deduction for interest incurred

(1) The deduction that a shareholder in a qualifying company has for interest in an income year is reduced by the amount of non-cash dividends, other than taxable bonus issues, derived by them or an associated person from the company in the income year.

Exempt income

(2) In determining the amount of the deduction that the shareholder has for the interest, section CW 15(1) (Dividends paid by qualifying companies) does not apply to treat as exempt income a distribution from the qualifying company to the shareholder, and the distribution is excluded from the definition of **dividend**.

Associated persons

(3) If the associated person referred to in subsection (1) is associated with more than 1 shareholder in the company, the amount of non-cash dividends is apportioned among the associated shareholders according to their effective interests in the company in the income year.

Allocation of dividend

(4) If section CD 39 (Calculation of amount of dividend when property made available) applies to a dividend derived by a shareholder of a qualifying company, the dividend is treated as having been paid and derived at the end of the quarter in which the amount is calculated.

Link with subpart DA

(5) This section overrides—

(a) the general permission; and

(b) the exempt income limitation.

Defined in this Act: amount, associated person, bonus issue, deduction, dividend, effective interest, exempt income, exempt income limitation, general permission, income year, interest, non-cash dividend, pay, qualifying company, share, shareholder, taxable bonus issue

Compare: 2004 No 35 s HG 9(3)–(5)

DB 10 Interest or expenditure connected to profit-related debentures

When this section applies

(1) This section applies for the purposes of section FA 2 (Recharacterisation of certain debentures).

No deduction

(2) A company issuing a profit-related debenture is denied a deduction for—

(a) interest payable under the debenture; or

(b) expenditure or loss incurred in connection with the debenture; or

(c) expenditure or loss incurred in borrowing the money secured by or owing under the debenture.

Relationship with sections DB 5 to DB 8

(3) This section overrides sections DB 5 to DB 8.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: debenture, deduction, general permission, interest, pay, profit-related debenture

Compare: 2004 No 35 ss FC 1(1), FC 2(2)

Section DB 10 heading: amended, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 42(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 10(2): amended, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 42(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 10 list of defined terms **substituting debenture**: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an

arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 42(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 10B Interest or expenditure connected to stapled debt security

No deduction

(1) A company that issues a stapled debt security is denied, while section FA 2B(2) (Stapled debt securities) applies to the security, a deduction for—

(a) interest payable under the security:

(b) expenditure or loss incurred in connection with the security:

(c) expenditure or loss incurred in borrowing the money secured by or owing under the security.

Relationship with sections DB 5 to DB 8

(2) This section overrides sections DB 5 to DB 8.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: deduction, general permission, interest, pay, stapled debt security

Section DB 10B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 72 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Financial arrangements adjustments

DB 11 Negative base price adjustment

Deduction

(1) A person who has a negative base price adjustment under section EW 31(4) (Base price adjustment formula) is allowed a deduction for the expenditure to the extent to which it arises from assessable income, under section CC 3 (Financial arrangements), derived by the person under the financial arrangement in earlier income years.

Deduction: self-remission

(1B) A person who has a negative base price adjustment under section EW 31(4) for a financial arrangement is allowed a deduction for an amount of the negative base price adjustment up to the maximum of their amount of self-remission for the financial arrangement.

Deduction: cessation of LTCs and dissolution of limited partnerships

(1C) A person who has a negative base price adjustment under section EW 31(4) for a financial arrangement is allowed a deduction for an amount of the negative base price adjustment to the extent to which—

(a) section EW 47B (Cessation of LTCs and dissolution of partnerships) applies; and

(b) the amount is equal to or less than the consideration that they are treated as having paid, or that is or will be payable, by them for or under the relevant financial arrangement, under section EW 47B(2)(a).

Link with subpart DA

(2) This section supplements the general permission and overrides all the general limitations.

Defined in this Act: assessable income, deduction, financial arrangement, general limitation, general permission, income year, self-remission, supplement

Compare: 2004 No 35 s DB 9

Section DB 11(1B) heading: inserted (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 30 March 2017, by section 46(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 11(1B): inserted (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 30 March 2017, by section 46(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 11(1C) heading: inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 44(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DB 11(1C): inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 44(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DB 11 list of defined terms **self-remission**: inserted (with effect on 1 April 2011), on 30 March 2017, by section 46(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

DB 12 Base price adjustment under old financial arrangements rules

Deduction

(1) A person is allowed a deduction for an amount that is a deduction under section EZ 37(6) (Cash basis holder) or EZ 38(3) or (4) (Income and expenditure where financial arrangement redeemed or disposed of).

Link with subpart DA

(2) This section supplements the general permission and overrides all the general limitations.

Defined in this Act: amount, deduction, general limitation, general permission, supplement

Compare: 2004 No 35 s DB 9B

DB 13 Repayment of debt in certain circumstances

Deduction

(1) When section EW 49(5)(b) (Income and deduction when debt disposed of at discount to associate of debtor) or EW 49B(5)(b) (Guarantees within economic group) applies, the debtor is allowed a deduction for the amount quantified in the relevant subsection.

Link with subpart DA

(2) This section supplements the general permission and overrides all the general limitations.

Defined in this Act: amount, associated person, deduction, general limitation, general permission, supplement

Compare: 2004 No 35 s DB 10

Section DB 13 heading: amended, on 1 April 2017, by section 47(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 13(1): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 47(2)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 13(1): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 47(2)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 13(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DB 14 Security payment

When subsection (2) applies

(1) Subsection (2) applies when—

(a) a person receives a security payment for a loss; and

(b) no other provision of this Act allows the person a deduction for the loss.

Deduction: loss

(2) The person is allowed a deduction for the loss quantified in section EW 51(2) (Deduction for security payment).

When subsection (4) applies

(3) Subsection (4) applies when—

(a) a person receives a security payment for a share loss as described in section DB 24; and

(b) the requirements of section DB 24 are met; and

(c) no other provision of this Act allows the person a deduction for the loss.

Deduction: share loss

(4) The person is allowed a deduction for the share loss quantified in section EW 51(4).

Link with subpart DA

(5) This section supplements the general permission and overrides all the general limitations.

Defined in this Act: deduction, general limitation, general permission, loss, pay, security payment, supplement

Compare: 2004 No 35 s DB 11

DB 15 Sureties

When this section applies

(1) This section applies when a surety incurs expenditure or loss under a security arrangement.

No deduction (with exceptions)

(2) Neither the surety nor a person with whom the surety was an associated person over the security arrangement's term is allowed a deduction for the expenditure or loss to the extent to which the expenditure or loss is due to—

(a) the actions of the surety or a person with whom the surety was an associated person over the arrangement's term; or

(b) the occurrence of an event, if the occurrence could have been influenced by the surety or a person with whom the surety was an associated person over the arrangement's term; or

(c) the non-occurrence of an event, if the non-occurrence could have been influenced by the surety or a person with whom the surety was an associated person over the arrangement's term.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: associated person, deduction, general permission, loss, security arrangement

Compare: 2004 No 35 s DB 12

Share-lending arrangements and excepted financial arrangements

Heading: amended (with effect on 1 April 2018), on 26 June 2019, by section 55 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

DB 16 Share-lending collateral under share-lending arrangements

No deduction

(1) A person is denied a deduction for the amount of expenditure incurred as share-lending collateral under a share-lending arrangement.

Link with subpart DA and other subject matter

(2) This section overrides—

(a) the general permission:

(b) sections DB 23 to DB 26.

Defined in this Act: amount, deduction, general permission, share-lending arrangement, share-lending collateral

Compare: 2004 No 35 s DB 12B

DB 17 Replacement payments and imputation credits under share-lending arrangements

A person is allowed a deduction for—

(a) the amount of expenditure incurred as a replacement payment under a share-lending arrangement:

(b) the amount of imputation credit attached under sections OB 64 (Replacement payments) and RE 25 (When amount of tax treated as imputation credit) to the replacement payment.

Defined in this Act: amount, deduction, imputation credit, pay, replacement payment, share-lending arrangement

Compare: 2004 No 35 s DB 12C

Section DB 17 list of defined terms **portfolio investment-linked life fund**: repealed (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

DB 17B Transfers of emissions units under certain excepted financial arrangements

A person is denied a deduction for an amount of expenditure that relates to the market value of an emissions unit and is incurred by a person in a transfer of the emissions unit under an arrangement that is an excepted financial arrangement under section EW 5(11C) (What is an excepted financial arrangement?).

Defined in this Act: amount, arrangement, emissions unit, excepted financial arrangement, excluded income

Section DB 17B: inserted (with effect on 1 April 2018), on 26 June 2019, by section 56 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Premises or land costs

DB 18AA Square metre rate method

When this section applies

(1) A person may choose to apply this section to determine the amount of a deduction, in an income year, for the proportion of business use of a premises (the **premises**) that is used partly for business purposes and partly for other purposes.

Amount of deduction

(2) The amount of the deduction allowed in an income year for the business use of the premises is calculated using the formula—

(total premise costs × business proportion) +
(business square metres × square metre rate).

Definition of items in formula

(3) In the formula,—

(a) **total premise costs** is the total amount of actual mortgage interest, rates, and rent that the person has paid with respect to buildings and their curtilage on the premises in the income year:

(b) **business proportion** is determined by dividing business square metres by the total area of buildings on the premises in square metres:

(c) **business square metres** is the total area, in square metres, of any separately identifiable parts of buildings on the premises that are used primarily for business purposes:

(d) **square metre rate** is the applicable square metre rate that is published by the Commissioner.

No other deductions allowed

(4) A person who makes an election to apply this section under subsection (1) is not entitled to claim any other deductions for the business use of the premises.

Setting square metre rates

(5) For the purposes of this section, the Commissioner must from time to time set and publish square metre rates.

Defined in this Act: amount, business use, Commissioner, deduction, income year

Section DB 18AA: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 71(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DB 18AA(1): amended (with effect on 1 April 2017), on 18 March 2019, by section 150(1) (and see section 150(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DB 18AA(3): replaced (with effect on 1 April 2017), on 18 March 2019, by section 150(2) (and see section 150(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

DB 18A Ring-fenced allocations: disposal of residential land within 5 years

[Repealed]

Section DB 18A: repealed (with effect on 1 April 2019), on 26 June 2019, by section 57 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

DB 18AB Deduction cap: disposal of residential land within 5 years to associated persons

[Repealed]

Section DB 18AB: repealed (with effect on 1 April 2019), on 26 June 2019, by section 58 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

DB 18 Transaction costs: leases

Deduction

(1) A person is allowed a deduction for expenditure that they incur for the preparation and registration, or the renewal, of a lease of property.

Link with subpart DA

(2) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, lease

Compare: 2004 No 35 s DB 13

DB 19 Expenses in application for resource consent

When this section applies

(1) This section applies when a person who incurs expenditure for the purpose of applying for the grant of a resource consent under the Resource Management Act 1991—

(a) does not obtain the grant because the application is not lodged or is withdrawn, or because the grant is refused:

(b) obtains the grant but does not use the resource consent before it lapses or is surrendered.

Deduction

(1B) The person is allowed a deduction for the expenditure—

(a) that the person incurs in relation to the application or intended application; and

(b) that would have been part of the cost of depreciable property, or otherwise a deduction, if the application or intended application had been granted or if the resource consent had been used; and

(c) for which the person is not allowed a deduction under another provision.

Timing of deduction

(2) The deduction is allocated to the income year in which—

(a) the person decides not to lodge the application, withdraws the application, or is refused the grant; or

(b) the resource consent lapses or is surrendered.

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, income year

Compare: 2004 No 35 s DB 13B

Section DB 19 heading: replaced (with effect on 1 April 2014), on 30 June 2014, by section 43(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 19(1) heading: replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 43(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 19(1): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 43(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 19(1): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section DB 19(1B) heading: inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 43(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 19(1B): inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 43(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 19(2): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 43(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 19 list of defined terms **accounting year**: repealed, on 30 March 2017, by section 48 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

DB 20 Destruction of temporary building

Deduction

(1) A person is allowed a deduction for a loss that they incur through the destruction of a temporary building.

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, loss, supplement, temporary building

Compare: 2004 No 35 s DB 14

DB 20B Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence

When this section applies

(1) This section applies when—

(a) a person (the **payer**) incurs an amount of expenditure as consideration for the agreement by another person (the **payee**) to the grant, renewal, extension, or transfer of a right (the **land right**) that is a leasehold estate not including a perpetual right of renewal, or is a licence to use land; and

(b) the payer is the person who owns—

(i) the land right:

(ii) the estate in land from which the land right is granted; and

(c) the payee is the person who is obtaining the land right.

Deduction

(2) The payer is allowed a deduction for the amount.

Relationship with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, estate, general limitation, general permission, land, leasehold estate, own

Section DB 20B: inserted (with effect on 1 April 2013 and applying to an amount that is incurred on or after that date in relation to a lease or licence entered, renewed, extended, or transferred on or after that date), on 17 July 2013, by section 27(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 20B(1)(a): amended, on 1 April 2015 (applying to an amount incurred on or after that date), by section 44(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 20B list of defined terms **depreciable intangible property**: repealed (with effect on 1 April 2013), on 30 March 2022, by section 65 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

DB 20C Consideration for agreement to surrender leasehold estate or terminate licence

When this section applies

(1) This section applies when—

(a) a person (the **payer**) incurs an amount of expenditure as consideration for the agreement by another person (the **payee**) to the surrender or termination of a right (the **land right**) that is a leasehold estate not including a perpetual right of renewal or is a licence to use land; and

(b) the payer is a person who owns the land right or a person who owns the estate in land from which the land right is granted; and

(c) the payee is a person who owns the estate in land from which the land right is granted or a person who owns the land right.

Deduction

(2) The payer is allowed a deduction for the amount.

Relationship with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, estate, general limitation, general permission, land, leasehold estate, own

Section DB 20C: inserted (with effect on 1 April 2013 and applying to an amount that is incurred on or after that date), on 17 July 2013, by section 27(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 20C(1)(a): amended (with effect on 1 April 2013 and applying to an amount incurred on or after that date), on 30 June 2014, by section 45(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 21 Amounts paid for non-compliance with covenant for repair

When this section applies

(1) This section applies when—

(a) a person who is a lessee of land uses it to derive income; and

(b) the lease contains a covenant requiring the lessee to maintain the land or to make repairs to improvements on the land; and

(c) the lessee does not comply with the covenant; and

(d) the lessee is, consequently, liable to pay an amount to the lessor; and

(e) either—

(i) the lessee, during the term of the lease or after it ends, pays the amount to the lessor; or

(ii) the lessor recovers the amount from the lessee during the term of the lease or after it ends.

Deduction

(2) The lessee is allowed a deduction for the amount paid to the extent to which it relates to maintenance or repairs and to the extent to which the lessee would have been allowed a deduction for the expenditure had the lessee incurred it during the term of the lease.

Timing of deduction

(3) The deduction is allocated to the income year in which the lessee pays the amount or the lessor recovers the amount.

Relationship with section EJ 11

(4) This section is overridden by section EJ 11 (Amount paid by lessee for non-compliance with covenant for repair).

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, income, income year, lease, pay, repairs, supplement, term of the lease

Compare: 2004 No 35 s DB 15

DB 22 Amounts paid for non-compliance and change in use

When this section applies

(1) This section applies when—

(a) a person who is a lessor receives an amount for non-compliance with a covenant for repair that is assessable income under section CC 2 (Non-compliance with covenant for repair); and

(b) in the income year in which the lessor receives the amount or in any of the following 4 income years,—

(i) the lessor does not use the land to which the amount relates to derive assessable income, but continues to own the land; and

(ii) the lessor incurs expenditure in maintaining the land or in making repairs to improvements on the land, including painting and general maintenance; and

(iii) the lessor would have been allowed a deduction if the land had been used for the purpose of deriving assessable income; and

(iv) in the absence of section DB 46, no other provision of this Act would allow the lessor a deduction for the expenditure.

Deduction

(2) The lessor is allowed a deduction for the expenditure.

Amount of deduction

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

(a) the amount of the expenditure; and

(b) the part of the amount that is assessable income derived by the lessor in the income year in which the expenditure is incurred through the operation of—

(i) section CC 2; or

(ii) section EI 5 (Amount paid to lessor for non-compliance with covenant for repair); or

(iii) section EI 6 (Amount paid for non-compliance: when lessor ceases to own land).

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, assessable income, deduction, general limitation, general permission, income year, own, supplement

Compare: 2004 No 35 s DB 16

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

When this section applies

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

Determining whether expenditure of capital nature

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

Defined in this Act: commercial fit-out

Section DB 22B: inserted (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 94(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Revenue account property

DB 23 Cost of revenue account property

Deduction

(1) A person is allowed a deduction for expenditure that they incur as the cost of revenue account property.

No deduction

(2) Despite subsection (1), a person is denied a deduction for expenditure incurred as the cost of revenue account property if—

(a) *[Repealed]*

(b) section CX 55, CX 56B, or CX 56C (which relate to portfolio investment income) applies to income derived by the person from the disposal of the revenue account property; and

(c) for a person who is a life insurer, the expenditure would, in the absence of this subsection, be a deduction included as their policyholder base allowable deduction.

Relationship with sections CU 2 and DU 3

(2B) Sections CU 2 (Treatment of mining land) and DU 3 (Acquisition of land for mining operations) override this section in relation to land or an interest in land as described in section CU 2(1)(b) that a mineral miner acquires for the purposes of their mining operations or associated mining operations.

Link with subpart DA

(3) Subsection (1) supplements the general permission and overrides the capital limitation and the private limitation. Subsection (2) overrides the general permission. The other general limitations still apply.

Defined in this Act: associated mining operations, capital limitation, deduction, general limitation, general permission, land, life insurer, mineral miner, mining operations, policyholder base allowable deduction, private limitation, revenue account property

Compare: 2004 No 35 s DB 17

Section DB 23(2) heading: substituted, on 29 August 2011, by section 15(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DB 23(2)(a): repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 73(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 23(2)(b): amended (with effect on 1 July 2010 and applying for income years that include 1 July 2010 and later income years), on 30 March 2017, by section 49(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 23(2)(b): amended, on 29 August 2011, by section 15(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DB 23(2)(c): inserted (with effect on 1 July 2010 and applying for income years that include 1 July 2010 and later income years), on 30 March 2017, by section 49(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 23(2B) heading: inserted, on 1 April 2014, by section 32(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 23(2B): inserted, on 1 April 2014, by section 32(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 23(3): replaced (with effect on 1 April 2008), on 30 March 2021, by section 27(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section DB 23 list of defined terms **associated mining operations**: inserted, on 1 April 2014, by section 32(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 23 list of defined terms **land**: inserted, on 1 April 2014, by section 32(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 23 list of defined terms **life insurer**: inserted (with effect on 1 July 2010), on 30 March 2017, by section 49(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 23 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 32(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 23 list of defined terms **mining operations**: inserted, on 1 April 2014, by section 32(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 23 list of defined terms **policyholder base allowable deduction**: inserted (with effect on 1 July 2010), on 30 March 2017, by section 49(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 23 list of defined terms **portfolio investment entity**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 73(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 23 list of defined terms **private limitation**: inserted (with effect on 1 April 2008), on 30 March 2021, by section 27(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

DB 23B Revenue account property: certain intra-group transactions

When this section applies

(1) This section applies when—

(a) a company that is part of a consolidated group at a time during an income year derives an amount of income from a transaction or arrangement with another company in the consolidated group at the same time; and

(b) the transaction or arrangement relates to an excepted financial arrangement that—

(i) is revenue account property; and

(ii) ceases to exist, whether through redemption or cancellation, or on amalgamation or liquidation, or otherwise; and

(c) the amount is excluded income under section FM 8 (Transactions between group companies: income).

No deduction for expenditure incurred

(2) Despite section DB 23, the company is denied a deduction for expenditure incurred in relation to the excepted financial arrangement as the cost of revenue account property.

No deduction for closing value

(3) Despite section DB 49, the company is denied a deduction for the value that the excepted financial arrangement had at the end of the previous income year.

Link with subpart DA

(4) This section overrides the general permission. The other general limitations still apply.

Defined in this Act: amalgamation, amount, arrangement, cancellation, company, consolidated group, deduction, excepted financial arrangement, excluded income, general permission, income, income year, liquidation, revenue account property

Section DB 23B: inserted, on 29 March 2018 (with effect on 1 April 2016 and applying for the 2016–17 and later income years), by section 47(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DB 23C Revenue account property: cost of some residential land reduced

[Repealed]

Section DB 23C: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DB 24 Share losses

When this section applies

(1) This section applies when—

(a) a company (**company A**) acquires a share in another company (**company B**); and

(b) the share declines in value; and

(c) because of the decline in value, company A incurs a loss (the **share loss**), whether on a disposal of the share or a valuation of it under subpart ED (Valuation of excepted financial arrangements) or in any other way; and

(d) company B—

(i) itself uses the amount subscribed for the share; or

(ii) uses it to fund directly or indirectly another company (**company C**); and

(e) company B or company C has a tax loss, in the calculation of which the amount used is taken into account; and

(f) company A, or a company that is part of the same group of companies as company A at any time in the income year in which company B or company C has the tax loss, offsets an amount for the tax loss under section IC 1 (Company A making tax loss available to company B); and

(g) the offset is in a tax year before the tax year that corresponds to the income year in which company A incurs the share loss.

No deduction (with exception)

(2) Company A is denied a deduction for the share loss, except to the extent to which the share loss, as adjusted under subsection (3), is more than the amount offset under section IC 1, as adjusted under subsection (4).

Other denied deductions added

(3) When subsection (2) applies, the share loss is adjusted by adding every loss to which all the following apply:

(a) company A incurs it as a result of the share's decline in value or the decline in value of another share if the use of the amount subscribed for the other share is taken into account in calculating the tax loss; and

(b) company A incurs it in an income year before the income year referred to in subsection (1)(g); and

(c) company A has been denied a deduction for it by the operation of subsection (2).

Other offsets added

(4) The amount offset under section IC 1 includes every amount that company A, or a company that is part of the same group of companies as company A at any time in the income year in which company A has the tax loss, has offset for the tax loss under that section in a tax year before the tax year that corresponds to the income year in which the share loss is incurred.

Link with subpart DA

(5) This section overrides the general permission.

Defined in this Act: amount, company, deduction, general permission, group of companies, income year, loss, share, tax loss, tax year

Compare: 2004 No 35 s DB 18

DB 25 Cancellation of shares held as revenue account property

When this section applies

(1) This section applies for the purposes of section FA 4(3)(b) (Recharacterisation of shareholder's base: company reacquiring share).

No deduction

(2) A shareholder is denied a deduction for the amount added to the cost of their remaining shares of the same class as that of the share cancelled, unless the share is trading stock of the shareholder.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: deduction, general permission, interest

Compare: 2004 No 35 s FC 4(f)(iv)

Section DB 25(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 25 list of defined terms **profit-related debenture**: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 46(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 25 list of defined terms **substituting debenture**: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 46(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 26 Amount from profit-making undertaking or scheme and not already in income

When this section applies

(1) This section applies when a person derives income under section CB 3 (Profit-making undertaking or scheme) that is not their income under any other provision of this Act.

Deduction

(2) The person is allowed a deduction for the value of the property, as determined under subsection (3).

Determining amount of deduction

(3) For the purpose of determining the amount of the deduction, the person is treated as—

(a) having disposed of the property to an unrelated third party immediately before the start of the undertaking or scheme; and

(b) having reacquired the property immediately after the start of the undertaking or scheme at the market value of the property at the time.

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission, income, supplement

Compare: 2004 No 35 s DB 19

DB 27 Amount from major development or division and not already in income

When this section applies

(1) This section applies when a person derives income under section CB 13 (Disposal: amount from major development or division and not already in income) that is not their income under any other provision of this Act.

Deduction

(2) The person is allowed a deduction for the value of the land, as determined under subsection (3).

Determining amount of deduction

(3) For the purpose of determining the amount of the deduction, the person is treated as—

(a) having disposed of the land to an unrelated third party immediately before the start of the undertaking or scheme; and

(b) having reacquired it immediately after the start of the undertaking or scheme at the market value of the land at the time.

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission, income, land, supplement

Compare: 2004 No 35 s DB 20

DB 28 Amount from land affected by change and not already in income

When this section applies

(1) This section applies when a person derives income under section CB 14 (Disposal: amount from land affected by change and not already in income) that is not their income under any other provision of this Act.

Deduction

(2) The person is allowed—

(a) a deduction allowed under any other provision of this Act; and

(b) a deduction to the extent described in subsection (3).

Calculation of deduction

(3) The maximum amount of the deduction is the greater of $1,000 and an amount calculated using the formula in subsection (4). However, the amount must not be more than the profit obtained from the disposal of the land.

Formula

(4) The formula is—

percentage of profit × years.

Definition of items in formula

(5) In the formula,—

(a) **percentage of profit** is 10% of the profit on the disposal of the land:

(b) **years** is the number, up to and including 10, of consecutive years between the date on which the person acquired the land and the date on which they disposed of it, with the first year starting on the date on which the person acquired the land.

Meaning of profit

(6) In this section, **profit** means the excess of the amount derived over the cost of the land.

Link with subpart DA

(7) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission, income, land, profit, supplement, year

Compare: 2004 No 35 s DB 21

DB 29 Apportionment when land acquired with other property

If a person derives income under any of sections CB 6A to CB 14 (which relate to the disposal of land) from the disposal of land, and the land is acquired together with other property, the cost of acquisition must be apportioned between the land and the other property.

Defined in this Act: income, land, property

Compare: 2004 No 35 s FB 4A

Section DB 29: amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DB 29: amended (with effect on 27 March 2021), on 30 March 2021, by section 29 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

DB 30 Cost of certain minerals

When this section applies

(1) This section applies when—

(a) an amount of cost of a mineral is treated by a person under generally accepted accounting practice as a cost of the mineral for the person and reported accordingly for financial reporting purposes; and

(b) the mineral is not a listed industrial mineral; and

(c) no other provision of this Act allows the person a deduction for the amount; and

(d) an amount derived by the person from disposing of the mineral would be income of the person under section CB 29 (Disposal of minerals).

Deduction

(2) The person is allowed a deduction for the amount.

Timing of deduction: trading stock

(3) If the amount is a cost of trading stock, the deduction is allocated to the income year in which the mineral first becomes trading stock of the person.

Timing of deduction: not trading stock

(4) If the amount is not a cost of trading stock, the deduction is allocated by section EA 2 (Other revenue account property).

Link with subpart DA

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

Defined in this Act: amount, capital limitation, deduction, dispose, general limitation, general permission, generally accepted accounting practice, income, income year, mineral, specified mineral, trading stock

Compare: 2004 No 35 s DB 22

Section DB 30 heading: replaced, on 1 April 2014, by section 33(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 30(1)(b): amended, on 1 April 2014, by section 33(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Bad debts

DB 31 Bad debts

No deduction (with exception)

(1) A person is denied a deduction in an income year for a bad debt, except to the extent to which—

(a) the debt is a debt—

(i) written off as bad in the income year:

(ii) for which the debtor is released from making all remaining payments under the Insolvency Act 2006 excluding Part 5, subparts 1 and 2 of that Act, or under the Companies Act 1993, or under the laws of a country or territory other than New Zealand, and the person is required to calculate a base price adjustment by section

EW 29 (When calculation of base price adjustment required) for the debt for the income year:

(iii) for which the debtor is a company that is released from making all remaining payments by a deed or agreement of composition, and the person is required to calculate a base price adjustment by section EW 29 for the debt for the income year; and

(b) in the case of the bad debts described in subsections (2) to (5), the requirements of the relevant subsection are met.

Deduction: financial arrangement debt: amount of income

(2) A person who derives assessable income from a financial arrangement to which the financial arrangements rules apply is allowed a deduction for an amount owing under the financial arrangement, but only to the extent to which—

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

(b) the amount is attributable to the income; and

(bb) the person is not associated with the debtor, or is associated with the debtor but the debtor has no deductions for the financial arrangement; and

(c) subsection (5) does not limit the deduction.

Deduction: financial arrangement debt: dealers and holders

(3) A person is allowed a deduction, quantified in subsection (3B), for an amount of a bad debt owing under a financial arrangement to which the financial arrangement rules apply, if—

(a) the person carries on a business for the purpose of deriving assessable income; and

(b) the business includes dealing in or holding financial arrangements that are the same as, or similar to, the financial arrangement; and

(c) a requirement of subsection (1)(a) is met for the bad debt; and

(d) the person is not associated with the person owing the amount written off.

Amount of deduction under subsection (3)

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

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

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

Deduction: financial arrangement debt: dealers in property or services

(4) A person is allowed a deduction for an amount owing under a financial arrangement to which the financial arrangements rules apply, but only to the extent to which—

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

(b) the financial arrangement is an agreement for the sale and purchase of property or services; and

(c) the person carries on a business of dealing in the property or services that are the subject of the agreement; and

(d) the person carries on the business for the purpose of deriving assessable income; and

(e) subsection (5) does not limit the deduction.

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

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

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

(b) the amount owing under the financial arrangement:

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

amount owing − limited recourse consideration + adjustment amount.

Definition of items in formula

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

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

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

(ii) the amount owing under the financial arrangement:

(b) **limited recourse consideration** is the amount of consideration paid to the person under a limited-recourse arrangement that relates to the financial arrangement:

(c) **adjustment amount** is an amount allocated for the income year under section EW 15D (IFRS financial reporting method) for the limited-recourse arrangement, to the extent to which the amount arises solely because of the reduction in the value of the limited-recourse arrangement due to the financial arrangement's relevant bad debt amount.

Limited recourse: base price adjustment

(4D) If subsection (4B)(c) applies for an amount owing under a financial arrangement, then the person is allowed a deduction, at the time the person performs

a base price adjustment for the related limited-recourse arrangement, of an amount equal to the amount owing under the financial arrangement minus the total amount of deductions for the financial arrangement under subsections (2) and (3) that have arisen before the base price adjustment.

Definition of items in formula

[Repealed]

(4E) *[Repealed]*

Deduction: bad debt representing loss already offset

(5) A person is allowed a deduction for a bad debt only to the extent to which it is more than the total of the amounts offset under section IC 1 (Company A making tax loss available to company B) that are described in paragraphs (e) and (f) if—

(a) the person writing off the amount of debt is a company (**company A**); and

(b) the debt is owed to it by another company (**company B**); and

(c) company B—

(i) itself uses the amount giving rise to the debt; or

(ii) uses it to fund directly or indirectly another company (**company C**) that uses the amount; and

(d) company B or company C has a tax loss, in the calculation of which the amount used is taken into account; and

(e) company A, or a company that is part of the same group of companies as company A at any time in the income year in which company B or company C has the tax loss, offsets an amount for the tax loss under section IC 1; and

(f) the offset is in a tax year before the tax year that corresponds to the income year in which company A writes off the amount of debt, but not before the 1993–94 tax year.

A definition

(5B) In this section, **limited-recourse arrangement** means, in relation to an amount owing under a financial arrangement (the **debt**), an arrangement that is for the person's business of dealing in or holding financial arrangements, and that provides for payment or non-payment by the person, contingent upon—

(a) payment of some or all of the debt to the person:

(b) failure to make payment of some or all of the debt to the person.

Link with subpart DA

(6) The link between this section and subpart DA (General rules) is as follows:

(a) subsection (1) overrides the general permission; and

(b) for subsections (2) to (5),—

(i) they supplement the general permission, to the extent to which they allow a deduction that is denied under the general permission; and

(ii) they override the general permission, to the extent to which they deny a deduction that is allowed under the general permission; and

(iii) the general limitations still apply, except that subsections (3) and (4D) override the capital limitation for a financial arrangement held as part of a business that includes dealing in or holding financial arrangements.

Defined in this Act: agreement for the sale and purchase of property or services, amount, arrangement, assessable income, associated person, business, company, deduction, financial arrangement, financial arrangements rules, general limitation, general permission, group of companies, income year, limited-recourse arrangement, supplement, tax loss, tax year

Compare: 2004 No 35 s DB 23

Section DB 31(1)(a): replaced (with effect on 1 April 2008 and applying for a debt that goes bad in the 2008–09 and later income years), on 27 February 2014, by section 34(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 31(2)(a): amended (with effect on 1 April 2008 and applying for a debt that goes bad in the 2008–09 and later income years), on 27 February 2014, by section 34(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 31(2)(bb): inserted, on 1 July 2017, by section 50(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 31(3) heading: replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(3): replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(3B) heading: inserted (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(3B): inserted (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4)(a): amended (with effect on 1 April 2008 and applying for a debt that goes bad in the 2008–09 and later income years), on 27 February 2014, by section 34(5) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 31(4B) heading: replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4B): replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4B)(c) formula: amended (with effect on 20 May 2013), on 30 March 2017, by section 50(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 31(4C) heading: replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4C): replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4C)(b): amended (with effect on 20 May 2013), on 30 March 2017, by section 50(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 31(4C)(c): inserted (with effect on 20 May 2013), on 30 March 2017, by section 50(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DB 31(4D) heading: replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4D): replaced (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4E) heading: repealed (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(4E): repealed (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(5B) heading: inserted (with effect on 20 May 2013), on 27 February 2014, by section 34(7) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 31(5B): inserted (with effect on 20 May 2013), on 27 February 2014, by section 34(7) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 31(5B): amended (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(6)(b)(iii): amended (with effect on 20 May 2013 and applying for a debt that goes bad in the 2008–09 or later income year), on 24 February 2016, by section 95(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31(6)(b)(iii): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 95(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 31 list of defined terms **arrangement**: inserted (with effect on 20 May 2013), on 27 February 2014, by section 34(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DB 31 list of defined terms **limited-recourse arrangement**: inserted (with effect on 20 May 2013), on 27 February 2014, by section 34(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DB 32 Bad debts owed to estates

When this section applies

(1) This section applies when—

(a) a debt owing to a person at the date of their death is, in an income year,—

(i) assessable income of the person; or

(ii) assessable income of the trustee of their estate; and

(b) the trustee writes off some or all of the debt as bad because it is not recoverable.

Deduction

(2) The following persons, in the following order, are allowed a deduction for the amount of the debt written off:

(a) first, the trustee, to the extent of assessable income derived as trustee income in the income year; and

(b) second, any beneficiary who has a vested interest in the capital of the estate, to the extent of assessable income derived in the income year by or in trust for the beneficiary, and to the extent to which the amount is chargeable against the capital of the beneficiary; and

(c) third, the trustee or a beneficiary denied a deduction for the balance in the income year; each is allowed a deduction, as described in paragraph (a) or (b), in the next tax year, and so on.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, assessable income, deduction, general limitation, general permission, income year, supplement, trustee, trustee income

Compare: 2004 No 35 s DB 24

Research and development

DB 33 Scientific research

Deduction: scientific research

(1) A person is allowed a deduction for expenditure they incur in connection with scientific research that they carry on for the purpose of deriving their assessable income.

Exclusion

(2) Subsection (1) does not apply to expenditure that the person incurs on an asset that—

(a) is not created from the scientific research; and

(b) is an asset for which they have an amount of depreciation loss for which—

(i) they are allowed a deduction; or

(ii) they would have been allowed a deduction but for the Commissioner's considering that incomplete and unsatisfactory accounts were kept by or for them.

Link with subpart DA

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

Defined in this Act: amount, assessable income, capital limitation, Commissioner, deduction, depreciation loss, general limitation, general permission, supplement

Compare: 2004 No 35 s DB 25

DB 34 Research or development

Deduction

(1) A person is allowed a deduction for expenditure they incur on research or development. This subsection applies only to a person described in any of subsections (2) to (5) and does not apply to the expenditure described in subsection (6).

Person recognising expenditure as expense

(2) Subsection (1) applies to a person who recognises the expenditure as an expense for financial reporting purposes—

(a) under paragraph 5.1 or 5.2 of the old reporting standard or because paragraph 5.4 of that standard applies; or

(b) under paragraph 68(a) of the new reporting standard applying, for the purposes of that paragraph, paragraphs 54 to 67 of that standard.

Expenditure on derecognised non-depreciable assets

(3) Subsection (1) applies to a person who—

(a) incurs expenditure, on the development of an intangible asset that is not depreciable intangible property,—

(i) on or after 7 November 2013; and

(ii) before the intangible asset is derecognised or written off by the person as described in paragraph (b); and

(b) derecognises or writes off the intangible asset for financial reporting purposes under—

(i) paragraph 112(b) of the new reporting standard; or

(ii) paragraph 5.14 of the old reporting standard.

Person recognising expenditure otherwise

(4) Subsection (1) also applies to a person who—

(a) recognises the expenditure as an expense for financial reporting purposes because it is an amount written off as an immaterial amount for financial reporting purposes; and

(b) would be required, if the expenditure were material, to recognise it for financial reporting purposes—

(i) under paragraph 5.1 or 5.2 of the old reporting standard or because paragraph 5.4 of that standard applies; or

(ii) under paragraph 68(a) of the new reporting standard applying, for the purposes of that paragraph, paragraphs 54 to 67 of that standard.

Person with minor expenditure

(5) Subsection (1) also applies to a person who—

(a) incurs expenditure of $10,000 or less, in total, on research and development in an income year; and

(b) has written off the expenditure as an immaterial amount for financial reporting purposes; and

(c) has recognised the expenditure as an expense for financial reporting purposes.

Exclusion

(6) Subsection (1) does not apply to expenditure that the person incurs on property to which all the following apply:

(a) the property is used in carrying out research or development; and

(b) it is not created from the research or development; and

(c) it is 1 of the following kinds:

(i) property for which the person is allowed a deduction for an amount of depreciation loss; or

(ii) property the cost of which is allowed as a deduction by way of amortisation under a provision of this Act outside subpart EE (Depreciation); or

(iii) land; or

(iv) intangible property, other than depreciable intangible property; or

(v) property that its owner chooses, under section EE 8 (Election that property not be depreciable) to treat as not depreciable.

Choice for allocation of deduction

(7) A person who is allowed a deduction under this section for expenditure that is not interest and is described in subsection (2), (4), or (5) may choose to allocate all or part of the deduction—

(a) to an income year after the income year in which the person incurs the expenditure; and

(b) in the way required by section EJ 23 (Allocation of deductions for research, development, and resulting market development).

Allocation of deduction for derecognised non-depreciable assets

(7B) A person who is allowed a deduction as provided by subsection (3) must allocate the deduction to the income year in which the relevant intangible asset is derecognised or written off by the person for financial reporting purposes under—

(a) paragraph 112(b) of the new reporting standard; or

(b) paragraph 5.14 of the old reporting standard.

Section need not be applied

(8) A person may return income and expenditure in their return of income on the basis that this section does not apply to expenditure incurred on research or development in the income year to which the return relates.

Relationship with section EA 2

(9) If expenditure to which this section applies is incurred in devising an invention that is patented, the expenditure is not treated as part of the cost of revenue account property for the purposes of section EA 2 (Other revenue account property).

Link with subpart DA

(10) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, depreciable intangible property, depreciation loss, development, general limitation, general permission, income, income year, new reporting standard, old reporting standard, research, return of income, revenue account property

Compare: 2004 No 35 s DB 26

Section DB 34(2): substituted (with effect on 1 April 2008), on 7 December 2009, by section 11(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 34(2): amended, on 1 April 2008, by section 338(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 34(3) heading: replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 96(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 34(3): replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 96(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 34(4)(a): amended, on 1 April 2008, by section 338(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 34(4)(b): substituted (with effect on 1 April 2008), on 7 December 2009, by section 11(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 34(4)(b): substituted, on 1 April 2008, by section 338(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 34(5)(b): substituted, on 1 April 2008, by section 338(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 34(7): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 96(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 34(7B) heading: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 96(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 34(7B): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 96(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 34 list of defined terms **new reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 34 list of defined terms **old reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 34 list of defined terms **reporting standard**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

DB 35 Some definitions

Definitions

(1) In this section, and in section DB 34,—

development is defined in paragraph 8 of the new reporting standard

new reporting standard means the New Zealand Equivalent to International Accounting Standard 38, in effect under the Financial Reporting Act 2013, and as amended from time to time or an equivalent standard issued in its place

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

research is defined in paragraph 8 of the new reporting standard.

Meaning of research or development: modification by Order in Council

(2) The Governor-General may make an Order in Council specifying—

(a) a kind of expenditure that is not expenditure on research or development for the purposes of section DB 34:

(b) an activity that is neither research nor development for the purposes of section DB 34:

(c) the date from which the expenditure or the activity is excluded from being research or development.

Secondary legislation

(3) An Order in Council under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: development, income year, new reporting standard, old reporting standard, research

Compare: 2004 No 35 s DB 27

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section DB 35(1): substituted, on 1 April 2008, by section 339 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 35(1) **development**: amended (with effect on 1 April 2015), on 24 February 2016, by section 97(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 35(1) **new reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 12 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 35(1) **new reporting standard**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section DB 35(1) **old reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 12 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 35(1) **reporting standard**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 12 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 35(1) **research**: amended (with effect on 1 April 2015), on 24 February 2016, by section 97(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 35(3) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section DB 35(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section DB 35 list of defined terms **new reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 35 list of defined terms **old reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DB 35 list of defined terms **reporting standard**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

DB 36 Patent expenses

Deduction

(1) A person is allowed a deduction for expenditure that they incur in connection with the grant, maintenance, or extension of a patent if they—

(a) acquired the patent before 23 September 1997; and

(b) use the patent in deriving income in the income year in which they incur the expenditure.

Link with subpart DA

(2) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, income, income year

Compare: 2004 No 35 s DB 28

DB 37 Expenses in application for patent or design registration

Deduction

(1) A person who incurs expenditure for the purpose of applying for the grant of a patent or of a design registration and does not obtain the grant because the application is not lodged or is withdrawn, or because the grant is refused, is allowed a deduction for the expenditure—

(a) that the person incurs in relation to the application or intended application; and

(b) that would have been part of the cost of fixed life intangible property, or otherwise a deduction, if the application or intended application had been granted; and

(c) for which the person is not allowed a deduction under another provision.

Timing of deduction

(2) The deduction is allocated to the income year in which the person decides not to lodge the application, withdraws the application, or is refused the grant.

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, design registration, fixed life intangible property, general limitation, general permission, income year

Compare: 2004 No 35 s DB 28B

Section DB 37 heading: replaced (with effect on 1 April 2015), on 24 February 2016, by section 98(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 37(1): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 47(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 37(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 98(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 37(2): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 47(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DB 37 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 98(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DB 38 Patent rights: devising patented inventions

When this section applies

(1) This section applies when a person incurs expenditure in devising an invention for which a patent has been granted. The section applies whether the person devised the invention alone or in conjunction with another person.

Deduction: expenditure before 1 April 1993

(2) When the person uses the patent in deriving income in an income year, they are allowed a deduction for expenditure incurred before 1 April 1993, but not if a deduction has been allowed for the expenditure under any other provision of this Act or an earlier Act.

Deduction: devising invention

(3) If the person disposes of all the patent rights relating to the invention, they are allowed a deduction for the expenditure that they have incurred, whenever it is incurred, in connection with devising the invention to the extent to which a deduction has not already been allowed under subsection (2).

Deduction: devising invention: proportion of expenditure

(4) If the person disposes of some of the patent rights relating to the invention, they are allowed a deduction for part of the expenditure described in subsection (3). The part is calculated by dividing the amount derived from the disposal by the market value of the whole of the patent rights on the date of the disposal.

Link with subpart DA

(5) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, general limitation, general permission, income, income year, patent right

Compare: 2004 No 35 s DB 29

Section DB 38(3): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 38(4): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DB 39 Patent rights acquired before 1 April 1993

When this section applies

(1) This section applies when a person disposes of patent rights that they acquired before 1 April 1993.

Deduction

(2) The person is allowed a deduction on the disposal of the patent rights.

Amount of deduction

(3) The amount is calculated using the formula—

(unexpired term of the patent rights at the date of disposal
÷ unexpired term of the patent rights at the date of acquisition) × cost

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, general limitation, general permission, patent right

Compare: 2004 No 35 s DB 30

Section DB 39(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 39(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 39(3) formula: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DB 40 Patent applications or patent rights acquired on or after 1 April 1993

When this section applies

(1) This section applies when a person disposes of a patent application with a complete specification or patent rights that they acquired on or after 1 April 1993.

Deduction

(2) The person is allowed a deduction on the disposal of the patent application with a complete specification or patent rights.

Amount of deduction

(3) The amount is calculated using the formula—

total cost − total amounts of depreciation loss.

Definition of items in formula

(4) In the formula,—

(a) **total cost** is the total cost to the person of the patent application with a complete specification or of the patent rights, excluding any expenditure for which the person has been allowed a deduction under section DZ 15 (Patent applications before 1 April 2005):

(b) **total amounts of depreciation loss** is the total of the amounts of depreciation loss, for which the person is allowed a deduction, for the patent application with a complete specification or for the patent rights and the patent application relating to the patent rights.

Link with subpart DA

(5) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, depreciation loss, general limitation, general permission, patent right

Compare: 2004 No 35 s DB 31

Section DB 40(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 40(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DB 40BA Expenses in application for plant variety rights

Deduction

(1) A person who incurs expenditure for the purpose of applying for the grant of plant variety rights and does not obtain the grant because the application is not lodged or is withdrawn, or because the grant is refused, is allowed a deduction for the expenditure—

(a) that the person incurs in relation to the application or intended application; and

(b) that would have been part of the cost of fixed life intangible property, or otherwise a deduction, if the application or intended application had been granted; and

(c) for which the person is not allowed a deduction under another provision.

Timing of deduction

(2) The deduction is allocated to the income year in which the person decides not to lodge the application, withdraws the application, or is refused the grant of plant variety rights.

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, fixed life intangible property, general limitation, general permission, income year, plant variety rights

Section DB 40BA: inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 48 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Unsuccessful software development

Heading: inserted (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 21(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

DB 40B Expenditure in unsuccessful development of software

When this section applies

(1) This section applies when a person incurs expenditure in the development of software for use in the person's business if—

(a) the development of the software is abandoned when the copyright in the software is not depreciable property of the person; and

(b) the copyright in the software would have been depreciable property of the person if the development had been completed.

Deduction

(2) The person is allowed a deduction for expenditure incurred in the development of the software to the extent to which no deduction has been allowed for the expenditure under another provision of this Act or under another Act.

Timing of deduction

(3) The deduction is allocated to the income year in which the development of the software is abandoned.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, income year

Section DB 40B: inserted (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 21(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DB 40B(1)(a): amended (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 99(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DB 40B(1)(b): amended (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 99(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Corporate gifting

Heading: replaced, on 30 March 2022, by section 67 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

DB 41 Charitable or other public benefit gifts by company

Who this section applies to

[Repealed]

(1) *[Repealed]*

Deduction

(2) A company is allowed a deduction for a charitable or other public benefit gift that it makes to a donee organisation.

No deduction

(2B) Despite subsection (2), a company is not allowed a deduction for the amount of a charitable or other public benefit gift it makes, to the extent to which the amount is, for the company, an asset ignored for the purposes of section HR 12 (Non-exempt charities: treatment of tax-exempt accumulations) and described in section HR 12(3)(a).

Amount of deduction

(3) The deduction for the total of all gifts made in an income year is limited to the amount that would be the company's net income in the corresponding tax year in the absence of this section.

Exclusion

(3B) This section does not apply to a local authority.

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, charitable or other public benefit gift, deduction, donee organisation, general limitation, general permission, income year, local authority, net income, supplement, tax year

Compare: 2004 No 35 s DB 32

Section DB 41(1) heading: repealed, on 1 April 2008, pursuant to section 340(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 41(1): repealed, on 1 April 2008, by section 340(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 41(2): amended, on 6 January 2010, by section 74(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 41(2): amended, on 1 April 2008, by section 340(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 41(2): amended, on 1 April 2008, by section 340(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 41(2B) heading: inserted (with effect on 14 April 2014), on 18 March 2019, by section 151 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DB 41(2B): inserted (with effect on 14 April 2014), on 18 March 2019, by section 151 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DB 41(3): amended, on 1 April 2008, by section 340(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DB 41(3B) heading: inserted, on 1 April 2022, by section 68(1) (and see section 68(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section DB 41(3B): inserted, on 1 April 2022, by section 68(1) (and see section 68(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section DB 41 list of defined terms **close company**: repealed, on 6 January 2010, by section 74(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 41 list of defined terms **company**: repealed, on 6 January 2010, by section 74(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 41 list of defined terms **local authority**: inserted, on 1 April 2022, by section 68(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section DB 41 list of defined terms **recognised exchange**: repealed, on 6 January 2010, by section 74(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 41 list of defined terms **share**: repealed, on 6 January 2010, by section 74(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 41 list of defined terms **donee organisation**: inserted, on 6 January 2010, by section 74(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Theft and bribery

DB 42 Property misappropriated by employees or service providers

When this section applies

(1) This section applies when—

(a) a person carries on a business; and

(b) an employee of the business, or a person who provides services to the business, misappropriates property; and

(c) no other provision of this Act allows the person who carries on the business a deduction for the loss resulting from the misappropriation.

Exclusions

(2) This section does not apply when a person who misappropriates property is associated with the person who carries on the business.

Deduction

(3) The person is allowed a deduction for the loss that they incur in the course of the business as a result of the misappropriation of the property.

Timing of deduction

(4) The deduction is allocated to the income year in which the loss is ascertained, or in 1 or more earlier years if, in the circumstances, the Commissioner considers it would be fair.

Link with subpart DA

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

Defined in this Act: associated person, business, capital limitation, Commissioner, company, deduction, employee, general limitation, general permission, income year, relative, supplement, trustee

Compare: 2004 No 35 s DB 33

Section DB 42(2): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 75(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DB 43 Making good loss from misappropriation by partners

When this section applies

(1) This section applies when a person carrying on a business in partnership pays an amount to make good a loss that arises from a partner, other than the person or the person's spouse, civil union partner, or de facto partner, misappropriating property that—

(a) belongs to another person who is neither a partner in the partnership nor the spouse, civil union partner, or de facto partner of a partner; and

(b) is received in the course of the business either by the partnership or 1 or more of its partners.

Deduction

(2) The person is allowed a deduction for the amount if the person is under a legal liability to make good the loss.

Timing of deduction

(3) The deduction is allocated to the income year in which the amount is paid.

Link with subpart DA

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

Defined in this Act: amount, business, capital limitation, deduction, general limitation, general permission, income year, pay, supplement

Compare: 2004 No 35 s DB 34

DB 44 Restitution of stolen property

Deduction

(1) A person who derives income under section CB 32 (Property obtained by theft) is allowed a deduction for the amount of restitution that they make to a person who is beneficially entitled to property to which section CB 32 applies.

Timing of deduction

(2) The deduction is allocated to the income year in which the person makes restitution.

Meaning of restitution

(3) In this section, **restitution** includes restitution made to a person claiming through the person beneficially entitled to the property.

Link with subpart DA

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

Defined in this Act: amount, capital limitation, deduction, general limitation, general permission, income, income year, private limitation, property, restitution, supplement

Compare: 2004 No 35 s DB 35

DB 45 Bribes

When this section applies

(1) This section applies when a person (**person A**) gives or offers, or agrees to give, a bribe in the circumstances specified in section 101, 102(2), 103(2), 104(2), 105(2), 105C, or 105D(1) of the Crimes Act 1961.

No deduction

(2) Person A is denied a deduction for the amount of the bribe.

Exclusions

(3) This section does not apply in the circumstances specified in section 105C(3) of the Crimes Act 1961.

Definition

(4) In this section, **bribe** is defined in section 99 of the Crimes Act 1961.

Link with subpart DA

(5) This section overrides the general permission.

Defined in this Act: bribe, deduction, general permission, New Zealand

Compare: 2004 No 35 s DB 36

Section DB 45: replaced, on 7 November 2015, by section 4 of the Income Tax Amendment Act 2015 (2015 No 104).

Pollution control

DB 46 Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise

When this section applies

(1) This section applies when a person—

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

(b) the person incurs, in the business or in ending the operations of the business, expenditure that is—

(i) of a kind listed in schedule 19, in either part A or B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise) and not in schedule 19, part C; and

(ii) not incurred in relation to revenue account property other than land that is subject to section CB 8 (Disposal: land used for landfill, if notice of election); and

(c) no other provision allows a deduction for the expenditure.

Amount and timing of deduction

(2) The person is allowed for an income year a deduction for the expenditure of,—

(a) if paragraphs (b) and (c) do not apply, an amount that is calculated using the formula—

rate × value:

(b) if the operations of the business for which the expenditure was incurred come to an end in the income year, the diminished value or adjusted value of the expenditure for the income year:

(c) if an improvement to land described in schedule 19, part A, on which the expenditure was incurred is destroyed or is rendered useless for the purposes for which the expenditure was incurred, and paragraph (b) does not apply, the diminished value or adjusted value of the expenditure for the income year.

Definition of items in formula

(3) The items in the formula in subsection (2)(a) are defined in subsections (4) and (6).

Rate

(4) **Rate** is—

(a) 100% if the expenditure is of a kind listed in schedule 19, part A, item 1, or part B and neither paragraph (b) nor (c) applies:

(b) the appropriate rate under subsection (5) if—

(i) the expenditure is of a kind listed in schedule 19, part A, items 2 to 5; and

(ii) paragraph (c) does not apply:

(c) the rate for the kind of expenditure, the income year, the valuation method adopted under subsection (6), and the person determined by the Commissioner under section 91AAN of the Tax Administration Act 1994 if such a rate is determined.

Schedule 12 rates

(5) The rate for expenditure if the requirements of subsection (4)(b) are met is—

(a) the rate set out in schedule 12, column 2 (Old banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in subsection (7) if the person chooses to use the straight-line equivalent method:

(b) the rate set out in schedule 12, column 1 that corresponds to the rate under paragraph (a) if the person chooses to use the diminishing value equivalent method.

Value

(6) **Value** is—

(a) the amount of the expenditure incurred if the person chooses to use the straight-line equivalent method:

(b) the diminished value of the expenditure for the income year if the person chooses to use the diminishing value equivalent method.

Formula for rate for expenditure with assumed life

(7) The formula for the rate referred to in subsection (5)(a) for a kind of expenditure to which subsection (4)(b) applies is—

100% ÷ assumed life.

Definition of item in formula

(8) In the formula in subsection (7), **assumed life** for expenditure and an income year is,—

(a) for expenditure associated with a business activity that does not require a resource consent, 35:

(b) for expenditure associated with a business activity that requires a resource consent, the lesser of 35 and the number of years in the period of the resource consent that include or follow the time at which the expenditure is incurred.

Adjusted value

(9) In this section, **adjusted value** means, where the person chooses to use the straight-line equivalent method, the amount calculated using the formula—

amount of expenditure − deductions allowed + income derived.

Definition of items in formula

(10) In the formula in subsection (9),—

(a) **amount of expenditure** is the total amount of the expenditure incurred:

(b) **deductions allowed** is the total amount of the expenditure allowed as a deduction in previous income years:

(c) **income derived** is the total amount of income derived under section CB 28(8) (Environmental restoration accounts) in relation to the expenditure.

Diminishing value equivalent method

(11) In this section, **diminishing value equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the diminished value of the expenditure from the diminished value of the expenditure.

Straight-line equivalent method

(12) In this section, **straight-line equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the amount of the expenditure incurred from the adjusted value of the expenditure.

Link with subpart DA

(13) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: adjusted value, amount, business, capital limitation, deduction, diminished value, diminishing value equivalent method, general limitation, general permission, income, income year, New Zealand, revenue account property, straight-line equivalent method

Section DB 46: replaced (with effect on 1 April 2008), on 28 March 2024, by section 38(1) (and see section 38(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Repayments

DB 47 Payments for remitted amounts

When this section applies

(1) This section applies when—

(a) a person is allowed a deduction in an income year of an amount that the person is liable to pay; and

(b) the person's liability for the amount is later remitted or cancelled, wholly or partly; and

(c) the remission or cancellation is not a dividend; and

(d) the person is not required to calculate a base price adjustment by section EW 29 (When calculation of base price adjustment required); and

(e) the amount to which the remission or cancellation applies is assessable income of the person under section CG 2 (Remitted amounts); and

(f) the person makes a payment for the amount to which the remission or cancellation applies.

Amount, and timing, of deduction

(2) The person is allowed a deduction for the amount of the payment in the income year in which it is made.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, assessable income, deduction, dividend, general limitation, general permission, income year, pay, supplement

Compare: 2004 No 35 s DB 38

DB 48 Restrictive covenant breached

When this section applies

(1) This section applies when an employee (**person A**) makes a payment to another person (**person B**) in the following circumstances:

(a) person A derives assessable income under section CE 9 (Restrictive covenants); and

(b) person A breaches a term of the undertaking they gave to person B; and

(c) person A is, consequently, required to make the payment to person B.

Deduction

(2) Person A is allowed a deduction for the payment.

Amount of deduction

(3) The amount of the deduction is the lesser of the following:

(a) the assessable income that person A derives under section CE 9; and

(b) the payment that person A makes to person B, excluding interest, punitive damages, exemplary damages, and person B's legal costs and other expenses.

Timing of deduction

(4) The deduction is allocated to the income year in which person A makes the payment to person B.

Link with subpart DA

(5) This section supplements the general permission and overrides the employment limitation. The other general limitations still apply.

Defined in this Act: amount, assessable income, deduction, employee, employment limitation, general limitation, general permission, income year, interest, pay, supplement

Compare: 2004 No 35 s DB 39

Matching rules: revenue account property, prepayments, and deferred payments

DB 49 Adjustment for opening values of trading stock, livestock, and excepted financial arrangements

When this section applies

(1) This section applies when a person has some or all of the following at the start of an income year:

(a) trading stock valued under subpart EB (Valuation of trading stock (including dealer's livestock)):

(b) livestock valued under subpart EC (Valuation of livestock):

(c) excepted financial arrangements that are revenue account property valued under subpart ED (Valuation of excepted financial arrangements):

(d) a share supplier's share-lending right, if the original shares that relate to the right are excepted financial arrangements described in paragraph (c).

Deduction: opening value of trading stock

(2) The person is allowed a deduction in the income year for the value that the trading stock had at the end of the previous income year, as calculated under section EB 3 (Valuation of trading stock).

Deduction: opening value of livestock

(3) The person is allowed a deduction in the income year for the value that the livestock had at the end of the previous income year, as calculated under section EC 2 (Valuation of livestock).

Deduction: opening value of excepted financial arrangements

(4) The person is allowed a deduction in the income year for the value that the excepted financial arrangements or share-lending right had at the end of the previous income year, as calculated under section ED 1 (Valuation of excepted financial arrangements).

Link with subpart DA

(5) This section supplements the general permission. The general limitations still apply.

Defined in this Act: deduction, excepted financial arrangement, general limitation, general permission, income year, original share, revenue account property, share-lending right, share supplier, supplement, trading stock

Compare: 2004 No 35 s DB 40

DB 50 Adjustment for prepayments

When this section applies

(1) This section applies when a person has, under section EA 3 (Prepayments), an unexpired amount of expenditure at the end of an income year.

Deduction

(2) The person is allowed a deduction for the unexpired amount for the following income year.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply, but not to the extent to which any relevant general limitation was overridden by a provision that initially allowed a deduction for the expenditure, whether in this Act or an earlier Act.

Defined in this Act: amount, deduction, general limitation, general permission, income year, supplement

Compare: 2004 No 35 s DB 41

DB 51 Adjustment for deferred payment of employment income

When this section applies

(1) This section applies when a person has, under section EA 4 (Deferred payment of employment income), an unpaid amount of expenditure on employment income in an income year for which the person is to be allowed a deduction in the following income year.

Deduction

(2) The person is allowed a deduction for the unpaid amount for the following income year.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply, but not to the extent to which any relevant general limitation was overridden by a provision that initially allowed a deduction for the expenditure, whether in this Act or an earlier Act.

Defined in this Act: amount, deduction, employment income, general limitation, general permission, income year, pay, supplement

Compare: 2004 No 35 s DB 42

Adjustments for leases that become finance leases

Heading: inserted, on 1 April 2008, by section 341 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

DB 51B Adjustments for leases that become finance leases

When this section applies

(1) This section applies when an adjustment made under section FA 11 (Adjustments for leases that become finance leases) is negative.

Deduction

(2) The amount of the adjustment is a deduction of the lessor or the lessee, as applicable, in the income year in which the lease becomes a finance lease.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: deduction, finance lease, general limitation, general permission, income year, lease

Compare: 2004 No 35 s FC 8H(7)

Section DB 51B: inserted, on 1 April 2008, by section 341 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

IFRS leases

Heading: inserted (with effect on 1 January 2019), on 30 March 2021, by section 30(1) (and see section 30(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

DB 51C NZ IFRS 16 leases

When this section applies

(1) This section applies when a person has, under section EJ 10B (IFRS leases), an amount of a deduction for their IFRS lease.

Amount and timing of deduction

(2) The person is allowed a deduction of the amount of the deduction quantified and allocated under section EJ 10B.

Defined in this Act: amount, deduction, person

Section DB 51C: inserted (with effect on 1 January 2019), on 30 March 2021, by section 30(1) (and see section 30(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Change to accounting practice

DB 52 Adjustment for change to accounting practice

When this section applies

(1) This section applies when a person has, under section EG 2(2) or (3) (Adjustment for changes to accounting practice), an amount owed by them or an amount owing to them as quantified in those subsections.

Amount, and timing, of deduction

(2) The person is allowed a deduction of the amount as quantified and allocated under section EG 2.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission, supplement

Compare: 2004 No 35 s DB 43

Investment income

DB 53 Attributed PIE losses of certain investors

When this section applies

(1) This section applies to an investor in a multi-rate PIE when—

(a) an amount of attributed PIE loss is attributed under section HM 36 (Calculating amounts attributed to investors) to an investor for an attribution period in a tax year; and

(b) either—

(i) the investor is a zero-rated investor; or

(ii) the PIE calculates its tax liability using the quarterly calculation option under section HM 43 and the amount is attributed to an exiting investor to whom section HM 61 applies.

Deduction

(2) The investor is allowed a deduction for the amount allocated to the investor's income year in which the PIE's tax year ends.

When this section also applies

(2B) This section also applies for the purposes of an adjustment under section HM 36B (Calculating PIE schedular adjustments for natural person investors) when a natural person who is resident in New Zealand—

(a) is an investor in a multi-rate PIE; and

(b) in relation to an amount attributed to them by the PIE, has a rate of tax applied that is not equal to their prescribed investor rate for the income year; and

(c) has an amount of attributed PIE loss for the income year.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, attributed PIE loss, attribution period, deduction, exit period, general limitation, general permission, income tax liability, income year, investor, multi-rate PIE, natural person, PIE, prescribed investor rate, quarter, resident in New Zealand, tax year, zero-rated investor

Compare: 2007 No 97 s DB 53

Section DB 53: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 77(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 53(1)(b): replaced (with effect on 1 April 2020), on 31 March 2023, by section 37(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DB 53(2B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 31(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section DB 53(2B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 31(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section DB 53 list of defined terms **natural person**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 31(3)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section DB 53 list of defined terms **prescribed investor rate**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 31(3)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section DB 53 list of defined terms **resident in New Zealand**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 31(3)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section DB 53 list of defined terms **zero-rated investor**: inserted (with effect on 1 April 2020), on 31 March 2023, by section 37(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DB 53 list of defined terms **zero-rated portfolio investor**: repealed (with effect on 1 April 2020), on 30 March 2021, by section 31(3)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

DB 54 No deductions for fees relating to interests in multi-rate PIEs

When this section applies

(1) This section applies when an investor in an investor class of a multi-rate PIE incurs expenses in relation to their investor interest, and the entity includes the amount in the calculation of its tax liability under section HM 47 (Calculation of tax liability or tax credit of multi-rate PIEs) in relation to the investor.

No deduction

(2) The investor is denied a deduction for the amount.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: amount, deduction, general permission, investor, investor class, investor interest, multi-rate PIE

Compare: 2007 No 97 s DB 54

Section DB 54: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 78(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 54 heading: replaced, on 17 July 2013, by section 28 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DB 54B Expenditure incurred by foreign investment PIEs

When this section applies

(1) This section applies when a foreign investment PIE incurs expenditure or loss in deriving income attributable to—

(a) a notified foreign investor in the PIE:

(b) a transitional resident who has chosen under section HM 55D(9) (Requirements for investors in foreign investment PIEs) to use the specified prescribed investor rate.

No deduction

(2) The PIE is denied a deduction for the amount of the expenditure or loss.

Relationship with section DB 7

(3) This section overrides section DB 7 (Interest: most companies need no nexus with income).

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: amount, deduction, foreign investment PIE, general permission, income, loss, notified foreign investor, prescribed investor rate, transitional resident

Section DB 54B: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 16(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DB 54B(1): replaced, on 2 November 2012, by section 22(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DB 54B list of defined terms **prescribed investor rate**: inserted, on 2 November 2012, by section 22(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DB 54B list of defined terms **transitional resident**: inserted, on 2 November 2012, by section 22(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

DB 54C Certain expenditure incurred by foreign PIE equivalents

When this section applies

(1) This section applies for an income year when a foreign PIE equivalent incurs expenditure or loss in deriving an amount to which section CX 55B (Proceeds from disposal of certain shares and financial arrangements) applies.

No deduction

(2) The foreign PIE equivalent is denied a deduction for the amount of the expenditure or loss.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: amount, deduction, foreign PIE equivalent, general permission, income year

Section DB 54C: inserted, on 29 March 2018 (with effect on 1 April 2012 and applying for the 2012–13 and later income years), by section 48(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Exempt income

[Repealed]

Heading: repealed (with effect on 30 June 2009 and applying for a person and income years beginning on or after 1 July 2009, except if the person meets the following requirements: applying for

a person and the 2015–16 and later income years if the person takes a tax position, for an income year beginning on or after 1 July 2009, inconsistent with section 49(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014, and in a tax return filed before 22 November 2013), on 30 June 2014, pursuant to section 49(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 55 Expenditure incurred in deriving exempt dividend

[Repealed]

DB 55: repealed (with effect on 30 June 2009 and applying for a person and income years beginning on or after 1 July 2009, except if the person meets the following requirements: applying for a person and the 2015–16 and later income years if the person takes a tax position, for an income year beginning on or after 1 July 2009, inconsistent with section 49(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014, and in a tax return filed before 22 November 2013), on 30 June 2014, by section 49(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 55(3): replaced (with effect on 1 April 2008 and applying for 2008–09 and later income years), on 30 June 2014, by section 49(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Use of motor vehicle under certain arrangements

DB 56 Expenditure incurred in operating motor vehicle under agreement or arrangement affected by section CX 7

Deduction

(1) A party to an agreement or arrangement referred to in section CX 7 (Employer or associated person treated as having right to use vehicle under arrangement) is allowed a deduction for expenditure or an amount of depreciation loss incurred in operating a motor vehicle during a period for which an employer or associated person is treated under that section as having a right to use the vehicle.

Link with subpart DA

(2) This section overrides the private limitation and exempt income limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, arrangement, deduction, depreciation loss, exempt income limitation, general limitation, general permission, lease, motor vehicle

Compare: 2004 No 35 s DB 45

Payments to spouses, civil union partners, or de facto partners

DB 57 Payments to spouses, civil union partners, or de facto partners other than for services

No deduction without approval

(1) A person is denied a deduction for a payment to their spouse, civil union partner, or de facto partner for something other than services, without the Commissioner's approval.

Commissioner's approval

(2) The Commissioner may approve the deduction only if—

(a) the Commissioner considers that the payment is genuine; and

(b) the payment is incurred by the person exclusively in deriving their assessable income; and

(c) the approval is granted before the deduction is claimed.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: assessable income, Commissioner, deduction, general permission, pay

Compare: 2004 No 35 s GD 4

Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements

Heading: inserted, on 1 July 2018, by section 10(1) (and see section 10(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

DB 57B Matching of deductions and income from multi-jurisdictional arrangements

Deduction denied

(1) An amount is not a deduction of a person if the deduction is denied under subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements).

Deduction

(2) An amount treated as a deduction of a person under subpart FH is a deduction of the person.

Link with subpart DA

(3) Subsection (1) overrides, and subsection (2) supplements, the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission

Section DB 57B: inserted, on 1 July 2018, by section 10(1) (and see section 10(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Avoidance and non-market transactions

DB 58 Adjustment for avoidance arrangements

Deduction denied

(1) An amount is not a deduction of a person if the deduction is denied under—

(a) section GA 1 (Commissioner's power to adjust):

(b) section GB 17 (Excessive amounts for film rights or production expenditure):

(c) section GB 18 (Arrangements to acquire film rights or incur production expenditure):

(d) section GB 23 (Excessive remuneration to relatives):

(e) section GB 25 (Close company remuneration to shareholders, directors, or relatives).

Deduction

(2) An amount treated as a deduction of a person under any of the following sections is a deduction of the person:

(a) section GA 1:

(b) section GB 23:

(c) section GB 29 (Attribution rule: calculation):

(d) section GB 46 (Deferral of surplus deductions from arrangements).

Link with subpart DA

(3) Subsection (1) overrides, and subsection (2) supplements, the general permission. The general limitations still apply.

Defined in this Act: amount, arrangement, close company, Commissioner, deduction, depreciation loss, director, film production expenditure, film right, general limitation, general permission, relative, shareholder

Compare: 2004 No 35 ss GB 1(1)–(2C), GC 11A, GC 31, GD 3(1), (2), GD 5, GD 12, GD 12A

DB 59 Market value substituted

Transfer pricing arrangements

(1) A person may be denied a deduction under section GC 7 (Excess amount payable by person).

Acquisition for below market value

(2) A person may be treated as providing an amount—

(a) for acquisition of trading stock, under section GC 1 (Certain disposals of trading stock at below market value):

(b) for lease of a property, under section GC 5 (Leases for inadequate rent).

Link with subpart DA

(3) Subsection (1) overrides, and subsection (2) supplements, the general permission. The general limitations still apply.

Defined in this Act: deduction, general limitations, general permission, lease, trading stock

Compare: 2004 No 35 ss GD 7, GD 10

Section DB 59(2)(a): amended, on 1 April 2024, by section 39 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Emissions units and liabilities under Climate Change Response Act 2002

Heading: substituted (with effect on 1 January 2009), on 6 October 2009, by section 80 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DB 60 Acquisition of emissions units

When this section applies

(1) This section applies when an emissions unit is transferred to a person for a price of zero—

(a) under section 64, or Part 4, subpart 2, of the Climate Change Response Act 2002:

(b) under a permanent forestry scheme.

No deduction

(2) The person is denied a deduction for an amount of expenditure or loss incurred as consideration for the emissions unit.

Link with subpart DA

(3) Subsection (2) overrides the general permission.

Defined in this Act: amount, emissions unit, general permission, loss, permanent forestry scheme

Section DB 60: substituted (with effect on 1 January 2009), on 6 October 2009, by section 80 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 60(1): substituted (with effect on 1 January 2009), on 7 September 2010, by section 20 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DB 60(1)(b): replaced, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section DB 60 list of defined terms **permanent forestry scheme**: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

DB 60B Liabilities for emissions

When this section applies

(1) This section applies when a person incurs a liability—

(a) under the Climate Change Response Act 2002 for emissions relating to post-1989 forest land or pre-1990 forest land:

(b) to transfer emissions units to the Crown under a permanent forestry scheme.

No deduction

(2) The person is denied a deduction for the liability.

Link with subpart DA

(3) Subsection (2) overrides the general permission.

Defined in this Act: amount, deduction, emissions unit, general permission, permanent forestry scheme, post-1989 forest land, pre-1990 forest land

Section DB 60B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 81(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DB 60B(1): substituted (with effect on 1 January 2009), on 7 September 2010, by section 21(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DB 60B(1)(b): replaced, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section DB 60B list of defined terms **emissions unit**: inserted (with effect on 1 January 2009), on 7 September 2010, by section 21(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DB 60B list of defined terms **permanent forestry scheme**: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

DB 61 Surrender of certain emissions units for post-1989 forest land emissions

When this section applies

(1) This section applies when a person surrenders a pre-1990 forest land emissions unit or fishing quota emissions unit to meet a liability under the Climate Change Response Act 2002 to surrender units in relation to post-1989 forest land.

Treated as disposal and reacquisition

(2) The person is treated as having disposed of the emissions unit to an unrelated person and as having then reacquired it, in each case immediately before the surrender and for an amount equal to the unit's market value at the time.

Defined in this Act: amount, emissions unit, fishing quota emissions unit, pre-1990 forest land emissions unit, surrender

Section DB 61: substituted (with effect on 1 July 2010), on 7 September 2010, by section 22 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Legal expenses

Heading: added, on 1 April 2009, by section 4 of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

DB 62 Deduction for legal expenses

When this section applies

(1) This section applies to a person when their total legal expenses for an income year is equal to or less than $10,000.

Deduction

(2) The person is allowed a deduction for the legal expenses.

Definition

(3) For the purposes of this section, **legal expenses** means fees for **legal services** (as defined in the Lawyers and Conveyancers Act 2006) provided by a person who holds a practising certificate issued by the New Zealand Law Society or an Australian equivalent.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, general limitation, general permission, income year, legal expenses

Section DB 62: added, on 1 April 2009, by section 4 of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Miscellaneous company administration costs

Heading: inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 50(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 63 Expenses in paying dividends

Deduction

(1) A company is allowed a deduction for expenditure incurred in—

(a) authorising, allocating, or processing the payment of a dividend:

(b) resolving a dispute concerning a matter referred to in paragraph (a).

Link with subpart DA

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

Defined in this Act: capital limitation, company, deduction, dividend, general limitation, general permission

Section DB 63: inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 50(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 63B Periodic company registration fees

Deduction

(1) A listed company is allowed a deduction for expenditure incurred as periodic fees of a recognised exchange for maintaining the registration of the company on the exchange.

Link with subpart DA

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

Defined in this Act: capital limitation, company, deduction, general limitation, general permission, listed company, recognised exchange

Section DB 63B: inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 50(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DB 63C Meetings of shareholders

Deduction

(1) A company is allowed a deduction for expenditure incurred in holding an annual meeting of the shareholders of the company to consider the affairs of the company.

No deduction

(2) A company is denied a deduction for expenditure incurred in holding a special or extraordinary meeting of the shareholders of the company.

Link with subpart DA

(3) Subsection (1) supplements the general permission and overrides the capital limitation. Subsection (2) overrides the general permission. The other general limitations still apply.

Defined in this Act: capital limitation, company, deduction, general limitation, general permission, shareholder

Section DB 63C: inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 50(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Capital contributions

Heading: added (with effect on 20 May 2010), on 28 May 2010 (applying for capital contributions derived after 20 May 2010), by section 76(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

DB 64 Capital contributions

When this section applies

(1) This section applies if,—

(a) a person has derived a capital contribution after 20 May 2010; and

(b) in the absence of this section, the person would be allowed a deduction for the relevant capital contribution property, or for the relevant expenditure for the capital contribution property; and

(c) the person has chosen to apply this section in a return of income for the income year in which the capital contribution is derived.

Deductions

(2) For the purposes of quantifying the amount of depreciation loss under subpart EE (Depreciation) in relation to the capital contribution property or the amount of deduction under subpart DO (Farming and aquacultural business expenditure) in relation to expenditure for the capital contribution property,—

(a) the capital contribution property's adjusted tax value, base value, cost, or value, as applicable, is reduced by the amount of the capital contribution, under subpart EE:

(b) the relevant expenditure for the capital contribution property is reduced by the amount of the capital contribution, under subpart DO.

Links with subpart DA

(3) This section overrides the general permission.

Defined in this Act: adjusted tax value, amount, capital contribution, capital contribution property, deduction, expenditure, general permission, income, income year, return of income

Section DB 64: inserted (with effect on 20 May 2010), on 28 May 2010 (applying for capital contributions derived after 20 May 2010), by section 76(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section DB 64(1)(b): replaced (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 29(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 64(2) heading: replaced (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 29(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 64(2): replaced (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 29(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 64 list of defined terms **capital contribution property**: inserted (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 29(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DB 64 list of defined terms **expenditure**: inserted (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 29(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DB 65 Allowance for certain commercial buildings

[Repealed]

Section DB 65: repealed, on 1 April 2020, by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

DB 65B Allowance for embedded fit-out of certain commercial buildings

When this section applies

(1) This section applies when—

(a) a person owns a commercial building and the building is depreciable property with an annual rate of 0% in an income year; and

(b) the building was acquired in the 2010–11 or an earlier income year; and

(c) the person has never had a deduction for commercial fit-out that was acquired at the same time as the building and relates to the building other than under—

(i) this section:

(ii) section DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020.

Deduction for commercial fit-out

(2) Except as provided in subsection (4), the person is treated as having a loss for the income year equal to the amount calculated using the formula—

starting pool × 0.015 × whole months ÷ 12.

Calculation of starting pool

(3) Starting pool is the amount given by the formula—

(0.15 × building atv) − fit-out atv.

Deduction limited to value of starting pool

(4) Despite subsection (2), if the amount given by the formula in subsection (2) is more than the amount given by the formula in subsection (5), then the person is treated as having a loss for the income year equal to the amount given by the formula in subsection (5).

Calculation of deduction limit

(5) For the purposes of subsection (4), the formula is—

starting pool − historical fit-out deductions − fit-out deductions − imputed deductions.

Imputed deductions

(6) The amount of the imputed deductions is—

starting pool × 0.015 × 4.

Definition of items in formulas

(7) In the formulas in subsections (2), (3), (5), and (6), as applicable, —

(a) **starting pool** is the amount given by the formula in subsection (3):

(b) **whole months** is the number of whole months in the income year in which the building is used, or is available for use, by the person in deriving assessable income or carrying on a business for the purpose of deriving assessable income:

(c) **building atv** is the adjusted tax value of the building that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE (Depreciation):

(d) **fit-out atv** is the total adjusted tax value of all items of commercial fit-out that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE if—

(i) the items of commercial fit-out relate to the building and were acquired after the building was acquired; and

(ii) the person has had a deduction for an amount of depreciation loss for the items of commercial fit-out:

(e) **historical fit-out deductions** is the total amount of a person's deductions allowed under section DB 65, as in force before its repeal by

section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, for income years before the 2020–21 income year:

(f) **fit-out deductions** is the total amount of deductions the person has claimed under this section for all income years:

(g) **imputed deductions** is the amount given by the formula in subsection (6), being the total amount of deductions the person would have received for the 2020–21 to 2023–24 income years if this section applied from the beginning of the 2020–21 income year to the end of the 2023–24 income year.

Treatment of amounts under specific and general rules for deductions

(8) The capital limitation does not apply to a loss under this section merely because the item of property is itself of a capital nature.

Defined in this Act: adjusted tax value, amount, assessable income, capital limitation, commercial building, commercial fit-out, deduction, depreciable property, depreciation loss, income year

Section DB 65B: inserted, on 1 April 2024, by section 40(1) (and see section 40(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Feasibility expenditure

Heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 32(1) (and see section 32(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

DB 66 Feasibility expenditure: spread deduction

When this section applies

(1) This section applies for expenditure to the extent to which a person has—

(a) incurred expenditure for an income year after the 2019–20 income year in relation to making progress towards completing, creating, or acquiring property that, if it were to be completed, created, or acquired, would be—

(i) depreciable property for which the depreciation rate is more than 0%:

(ii) revenue account property; and

(b) abandoned further progress in relation to the property, with the result that it is not completed, created, or acquired; and

(c) no deduction in relation to the expenditure under any other provision.

When this section does not apply

(2) Despite subsection (1) this section does not apply to the extent to which expenditure is in relation to property on the following list:

(a) land, unless it is fixed life intangible property:

(b) an excepted financial arrangement:

(c) intangible property or intellectual property, unless it is fixed life intangible property.

Deduction: spread forward

(3) The person is allowed a deduction for the expenditure described in subsection (1), in equal proportions over a period of 5 income years starting in the income year in which they abandon further progress. However, a person is not allowed any remaining deduction portions for the income year in which they complete or create the relevant property, or acquire the relevant property or similar property, or for later years.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, business, capital limitation, deduction, depreciable property, excepted financial arrangement, financial arrangement, fixed life intangible property, general limitation, general permission, income year, intellectual property, land, person

Section DB 66: inserted (with effect on 1 April 2020), on 30 March 2021, by section 32(1) (and see section 32(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

DB 67 Feasibility expenditure: immediate deduction

When this section applies

(1) This section applies for expenditure to the extent to which a person has—

(a) incurred expenditure for an income year after the 2019–20 income year in relation to making progress towards completing, creating, or acquiring property that, if it were to be completed, created, or acquired, would be—

(i) depreciable property for which the depreciation rate is more than 0%:

(ii) revenue account property; and

(b) no deduction for the expenditure under any other provision.

When this section does not apply

(2) Despite subsection (1) this section does not apply to expenditure that is in relation to property on the following list:

(a) land, but excluding fixed life intangible property:

(b) an excepted financial arrangement:

(c) intangible property or intellectual property, but excluding fixed life intangible property.

Deduction: immediate

(3) The person is allowed a deduction for the expenditure described in subsection (1), if their total expenditure described in subsection (1) in relation to all property is $10,000 or less for the income year.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, business, capital limitation, deduction, depreciable property, excepted financial arrangement, financial arrangement, fixed life intangible property, general permission, general limitation, income year, intellectual property, land, person

Section DB 67: inserted (with effect on 1 April 2020), on 30 March 2021, by section 32(1) (and see section 32(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Utilities distribution assets

Heading: inserted (with effect on 1 April 2008), on 31 March 2023, by section 38(1) (and see section 38(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

DB 68 Amounts paid for utilities distribution assets

When this section applies

(1) This section applies when a person incurs expenditure in relation to either a utilities distribution asset or a utilities distribution network.

Determining whether expenditure of capital nature

(2) For the purpose of determining whether the expenditure is capital in nature, the expenditure is treated as relating to a utilities distribution asset and is treated as not being incurred in relation to a utilities distribution network.

Defined in this Act: utilities distribution asset, utilities distribution network

Section DB 68: inserted (with effect on 1 April 2008), on 31 March 2023, by section 38(1) (and see section 38(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Deemed payments for services

Heading: inserted (with effect on 1 December 2024), on 29 March 2025, by section 39 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

DB 69 Amount of resale royalty retained by collection agency

When this section applies

(1) This section applies to a person—

(a) who receives a resale royalty under section 18 of the Resale Right for Visual Artists Act 2023; and

(b) to whom section CC 9B (Resale royalties) applies.

Deduction

(2) The person is allowed a deduction for the amount of the resale royalty retained by the collection agency under section 20 of the Resale Right for Visual Artists Act 2023.

Link with subpart DA

(3) This section supplements the general permission.

Defined in this Act: amount, collection agency, deduction, general permission, resale royalty, supplement

Section DB 69: inserted (with effect on 1 December 2024), on 29 March 2025, by section 39 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Emergency events

Heading: inserted, on 1 April 2025, by section 40 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

DB 70 Deduction for interruption expenditure due to emergency event

Deduction

(1) A person is allowed a deduction for expenditure incurred while their income-earning activity is interrupted by an emergency event if they meet the requirements of section FP 13 (Treatment of expenditure when income-earning activity interrupted).

Link with subpart DA

(2) This section supplements the general permission.

Defined in this Act: deduction, emergency event, general permission, supplement

Section DB 70: inserted, on 1 April 2025, by section 40 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DB 70: editorial change made to insert section DB 70 in its appropriate numerical order by the PCO, on 2 May 2025, under sections 86(1) and 87(l)(iv) of the Legislation Act 2019 (2019 No 58).

Subpart DC—Employee or contractor expenditure

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DC 1 Lump sum payments on retirement

Deduction

(1) A person who carries on a business is allowed a deduction for a lump sum paid as a bonus, gratuity, or retiring allowance to an employee on retirement.

Inclusions

(2) For the purposes of subsection (1), a lump sum paid on retirement includes a lump sum paid to—

(a) an employee when they end their employment or service through redundancy, loss of office, or similar circumstances:

(b) a former employee when they are unable to be reemployed in seasonal work in circumstances that would be considered the loss of employment or service through redundancy if they resulted in ending the seasonal work.

Exclusion

(3) This section does not apply to the extent to which the person has accepted a liability, as described in section DC 10(1)(c), to pay an amount of employment income.

Timing of deduction

(4) The deduction is allocated to the income year in which the lump sum is paid.

Link with subpart DA

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

Defined in this Act: amount, business, capital limitation, deduction, employee, employment income, general limitation, general permission, income year, pay, supplement

Compare: 2004 No 35 s DC 1

DC 2 Pension payments to former employees

When subsection (2) applies

(1) Subsection (2) applies when—

(a) a person, other than a close company, carries on a business; and

(b) a former employee has retired from their employment in the business or their employment has ended through redundancy or similar circumstances; and

(c) they are paid a pension in consideration of their past services in the business; and

(d) they or their spouse, civil union partner, or de facto partner has a right to receive the pension under a deed for a fixed period or for life or, in the case of the spouse, civil union partner, or de facto partner, until the spouse, civil union partner, or de facto partner enters a new marriage, civil union, or de facto relationship.

Deduction: not close company

(2) The person is allowed a deduction for a reasonable amount paid as the pension to the former employee or their surviving spouse, civil union partner, or de facto partner.

When subsection (4) applies

(3) Subsection (4) applies when—

(a) a close company carries on a business; and

(b) a former employee of the company is or has been a shareholder in it or has a relative who is or has been a shareholder in it; and

(c) the former employee's employment in the company was genuine; and

(d) they have retired from the employment or their employment has ended through redundancy or similar circumstances; and

(e) they are paid a pension in consideration of their past services in the business; and

(f) they or their spouse, civil union partner, or de facto partner has a right to receive the pension under a deed for a fixed period or for life or, in the case of the spouse, civil union partner, or de facto partner, until the spouse, civil union partner, or de facto partner enters a new marriage, civil union, or de facto relationship.

Deduction: close company

(4) The close company is allowed a deduction for the amount paid as the pension to the former employee or their surviving spouse, civil union partner, or de facto partner.

Amount of deduction under subsection (4)

(5) The amount of the deduction allowed under subsection (4) is the amount that the company would have paid if the former employee or their relative were not, or had not been, a shareholder in the company.

Timing of deductions

(6) A deduction under this section is allocated to the income year in which the amount is paid.

Relationship with section FB 11

(7) Section FB 11 (Pension payments to former employees) expands on this section.

Link with subpart DA

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

Defined in this Act: amount, business, capital limitation, close company, deduction, employee, general limitation, general permission, income year, pay, relative, shareholder, supplement

Compare: 2004 No 35 s DC 2

DC 3 Pension payments to former partners

When this section applies

(1) This section applies when—

(a) a person is a partner in a partnership; or

(b) a person who was a partner in a partnership is in business on their own account.

Exclusion

(2) This section does not apply to a partnership or a business that is engaged wholly or mainly in investing money or in holding, or dealing in, shares, securities, investments, or estates or interests in land.

Deduction

(3) The person is allowed a deduction for their share of an amount, to the extent to which the amount is reasonable, paid as a pension to a former partner, or to the spouse, civil union partner, or de facto partner of a deceased former partner, if—

(a) the partnership in which the former partner was a partner (the **old partnership**) carried on the same business as that now carried on either by the partnership that is paying the pension or by the person in business who is paying the pension; and

(b) the former partner retired from the old partnership or their employment ended through retirement; and

(c) the former partner or their spouse, civil union partner, or de facto partner has a right to receive the pension under a deed for a fixed period or for life or, in the case of the spouse, civil union partner, or de facto partner, until the spouse, civil union partner, or de facto partner enters a new marriage, civil union, or de facto relationship; and

(d) the pension is paid for the former partner's services in the old partnership.

Relationship with section HG 2

(3B) Section HG 2 (Partnerships are transparent) does not apply for the purposes of this section.

Link with subpart DA

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

Defined in this Act: amount, business, capital limitation, deduction, estate, general limitation, general permission, interest, land, pay, share, supplement

Compare: 2004 No 35 s DC 3

Section DC 3(3B) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 41(1) (and see section 41(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DC 3(3B): inserted (with effect on 1 April 2008), on 29 March 2025, by section 41(1) (and see section 41(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

DC 3B Payments to working owners

Deduction

(1) A person who has an effective look-through interest for a look-through company (an **owner**) is allowed a deduction for their share of a payment made under a contract of employment to a working owner.

Amount of deduction

(2) The amount of the deduction is limited to the amount of the payment authorised by the contract of employment and any bonus, whether or not the payment of a bonus is authorised by the contract.

Meaning of contract of employment

(3) In this section, **contract of employment**, for a working owner, means an agreement that—

(a) specifies the terms and conditions of the services to be performed by the working owner; and

(b) specifies the amount payable to the working owner for the performance of the services; and

(c) is in writing.

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, contract of employment, deduction, effective look-through interest, general limitation, general permission, look-through company, pay, supplement, working owner

Section DC 3B: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 40(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

DC 4 Payments to working partners

Deduction

(1) A person who is a partner in a partnership is allowed a deduction for their share of a payment made under a contract of service to a partner who personally and actively performs duties that—

(a) are required to be performed in carrying on the business of the partnership; and

(b) are performed by the partner during the currency of the contract of service.

Exclusion

(2) This section does not apply to a partnership that is engaged wholly or mainly in investing money or in holding, or dealing in, shares, securities, investments, or estates or interests in land.

Amount of deduction

(3) The amount of the deduction is limited to the amount of the payment authorised by the contract of service and any bonus, whether or not the payment of a bonus is authorised by the contract.

Relationship with section GB 23

(4) This section is overridden by section GB 23 (Excessive remuneration to relatives).

Relationship with section HG 2

(4B) Section HG 2 (Partnerships are transparent) does not apply for the purposes of this section.

Meaning of contract of service

(5) In this section, **contract of service**, for a partner and a partnership, means an agreement that—

(a) specifies the terms and conditions of the services to be performed by the partner; and

(b) specifies the amount payable to the partner for the performance of the services; and

(c) is entered into by all the partners in the partnership; and

(d) is in writing.

Link with subpart DA

(6) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, business, contract of service, deduction, estate, general limitation, general permission, interest, land, pay, share, supplement

Compare: 2004 No 35 s DC 4

Section DC 4(4B) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 42(1) (and see section 42(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DC 4(4B): inserted (with effect on 1 April 2008), on 29 March 2025, by section 42(1) (and see section 42(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

DC 5 Payments to spouses, civil union partners, or de facto partners: services

No deduction without approval

(1) A person is denied a deduction for a payment to their spouse, civil union partner, or de facto partner for services without the Commissioner's approval.

When Commissioner can give consent

(2) The Commissioner may approve the deduction only if—

(a) the Commissioner considers that the payment is for services rendered; and

(b) the services are not domestic services or otherwise services connected with the home; and

(c) the payment is incurred by the person exclusively in deriving their assessable income; and

(d) the approval is granted before the deduction is claimed.

Relationship with section GB 23

(3) This section is overridden by section GB 23 (Excessive remuneration to relatives).

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: assessable income, Commissioner, deduction, general permission, pay

Compare: 2004 No 35 s GD 4

DC 6 Contributions to employees' benefit funds

Deduction

(1) An employer is allowed a deduction for an amount that they pay to, or set aside as, a fund to provide individual personal benefits to their employees if—

(a) the fund is not a superannuation scheme; and

(b) the employees' rights to receive benefits from the fund are fully secured.

Link with subpart DA

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

Defined in this Act: amount, capital limitation, deduction, employee, employer, general limitation, general permission, pay, superannuation scheme, supplement

Compare: 2004 No 35 s DC 5

DC 7 Contributions to employees' superannuation schemes

Deduction

(1) An employer is allowed a deduction for a superannuation contribution to an employees' superannuation scheme.

Exclusion

[Repealed]

(1B) *[Repealed]*

Timing of deduction

(2) The deduction is allocated to the income year in which the employer makes the contribution.

Relationship with section EJ 21

(3) Subsection (2) is overridden by section EJ 21 (Contributions to employees' superannuation schemes).

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, employee, employer, general limitation, general permission, income year, superannuation contribution, superannuation scheme, tax credit

Compare: 2004 No 35 s DC 6

Section DC 7(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 82(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DC 7(1B) heading: repealed, on 1 April 2009, pursuant to section 52 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section DC 7(1B): repealed, on 1 April 2009, by section 52 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section DC 7 list of defined terms **superannuation contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 82(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DC 7 list of defined terms **tax credit**: inserted, on 1 April 2008, by section 124(2) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

DC 8 Attribution of personal services

When this section applies

(1) This section applies when, under sections GB 27 to GB 29 (which relate to the attribution rule for income from personal services), an amount of income of

a person (the **associated entity**) is attributed to another person (the **working person**).

Deduction

(2) The associated entity is allowed a deduction for the amount attributed.

Timing of deduction

(3) The deduction is allocated to the income year in which the amount is attributed to the working person.

Link with subpart DA

(4) This section supplements the general permission and overrides all the general limitations.

Defined in this Act: amount, deduction, general limitation, general permission, income year, supplement

Compare: 2004 No 35 s DC 7

DC 9 Restrictive covenants or exit inducements

Deduction

(1) A person is allowed a deduction for expenditure that they incur that is income of another person under section CE 9 (Restrictive covenants) or CE 10 (Exit inducements).

Exclusion

(2) This section does not apply if—

(a) the other person performs services for the person; and

(b) expenditure that the person would have incurred for the services, if the other person had not derived an amount that is income under section CE 9 or CE 10, would have been of a capital nature.

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, general limitation, general permission, income

Compare: 2004 No 35 s DC 8

DC 10 Disposal of business: transferred employment income obligations

When this section applies

(1) This section applies when—

(a) a person (the **seller**) disposes of a business, or a part of a business, to another person (the **buyer**); and

(b) an employee of the seller working in the business, or the part of the business, becomes an employee of the buyer under the disposal arrangements; and

(c) the seller and the buyer agree in writing, under the disposal arrangements, that the buyer assumes the obligation to pay an amount of employment income to the employee.

Deduction: parties not associated

(2) If the seller and the buyer are not associated persons at the time of the disposal,—

(a) the seller is allowed a deduction, in the income year of the disposal, for the provision made by the seller for any part of the amount that remains contingent on the employee continuing in employment or any similar factor; and

(b) the seller is treated under section EA 4(4) (Deferred payment of employment income) as having paid the amount of the provision at the time of the disposal.

Deduction: parties associated

(3) If the seller and the buyer are associated persons at the time of the disposal,—

(a) the buyer is allowed a deduction for the provision made by the seller for the amount of employment income if the seller would have been allowed a deduction for the amount if the business, or the part of the business, had not been disposed of; and

(b) subsection (2) does not apply, and section EA 4(5) will mean that the seller cannot get a deduction for the amount.

Deduction: excess

(4) The buyer is allowed a deduction for any part of the amount of employment income that the buyer pays that is more than the provision made by the seller for the amount.

Link with subpart DA

(5) The link between this section and subpart DA (General rules) is as follows:

(a) subsection (2)(a) supplements the general permission; the general limitations still apply:

(b) subsections (3)(a) and (4) override the capital limitation; the general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, arrangement, associated person, business, capital limitation, deduction, employee, employment income, general limitation, general permission, income year, pay, supplement, time of the disposal

Compare: 2004 No 35 s DC 9

Section DC 10 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(1)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(1)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(1)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(3): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10(3)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10 list of defined terms **time of the disposal**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DC 10 list of defined terms **time of the sale**: repealed (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DC 11 Transfers of employment income obligations to associates

When this section applies

(1) This section applies when—

(a) an employee of a person (**person A**) becomes an employee of another person (**person B**); and

(b) person A and person B are associated persons at the time; and

(c) person B assumes person A's obligation to pay an amount of employment income to the employee; and

(d) the employee's becoming an employee of person B does not result from the disposal by person A of a business, or a part of a business, to person B.

Deduction

(2) Person B is allowed a deduction for the amount of employment income if person A would have been allowed a deduction for the amount if the transfer had not occurred.

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, associated person, business, capital limitation, deduction, employee, employment income, general limitation, general permission, pay

Compare: 2004 No 35 s DC 10

Section DC 11(1)(d): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DC 12 Loans to employees under share purchase schemes

[Repealed]

Section DC 12: repealed, on 29 March 2018, by section 49 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DC 13 Criteria for approval of share purchase schemes: before period of restriction ends

[Repealed]

Section DC 13: repealed, on 29 March 2018, by section 49 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DC 14 Criteria for approval of share purchase schemes: when period of restriction ends

[Repealed]

Section DC 14: repealed, on 29 March 2018, by section 49 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DC 15 Some definitions

[Repealed]

Section DC 15: repealed, on 29 March 2018, by section 49 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart DD—Entertainment expenditure

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DD 1 Entertainment expenditure generally

When this subpart applies

(1) This subpart applies when, in deriving income, a person incurs expenditure on entertainment that provides both a private and a business benefit.

No deduction (with exception)

(2) The person is denied a deduction for expenditure that they incur on the forms of entertainment set out in section DD 2, except for 50% of the amount that they would have been allowed in the absence of this subsection.

Meaning of limitation rule

(3) **Limitation rule** means the rule described in subsection (2).

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: amount, business, deduction, general permission, income, limitation rule

Compare: 2004 No 35 s DD 1

DD 2 Limitation rule

What rule applies to

(1) The expenditure to which the limitation rule applies is expenditure on the forms of entertainment described in subsections (2) to (6).

Corporate boxes

(2) The limitation rule—

(a) applies to deductions for expenditure on corporate boxes, corporate marquees or tents, or other exclusive areas, whether temporary or permanent, at—

(i) cultural, sporting, or other recreational events:

(ii) activities taking place off the person's business premises; and

(b) applies to the cost of tickets or other rights of entry to the areas; and

(c) applies to the cost of food and drink incidental to this form of entertainment.

Holiday accommodation

(3) The limitation rule—

(a) applies to deductions for expenditure on accommodation in a holiday home, time-share apartment, or similar leisure venue; and

(b) does not apply to accommodation that is merely incidental to business activities or employment duties; and

(c) applies to the cost of food and drink incidental to this form of entertainment.

Pleasure craft

(4) The limitation rule—

(a) applies to deductions for expenditure on yachts or other pleasure craft; and

(b) applies to the cost of food and drink incidental to this form of entertainment.

Entertainment off premises

(5) The limitation rule applies to deductions for expenditure on food and drink that a person provides off their business premises.

Entertainment on premises

(6) The limitation rule applies to deductions for expenditure on food and drink that a person provides, other than light refreshments such as a morning tea and whether or not guests are present,—

(a) on their business premises at a celebration meal, party, reception, or other similar social function:

(b) in an area of the premises that at the time is reserved for senior employees to use and is not open to all the person's employees working in the premises.

Meaning of expenditure

(7) **Expenditure** includes,—

(a) in subsections (2) to (4),—

(i) an amount of depreciation loss; and

(ii) expenditure or loss on running costs and maintenance and similar matters; and

(iii) a deduction for a lease premium under section DZ 9 (Premium paid on land leased before 1 April 1993); and

(b) in subsections (2) to (6), any incidental expenditure on matters such as hireage of crockery, glassware, or utensils, waiting staff, and music or other entertainment provided in association with the specified kind of entertainment.

Defined in this Act: amount, business, business premises, deduction, depreciation loss, expenditure, limitation rule, pay

Compare: 2004 No 35 s DD 2

DD 3 When limitation rule does not apply

The limitation rule is either restricted in its application or does not apply to deductions for the expenditure described in sections DD 4 to DD 8.

Defined in this Act: deduction, limitation rule

Compare: 2004 No 35 s DD 3

DD 4 Employment-related activities

Business travel expenditure

(1) The limitation rule does not apply to a deduction for expenditure on food or drink consumed by a person while travelling in the course of business or for their employment duties. However, the limitation rule applies if—

(a) the travel is mainly for the purpose of enjoying entertainment; or

(b) the food or drink is consumed at a meal or function involving an existing or potential business contact as a guest; or

(c) the food or drink is consumed at a celebration meal, party, reception, or other similar social function.

Conference expenditure

(2) The limitation rule does not apply to a deduction for expenditure on light refreshments at a conference or educational course or similar event, nor to food or drink consumed at such an event lasting for at least 4 consecutive hours, excluding meal times. However, the limitation rule applies if the event is mainly for the purpose of entertainment.

Relocation expenses, employees' meals, and sustenance allowances

(3) The limitation rule does not apply to a deduction for expenditure on—

(a) an amount that is exempt income of an employee under sections CW 17B, CW 17C, and CW 17CB (which relate to relocation expenses and expenditure on meals):

(b) a light meal consumed as part of the employee's employment duties in an area of the person's business premises that at the time is reserved for senior employees and their guests to use and is not open to all the person's employees working in the premises.

Defined in this Act: amount, business, business contacts, business premises, deduction, employee, exempt income, limitation rule

Compare: 2004 No 35 s DD 4

Section DD 4(3) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 84(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DD 4(3)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 84(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DD 4(3)(a): amended, on 1 April 2015, by section 51 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DD 4 list of defined terms **amount**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 84(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DD 5 Promoting businesses, goods, or services

Sponsored promotions

(1) The limitation rule does not apply to a deduction for expenditure on entertainment if—

(a) the entertainment is sponsored mainly to advertise or promote a person's business, goods, or services to the public; and

(b) none of the following has a greater opportunity to enjoy the entertainment than the public generally:

(i) existing business contacts of the person or the person whose business, goods, or services are being advertised or promoted:

(ii) employees of the person or the person whose business, goods, or services are being advertised or promoted:

(iii) anyone associated with the person or the person whose business, goods, or services are being advertised or promoted.

Incidental costs of promotion

(2) The limitation rule does not apply to a deduction for expenditure on entertainment that is merely an incidental part of—

(a) a trade display mainly held to advertise or promote a business, goods, or services:

(b) a function open to the public and mainly held to advertise or promote a business, goods, or services.

Samples

(3) The limitation rule does not apply to a deduction for expenditure on samples that a person provides for promotion or advertising purposes to anyone who is not an employee of or associated with the person.

Entertainment for review

(4) The limitation rule does not apply to a deduction for expenditure on entertainment that a person provides to a person who is reviewing the entertainment for a book, magazine, paper, or other medium of communication.

Defined in this Act: associated person, business, business contacts, deduction, employee, limitation rule

Compare: 2004 No 35 s DD 5

DD 6 Entertainment as business or for charitable purpose

Entertainment as business

(1) The limitation rule does not apply to a deduction for expenditure on entertainment that a person provides for market value or in an arm's length transaction

in the ordinary course of their business, if that business is to provide 1 or more of the forms of entertainment referred to in section DD 2.

Entertainment for charitable purposes

(2) The limitation rule does not apply to a deduction for expenditure on entertainment that a person provides to members of the public for charitable purposes.

Defined in this Act: business, charitable purpose, deduction, limitation rule

Compare: 2004 No 35 s DD 6

DD 7 Entertainment outside New Zealand

The limitation rule does not apply to a deduction for expenditure on entertainment that is enjoyed or consumed outside New Zealand.

Defined in this Act: deduction, limitation rule, New Zealand

Compare: 2004 No 35 s DD 7

DD 8 Entertainment that is income or fringe benefit

The limitation rule does not apply to a deduction for expenditure on entertainment that is—

(a) income of the person who consumes it; or

(b) a fringe benefit to which fringe benefit tax applies.

Defined in this Act: deduction, fringe benefit, fringe benefit tax, income, limitation rule

Compare: 2004 No 35 s DD 8

DD 9 Relationship with fringe benefit tax rules

Sections DD 2 to DD 8 override the fringe benefit tax (FBT) rules. However, the FBT rules, as applied by section CX 29 (Entertainment), override sections DD 2 to DD 8 if an employee of the person providing the benefit—

(a) may choose when to receive or use the benefit:

(b) does not receive or use the benefit in the course of their employment duties.

Defined in this Act: employee, FBT rules

Compare: 2004 No 35 s DD 9

DD 10 Interpretation: reimbursement and apportionment

In sections DD 2 to DD 8,—

(a) a person is treated as having incurred expenditure on entertainment described in section DD 2 if they pay an allowance for, or reimburse an employee's expenditure on, the entertainment, and the allowance or reimbursement is exempt income under sections CW 17, CW 17B, CW 17C, and CW 17CB (which relate to expenditure and reimbursement of employees):

(b) if a person incurs expenditure that relates only partly to the entertainment, the expenditure must be apportioned appropriately.

Defined in this Act: employee, exempt income, pay

Compare: 2004 No 35 s DD 10

Section DD 10(a): amended, on 1 April 2015, by section 52 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DD 10(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 85 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DD 11 Some definitions

In this subpart,—

business includes any recurring income-earning activity

business contacts—

(a) includes, for a person,—

(i) their clients, customers, shareholders, other financiers, and suppliers:

(ii) the clients, customers, shareholders, other financiers, and suppliers of an associated person:

(b) if the person is in partnership, does not include other partners in the partnership.

business premises *[Repealed]*

Defined in this Act: associated person, business, business contacts, business premises, shareholder

Compare: 2004 No 35 s DD 11

Section DD 11 **business premises**: repealed (with effect on 27 March 2021), on 31 March 2023, by section 39 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Subpart DE—Motor vehicle expenditure

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Introductory provisions

DE 1 What this subpart does

Apportions motor vehicle expenditure

(1) This subpart sets out the rules for determining the proportion of business use of a motor vehicle to its total use when a person uses a motor vehicle partly for business purposes and partly for other purposes.

Exclusions

(2) This subpart does not apply—

(a) to a company, unless the company is a close company to which section CX 17(4B)(b) and (c) (Benefits provided to employees who are shareholders or investors) applies:

(b) to a person whose only income is income from employment:

(c) to a motor vehicle that is used only—

(i) for the purpose of deriving income; or

(ii) for a purpose that constitutes a fringe benefit.

Application of subpart to close companies

(3) When this subpart applies to a close company to which section CX 17(4B)(b) and (c) (Benefits provided to employees who are shareholders or investors) applies, business use of a motor vehicle by a shareholder-employee of the close company is treated as being business use by the close company.

Defined in this Act: business use, close company, company, fringe benefit, income, income from employment, motor vehicle

Compare: 2004 No 35 s DE 1

Section DE 1(2)(a): replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 72(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 1(3) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 72(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 1(3): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 72(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 1 list of defined terms **close company**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 72(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

DE 2 Deductions for business use

Deduction

(1) A person is allowed a deduction for—

(a) expenditure that they incur for the business use of a motor vehicle:

(ab) interest on amounts used to fund, directly or indirectly, expenditure the person incurs for the business use of a motor vehicle, if the person is a close company that has chosen to apply this subpart instead of the FBT rules, in accordance with section CX 17(4B)(c) (Benefits provided to employees who are shareholders or investors):

(b) an amount of depreciation loss for the business use of a motor vehicle.

Costs method or kilometre rate method

(1B) A person can choose under section DE 2B to calculate the total amount of the deduction described in subsection (1)—

(a) under subsections (2) and (4) (the **costs method**) by adding together—

(i) a deduction amount for expenditure, calculated under subsection (2); and

(ii) a deduction amount for depreciation loss, calculated as described in subsection (4); or

(b) by using the kilometre rate method described in section DE 12.

Amount, and timing, of deduction: expenditure

(2) The amount of the deduction allowed in an income year for the expenditure for the business use of the vehicle is calculated using the formula—

expenditure × business proportion.

Definition of item in formula

(3) In the formula in subsection (2), **business proportion** is the proportion of business use of the motor vehicle for the income year, expressed as a decimal, calculated under sections DE 3 to DE 11.

Amount, and timing, of deduction: depreciation loss

(4) The amount of the deduction allowed in an income year for the amount of depreciation loss for the business use of the vehicle is calculated—

(a) using the formula in subsection (5), except in a case to which paragraph (b) or (c) applies; or

(b) using the formula in subsection (8) if that subsection applies to the amount of depreciation loss; or

(c) using the formula in subsection (11) if that subsection applies to the amount of depreciation loss.

Calculation of deduction: depreciation loss generally

(5) The formula referred to in subsection (4)(a) is—

standard calculation × business proportion.

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **standard calculation** is the amount resulting from a calculation made for the motor vehicle under section EE 16 (Amount resulting from standard calculation):

(b) **business proportion** is the proportion of business use of the motor vehicle for the income year (expressed as a decimal) calculated under sections DE 3 to DE 11.

When subsection (8) applies

(7) Subsection (8) applies when—

(a) the amount of depreciation loss results from a calculation made for the motor vehicle under section EE 48(2) (Effect of disposal or event); and

(b) the person's amount of depreciation loss for the motor vehicle was, at a time when the person owned it, calculated under subsection (5).

Calculation of deduction: depreciation loss on disposal

(8) The formula referred to in subsection (4)(b) is—

disposal depreciation loss × all deductions ÷ (base value − adjusted tax value).

Definition of items in formula

(9) In the formula in subsection (8),—

(a) **disposal depreciation loss** is the amount resulting from a calculation made for the vehicle under section EE 48(2):

(b) **all deductions** is all amounts of depreciation loss relating to the vehicle for which the person has been allowed a deduction in each of the income years in which the person has owned the vehicle:

(c) **base value** has the applicable one of the meanings in sections EE 57 to EE 60 (which relate to base value):

(d) **adjusted tax value** is the vehicle's adjusted tax value on the date on which the disposal or event occurs.

When subsection (11) applies

(10) Subsection (11) applies when—

(a) the amount of depreciation loss results from a calculation made for the motor vehicle under section EE 48(2); and

(b) the motor vehicle starts to have a business use in the same income year as that in which the amount of depreciation loss arose.

Calculation of deduction: depreciation loss on disposal after business use

(11) The formula referred to in subsection (4)(c) is—

disposal depreciation loss × business proportion.

Definition of items in formula

(12) In the formula in subsection (11),—

(a) **disposal depreciation loss** is the amount resulting from a calculation made for the vehicle under section EE 48(2):

(b) **business proportion** is the proportion of business use of the vehicle for the income year calculated under sections DE 3 to DE 11, expressed as a decimal.

Link with subpart DA

(13) This section supplements the general permission and overrides the private limitation. The other general limitations still apply.

Defined in this Act: adjusted tax value, amount, business use, deduction, depreciation loss, general limitation, general permission, income year, motor vehicle, own, private limitation, supplement

Compare: 2004 No 35 s DE 2

Section DE 2(1)(ab): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 73(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 2(1B) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 73(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 2(1B): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 73(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 2(3): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 73(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 2(6)(b): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 73(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 2(12)(b): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 73(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

DE 2B Election to use kilometre rate method or costs method

Election to use kilometre rate method

(1) A person may, in their return of income for an income year, choose to apply the kilometre rate method described in section DE 12 to calculate a deduction for the business use of a motor vehicle and for the income year that includes the latest of—

(a) 1 April 2017, unless the person disposes of the motor vehicle in that income year:

(b) the day on which they acquire the motor vehicle:

(c) the day on which they first start using the motor vehicle for business purposes.

Election to use costs method

(2) If a person does not make an election under subsection (1), they are treated as making an election in the return of income to use the costs method for the corresponding income year.

Election cannot be revoked

(3) An election made under subsection (1) or (2) in relation to a particular motor vehicle cannot be revoked, and applies for all subsequent income years until the end of the income year that includes the day on which the person disposes of the motor vehicle.

Defined in this Act: business, business use, deduction, income year, motor vehicle, return of income

Section DE 2B: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 74 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

DE 3 Methods for calculating proportion of business use

The 2 methods that may be used to calculate the proportion of business use of a motor vehicle are—

(a) actual records, *see* section DE 5:

(b) a logbook, *see* sections DE 6 to DE 11.

(c) *[Repealed]*

Defined in this Act: business use, motor vehicle

Compare: 2004 No 35 s DE 3

Section DE 3: amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 75(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 3(b): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 75(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 3(c): repealed, on 1 April 2017 (applying for the 2017–18 and later income years), by section 75(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

DE 4 Default method for calculating proportion of business use

When this section applies

(1) This section applies when—

(a) a person has not maintained actual records to show the proportion of business use of a motor vehicle; and

(b) a period is not a term to which a proportion of business use of a motor vehicle established by a logbook applies; and

(c) the person has not elected to use the kilometre rate method for the motor vehicle.

Amount of deduction

(2) The deduction under section DE 2 for expenditure or loss incurred is limited to the lesser of—

(a) the proportion of actual business use of the vehicle; and

(b) 25% of the total use of the vehicle.

Defined in this Act: amount, business use, deduction, motor vehicle

Compare: 2004 No 35 s DE 4

Section DE 4(1)(a): amended, on 26 June 2019, by section 59(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section DE 4(1)(b): amended, on 26 June 2019, by section 59(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section DE 4(1)(c): replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 76(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Actual records

DE 5 Actual records

To determine the proportion of business use of a motor vehicle, a person may use actual records showing the reasons for and the distance of journeys by a motor vehicle for business purposes. However, when the period covered falls within a logbook term, actual records may be used only if the person and the Commissioner agree.

Defined in this Act: business use, Commissioner, logbook term, motor vehicle

Compare: 2004 No 35 s DE 5

Logbook

DE 6 Using logbook for test period

A person may keep a logbook for a test period for the purpose of establishing the proportion of the business use of a motor vehicle for an income year, or part of an income year, that falls within a logbook term. If a person uses a logbook as a method of establishing the proportion of business use, they must also record the total distance travelled in each income year, or part of an income year, that falls within a logbook term.

Defined in this Act: business use, income year, logbook term, motor vehicle

Compare: 2004 No 35 s DE 6

DE 7 Logbook requirements

Test period

(1) When a logbook is used to establish the proportion of business use of a motor vehicle, a person must select a start date, and keep the logbook for at least 90 consecutive days at a time that represents, or is likely to represent, the average proportion of travel by the vehicle for business purposes during the logbook term.

Record of reasons for, and distance of, journeys

(2) The logbook must record—

(a) the start and end of the 90 day test period; and

(b) the vehicle's odometer readings at the start and end of the test period; and

(c) the distance of each business journey; and

(d) the date of each business journey; and

(e) the reason for each business journey; and

(f) any other detail that the Commissioner may require.

Defined in this Act: business, business use, Commissioner, logbook term, motor vehicle

Compare: 2004 No 35 s DE 7

DE 8 Logbook term

Meaning of logbook term

(1) A **logbook term** is a period to which the proportion of business use of a motor vehicle established by the logbook applies. The term lasts up to 3 years and starts and ends as described in subsections (2) and (3).

Start of term

(2) A logbook term starts on the date that is the latest of the following days:

(a) the first day of the income year in which a person starts to keep a logbook:

(b) the day that a person acquires the motor vehicle, unless the vehicle is a replacement vehicle, which is dealt with in section DE 11:

(c) the day immediately after the last day of the previous logbook term:

(d) a day that a person specifies.

End of term

(3) The logbook term ends on the date that is the earliest of the following days:

(a) the day that a person disposes of the motor vehicle without replacing it:

(b) the day that is 3 years after the first day of the income year in which the logbook term started:

(c) a day that the Commissioner specifies under section DE 9:

(d) a day that a person specifies.

Defined in this Act: business use, Commissioner, income year, logbook term, motor vehicle, year

Compare: 2004 No 35 s DE 8

DE 9 Inadequate logbook

Non-representative logbook proportion

(1) If the Commissioner considers that the proportion of business use recorded in a logbook does not, or does no longer, represent the average use of a motor vehicle for business purposes during an income year that falls within a logbook term, the Commissioner may,—

(a) within the logbook term, direct a person to keep a further logbook and specify another 90 day period in the logbook term for keeping the logbook; or

(b) treat a person as not having kept a logbook that applies to the logbook term.

Further logbook

(2) If the Commissioner directs a person to keep a further logbook, and the proportion of business use calculated under that logbook is less by at least 20% than the proportion under the first logbook, the Commissioner may find that the first logbook—

(a) represented the average use of the motor vehicle for business purposes for only part of the logbook term; or

(b) did not represent that use at all.

Partly representative logbook

(3) If subsection (2)(a) applies, the Commissioner may determine a date on which the application of the first logbook ended, and the further logbook applies to a new logbook term that starts on the day after that date.

Non-representative logbook

(4) If subsection (2)(b) applies, the Commissioner may direct that the further logbook applies for the logbook term to which the first logbook applied.

Defined in this Act: business use, Commissioner, income year, logbook term, motor vehicle

Compare: 2004 No 35 s DE 9

DE 10 Variance during logbook term

If, in any month during a logbook term, the proportion of business use in that month is less by at least 20 percentage points than the proportion established by the logbook, and the proportion of business use recorded in the logbook no longer represents the average use of the motor vehicle for business purposes, the logbook term must end on the last day of that month.

Defined in this Act: business use, logbook term, motor vehicle

Compare: 2004 No 35 s DE 10

Section DE 10: amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 41(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

DE 11 Replacement vehicles

For the purpose of establishing the proportion of business use of a motor vehicle, a replacement vehicle is treated in the same way as the vehicle it replaces if—

(a) the logbook is likely to be representative of the average travel for business purposes for the remainder of the logbook term; and

(b) from the date of replacement, a person keeps a record of the total distance travelled by the replacement vehicle for each income year, or part of an income year, of the remaining logbook term.

Defined in this Act: business use, income year, logbook term, motor vehicle

Compare: 2004 No 35 s DE 11

Kilometre rates

Heading: replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 77(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

DE 12 Kilometre rate method

When this section applies

(1) This section applies for the purposes of calculating a deduction for the business use of a motor vehicle under section DE 2(1) if a person made an election under section DE 2B to apply this section.

Amount of deduction

(2) The amount of the deduction allowed for the business use of the vehicle in an income year is the sum of the amounts calculated under the following formula for each applicable kilometre rate for the vehicle for the income year:

kilometre rate × kilometres travelled × business proportion.

Definition of items in formula

(3) In the formula,—

(a) **kilometre rate** is the applicable kilometre rate that is published by the Commissioner:

(b) **kilometres travelled** is the total number of kilometres the vehicle has travelled, for both business purposes and other purposes, to which the applicable kilometre rate applies:

(c) **business proportion** is the proportion of business use of the vehicle for the income year, calculated using a method described in sections DE 5 to DE 11, and expressed as a decimal.

Setting kilometre rates

(4) For the purposes of this section, the Commissioner must from time to time set kilometre rates.

Secondary legislation

(5) An instrument that sets kilometre rates under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, business, business use, Commissioner, deduction, income year, motor vehicle

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section DE 12: replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 77(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DE 12(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section DE 12(5) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section DE 12(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart DF—Government grants, funding, and compensation

Subpart DF heading: amended (with effect on 1 October 2009), on 6 October 2009, by section 86 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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DF 1 Government grants to businesses

When this section applies

(1) This section applies when—

(a) a local authority, a public authority, or a public purpose Crown-controlled company makes a payment to a person for a business that the person carries on; and

(b) the payment—

(i) is in the nature of a grant or subsidy to the person; or

(ii) is a grant-related suspensory loan to the person; and

(c) the payment is not in the nature of an advance or loan other than a grant-related suspensory loan; and

(cb) the payment is not an amount of a loan under the small business cashflow scheme under section 7AA of the Tax Administration Act 1994; and

(cc) the payment is not an amount of a loan made under the research and development loan scheme; and

(d) the person does not make an election that section CX 47(4) (Government grants to businesses) apply to the payment.

When this section does not apply

(1BA) This section does not apply to the extent to which a payment described in subsection (1) is—

(a) the payment of an R&D loss tax credit and the person's expenditure is attributable to that payment:

(b) an RDTI transition support payment and the person's expenditure is attributable to that payment.

When subsection (2) applies

(1B) Subsection (2) applies when, in the absence of this section, the person would be allowed a deduction for expenditure by the person to which the payment by the local authority, public authority, or public purpose Crown-controlled company corresponds.

No deduction (with exception)

(2) The person is denied, to the extent of the amount of the payment, the deduction that they would have been allowed in the absence of this section.

When subsection (4) applies

(3) Subsection (4) applies when—

(a) expenditure by the person in the acquisition, construction, installation, or extension of an item of depreciable property is expenditure to which the payment by the local authority, public authority, or public purpose Crown-controlled company corresponds; and

(b) in the absence of this section, the person would be allowed a deduction for an amount of depreciation loss for the item of depreciable property.

Amount of depreciation loss

(4) For the purpose of quantifying the amount of depreciation loss, the amount of the expenditure is reduced by the amount of the payment.

Amendment of assessment

(5) Despite the time bar, the Commissioner may amend an assessment at any time in order to give effect to this section.

Exclusion

[Repealed]

(6) *[Repealed]*

Link with subpart DA

(7) This section overrides the general permission.

Defined in this Act: amount, assessment, business, Commissioner, deduction, depreciable property, depreciation loss, general permission, grant-related suspensory loan, local authority, pay, public authority, public purpose Crown-controlled company, R&D loss tax credit, research and development loan scheme, small business cashflow scheme, time bar

Compare: 2004 No 35 s DF 1

Section DF 1(1) heading: substituted (with effect on 1 October 2010), on 21 December 2010, by section 42(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DF 1(1): substituted (with effect on 1 October 2010), on 21 December 2010, by section 42(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DF 1(1)(a): amended (with effect on 18 March 2019), on 31 March 2023, by section 40(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DF 1(1)(cb): inserted, on 30 April 2020, by section 5(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section DF 1(1)(cc): inserted (with effect on 1 July 2020), on 6 August 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section DF 1(1BA) heading: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 100(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DF 1(1BA): replaced (with effect on 1 April 2019), on 30 March 2022, by section 69(1) (and see section 69(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section DF 1(1B) heading: inserted (with effect on 1 October 2010), on 21 December 2010, by section 42(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DF 1(1B): inserted (with effect on 1 October 2010), on 21 December 2010, by section 42(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DF 1(1B): amended (with effect on 18 March 2019), on 31 March 2023, by section 40(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DF 1(3): substituted (with effect on 1 October 2010), on 21 December 2010, by section 42(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DF 1(3)(a): amended (with effect on 18 March 2019), on 31 March 2023, by section 40(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DF 1(6) heading: repealed (with effect on 1 October 2009), on 6 October 2009, pursuant to section 87(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DF 1(6): repealed (with effect on 1 October 2009), on 6 October 2009, by section 87(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DF 1 list of defined terms **large budget screen production grant**: repealed (with effect on 1 October 2009), on 6 October 2009, by section 87(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DF 1 list of defined terms **public purpose Crown-controlled company**: inserted (with effect on 18 March 2019), on 31 March 2023, by section 40(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DF 1 list of defined terms **R&D loss tax credit**: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 100(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DF 1 list of defined terms **research and development loan scheme**: inserted (with effect on 1 July 2020), on 6 August 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section DF 1 list of defined terms **small business cashflow scheme**: inserted, on 30 April 2020, by section 5(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

DF 2 Repayment of grant-related suspensory loans

Deduction

(1) A person is allowed a deduction for the amount of a repayment that they are required to make of some or all of a grant-related suspensory loan to the extent to which the amount relates to a payment to which section DF 1(2) applies.

Timing of deduction

(2) The deduction is allocated to the income year in which repayment is first required.

Amount of depreciation loss

(3) If a person is required to repay some or all of a grant-related suspensory loan, then, to the extent to which section DF 1(3) and (4) apply to the loan,—

(a) the person is allowed a deduction for an amount of depreciation loss for the item; and

(b) the amount of depreciation loss is the total of the amounts of depreciation loss for the item for which the person would have been allowed a deduction if section DF 1(3) and (4) had not applied.

Quantifying amount of depreciation loss

(4) For the purpose of quantifying the amount of depreciation loss for the item in the income year and in later income years, the following matters must be taken into account:

(a) the amount of the deduction under subsection (3); and

(b) the total of the amounts of depreciation loss for the item for which the person has been allowed a deduction; and

(c) the person's expenditure on acquiring, constructing, installing, or extending the item.

Link with subpart DA

(5) This section supplements the general permission and overrides the capital limitation for the amount described in subsection (1). The other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, depreciation loss, general limitation, general permission, grant-related suspensory loan, income year, pay, supplement

Compare: 2004 No 35 s DF 2

DF 3 Identifying expenditure for purposes of sections DF 1 and DF 2

For the purposes of sections DF 1 and DF 2, a statement by a person making a grant-related suspensory loan as to the expenditure that relates to the loan or to the repayment of the loan provides conclusive evidence on the questions.

Defined in this Act: grant-related suspensory loan, pay

Compare: 2004 No 35 s DF 3

DF 4 Payments for social rehabilitation

When this section applies

(1) This section applies when—

(a) a person is paid a personal service rehabilitation payment under the Accident Compensation Act 2001 either—

(i) for an income year; or

(ii) as a reimbursement payment, in a later income year; and

(b) the amount is assessable income of the person.

Deduction

(2) The person is allowed a deduction for an amount calculated using the formula—

$$\text{amount paid} \div (1 - \text{tax rate}).$$

Definition of items in formula

(3) In the formula,—

(a) **amount paid** is the amount paid by the person—

(i) for a key aspect of social rehabilitation provided to them for the income year or for an earlier income year; and

(ii) to the extent to which the amount is less than the amount of personal service rehabilitation payment paid to them, after taking into account any amount of tax withheld:

(b) **tax rate** is the rate of tax applying to the personal service rehabilitation payment under section RD 10B (Amounts of tax for schedular payments).

Link with subpart DA

(4) This section supplements the general permission and overrides the capital limitation and private limitation for the amount described in subsection (2). The other general limitations still apply.

Defined in this Act: amount, amount of tax, assessable income, capital limitation, general limitation, general permission, income year, pay, personal service rehabilitation payment, private limitation, reimbursement payment, tax

Compare: 2004 No 35 s DF 4

Section DF 4: substituted, on 1 July 2008, by section 343 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DF 4(1): replaced (with effect on 1 April 2018), on 18 March 2019, by section 153(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DF 4(3) heading: amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DF 4(3)(a): replaced (with effect on 1 April 2018), on 18 March 2019, by section 153(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DF 4(3)(b): replaced, on 1 April 2017, by section 78 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section DF 4 list of defined terms **reimbursement payment**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 153(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

DF 5 Government funding additional to government screen production payments

When this section applies

(1) This section applies when a public authority makes a payment (the **funding payment**) to a person for expenditure incurred in a project if—

(a) the funding payment is not in the nature of a grant or subsidy; and

(b) the funding payment is not a grant-related suspensory loan; and

(c) the person receives a government screen production payment for the project in addition to the funding payment; and

(d) the person would be allowed a deduction for the expenditure in the absence of this section; and

(e) the payment is excluded income under section CX 48C (Government funding additional to government screen production payments).

No deduction for expenditure

(2) The person is denied, to the extent of the amount of the funding payment, the deduction for the expenditure that would be allowed in the absence of this section.

Deduction for payments to public authority

(3) The person is allowed a deduction for the amount of a payment (the **return payment**) made to the public authority to the extent to which the return payment is required by the arrangement under which the funding payment is made.

Links with subpart DA

(4) In this section—

(a) subsection (2) overrides the general permission; and

(b) subsection (3) supplements the general permission and overrides the capital limitation; the other general limitations still apply.

Defined in this Act: capital limitation, deduction, excluded income, general limitation, general permission, government screen production payment, grant-related suspensory loan, pay, public authority

Section DF 5: added (with effect on 1 October 2009), on 6 October 2009, by section 89 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart DG—Expenditure related to use of certain assets

Subpart DG: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

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Introductory provisions

Heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 1 What this subpart does

This subpart sets out the rules for the deductibility and apportionment of expenditure incurred for an income year in relation to an asset when the asset is used partly for income-earning purposes and partly for private purposes, and for a time during the income year, the asset is not in use.

Defined in this Act: asset, deduction, income, income year

Section DG 1: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 2 Application of this subpart

Asset by asset

(1) The rules in this subpart apply on an asset by asset basis.

Relationship with sections DB 5, DB 7, and DB 8

(2) The rules in this subpart override sections DB 5, DB 7, and DB 8 (which relate to deductions for financing expenditure) in relation to expenditure that this subpart applies to.

Relationship with subpart DD

(3) Subpart DD (Entertainment expenditure) does not apply to expenditure incurred in relation to the private use of an asset to which this subpart applies.

Relationship with subpart DH

[Repealed]

(3B) *[Repealed]*

Relationship with FBT rules and dividend rules

(4) No liability to pay fringe benefit tax arises from the private use of an asset to which this subpart applies. In circumstances where section CX 17 (Benefits provided to employees who are shareholders or investors) applies to a company to which this subpart also applies, the company must choose to treat a non-cash benefit referred to in that section as a dividend.

Application to groups of and interests in companies

(5) For the purposes of this subpart,—

(a) a group of companies is treated as a wholly-owned group of companies:

(b) a voting interest in a company includes a market value interest when a market value circumstance exists for the company.

Rules for identifying voting and market value interests

(6) In this subpart,—

(a) for the purposes of determining the extent to which a company (**company A**) has a voting interest or market value interest in another company (**company B**), the look-through rule in section YC 4 (Look-through rule for corporate shareholders) does not apply to treat company A's voting interest or market value interest as held by company A's shareholders or anyone else; and

(b) for the purposes of determining the extent to which company A has a voting interest or market value interest of more than 10% in an associated company, the look-through rule in section YC 4 does not apply to treat a voting interest or a market value interest of company A in the associated company as held by their respective shareholders or anyone else; and

(c) a zero voting interest is not a voting interest, and a zero market value interest is not a market value interest.

Defined in this Act: asset, associated, company, deduction, dividend, fringe benefit tax, group of companies, market value circumstance, market value interest, private use, voting interest, wholly-owned group of companies

Section DG 2: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 2(3B) heading: repealed, on 1 April 2025, pursuant to section 41 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 2(3B): repealed, on 1 April 2025, by section 41 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DG 3 Meaning of asset for this subpart

Meaning of asset

(1) For the purposes of this subpart, an **asset**, for an income year, means an item of property described in subsection (2) held by a person described in subsection (3) to the extent to which the item—

(a) is used by the person in the income year partly to derive income and partly for private use; and

(b) is not in use—

(i) for at least 62 days in the income year; or

(ii) when the asset is typically used only on working days, for at least 62 working days in the income year.

What items of property?

(2) Subsection (1) applies to an asset that, in the complete form in which the person uses it for income-earning purposes,—

(a) is 1 of the following:

(i) land, including improvements to land:

(ii) a ship, boat, or craft used in navigation on or under water, whether or not it has a means of propulsion:

(iii) an aircraft; and

(b) for an item referred to in paragraph (a)(ii) and (iii), has—

(i) a cost to the person of $50,000 or more; or

(ii) a market value on the date of acquisition of the asset of $50,000 or more, if the asset was not acquired at market value; and

(c) includes any related items, things, or accessories pertaining to the asset.

Which persons?

(3) A person excludes a company other than a close company.

Exclusions

(4) Despite subsection (2), an asset is excluded from the operation of the rules in this subpart if—

(a) the use of the asset meets the following criteria:

(i) the private use of the asset is minor; and

(ii) the main use of the asset is use in a business that is not a rental or charter business; and

(iii) for a company or a trustee of a trust, the use of the asset places an obligation on the company or the trustee, as applicable, to pay fringe benefit tax or income tax:

(b) the asset is a residential property and its only income-earning use is as a long-term rental property:

(c) *[Repealed]*

Meaning of market value

(5) For the purposes of this subpart, other than subsection (2)(b)(ii), **market value** means the price at which the asset is provided for use at a particular time or for a particular season—

(a) in the open market; and

(b) freely offered; and

(c) made on ordinary terms; and

(d) to a member of the public at arm's length.

Partnerships and look-through companies

(6) For the purposes of this section, if the asset is held through a partnership or a look-through company, the value of the interests in the asset held by all the partners in the partnership or all the shareholders in the look-through company, as applicable, is aggregated.

What constitutes use

(7) For the purposes of this subpart, the use of an asset is the active use of the asset for its intended purpose.

Example

Graeme owns a yacht that he used with his family for a 4-week holiday. He also rented the yacht at market rates to other people who were not associates on 4 occasions, totalling 3 weeks. The cost of the yacht (including some capital improvements and items such as lifejackets and a dinghy) is $85,000. The rules in this subpart apply to Graeme.

Defined in this Act: amount, asset, business, close company, company, deduction, fringe benefit tax, income, income tax, income year, land, look-through company, market value, partnership, private use, shareholder, tax, trustee, working day

Section DG 3: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 3(3): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DG 3(4)(c): repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 27 February 2014, by section 35(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DG 4 Meaning of private use for this subpart

What is private use?

(1) For the purposes of this subpart, **private use** of an asset—

(a) means the use of the asset by a person described in subsection (2), whether or not—

(i) the use is exclusive:

(ii) an amount of income is derived in relation to its use:

(b) includes the use of an asset when income derived in relation to the use of the asset is an amount that is less than 80% of the market value amount:

(c) excludes the use of the asset referred to in subsections (3) to (5).

Use by natural persons

(2) The person referred to in subsection (1)(a) is a natural person who—

(a) owns, leases, licenses, or otherwise has the asset:

(b) is associated with a person who owns, leases, licenses, or otherwise has the asset.

Ordinary business use

(3) The use of an asset is not private use if—

(a) the asset is used to derive income for a particular period; and

(b) during the period, use of the asset by the person is limited to:

(i) use in the ordinary course of business:

(ii) deriving the person's employment income.

Repairs

(4) The use of an asset is not private use if—

(a) the asset is used to derive income for a particular period; and

(b) damage is caused to the asset during the period; and

(c) the damage is not the result of ordinary wear and tear; and

(d) the person uses the asset after the end of the period to repair the damage; and

(e) the use of the asset referred to in paragraph (d) is necessary in order for the person to carry out the repairs.

Relocation expenses

(5) The use of an asset is not private use if—

(a) the asset is used to derive income for a particular period in an income year; and

(b) the person uses the asset before the start of the period, or after the end of the period, or both, to relocate the asset; and

(c) the use referred to in paragraph (b) and the relocation of the asset are necessary for the income-earning purposes; and

(d) the income the person derives for the income year from the use of the asset includes an amount payable for the cost of relocation.

Exempt income

(6) Subsections (3) to (5) do not apply if the person derives an amount of exempt income in relation to the use of the asset. For the treatment of certain amounts of income derived from the use of assets as described in this section, *see* section CW 8B (Certain amounts derived from use of assets).

Example

Mary owns a launch. During the course of an income year, she takes her family out on the launch, she lets her brother use the launch (paying the market rate of $200 per day) and she lets her friend use the launch (paying fuel costs only at the rate of $50 per day). All these uses are instances of private use. When Mary rents out the launch to non-associates at market rates, takes the launch to another port for rental to non-associates at $250 per day and then back again to the home port, or takes the launch to a boatyard for repair after damage was caused by a non-associate during a rental period, none of these instances is private use.

Defined in this Act: amount, asset, associated person, business, exempt income, income, lease, market value, pay, private use

Section DG 4: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 4(2): replaced (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 101(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 4(3): replaced (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 101(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DG 5 Meaning and treatment of interest expenditure for this subpart

Interest expenditure

(1) In this subpart, **interest expenditure**, for a person to whom this subpart applies, means expenditure on interest, and includes an amount of interest on the sum of the outstanding balances of financial arrangements entered into by the person, if the financial arrangement—

(a) provides funds to the person; and

(b) gives rise to an amount for which the person would have a deduction.

Apportionment

(2) For the purposes of this subpart,—

(a) if the person is not a company, an amount of interest expenditure incurred in relation to an asset is included in the item **expenditure** in section DG 9(3)(a):

(b) if the person is a company other than a qualifying company, an amount of interest expenditure incurred in relation to an asset is apportioned under section DG 11:

(c) if the person is a qualifying company, they are treated for the purposes of this subpart as a person that is not a company.

(d) *[Repealed]*

Exchange rate fluctuations

(3) Interest expenditure does not include a deduction for an amount that arises only from movement in currency exchange rates.

Defined in this Act: amount, asset, company, deduction, financial arrangement, interest, interest expenditure, qualifying company

Section DG 5: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 5(2)(d): repealed, on 1 April 2025, by section 42(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 5 list of defined terms **beneficiary**: repealed, on 1 April 2025, by section 42(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 5 list of defined terms **disallowed residential property**: repealed, on 1 April 2025, by section 42(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 5 list of defined terms **interposed residential property holder**: repealed, on 1 April 2025, by section 42(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DG 6 Associated persons: company rule modified

Despite section YB 3(1) (Company and person other than company), for the purposes of this subpart, a company and a person other than a company are associated persons if—

(a) *[Repealed]*

(b) the person's share in the company gives them a right to use the asset.

Defined in this Act: asset, associated person, company, share

Section DG 6: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 6: amended (with effect on 1 April 2013), on 30 June 2014, by section 53(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 6(a): repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 30 June 2014, by section 53(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 6 list of defined terms **voting interest**: repealed (with effect on 1 April 2013), on 30 June 2014, by section 53(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

When assets held simply

Heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 7 Expenditure related to income-earning use

Expenditure on certain business and regulatory requirements

(1) A person is allowed a deduction for expenditure or loss, including an amount of depreciation loss, to the extent to which the amount incurred—

(a) relates solely to the use of an asset for deriving income of the person, other than exempt income; and

(b) is expenditure—

(i) from which the person would not reasonably expect to receive a personal benefit, or for a company, an associate of the person:

(ii) that the person must reasonably incur to meet a regulatory requirement so that they may use the asset for deriving income and that would not have been incurred but for the requirement.

Expenditure that must be apportioned

(2) Despite subsection (1) and for the avoidance of doubt, all expenditure on repairs and maintenance incurred in relation to an asset must be treated as expenditure that is limited under section DG 8. However, this subsection does not apply to the cost of repairing damage described in section DG 4(4).

Example

John operates a charter boat which he also uses privately. He incurs expenses including costs in meeting Maritime New Zealand survey requirements, advertising costs, and general maintenance costs. The advertising costs are fully deductible because they deliver no personal benefit. The survey costs are fully deductible if they are incurred only for charter purposes. The maintenance costs are not deductible under this provision because they deliver a personal benefit as well as an income-earning benefit. A portion of these maintenance costs may be allowed as a deduction under section DG 8.

Defined in this Act: amount, asset, associated person, company, deduction, depreciation loss, exempt income, income

Section DG 7: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 8 Expenditure limitation rule

Limited deduction

(1) A person is allowed a deduction for expenditure or loss, including an amount of depreciation loss, that they incur in relation to the income-earning use of an asset to the extent of the amount calculated using the formula in section DG 9(2).

Depreciation recovery and loss on disposal

(2) In the treatment of assets generally,—

(a) if some or all of the expenditure on an asset is apportioned for tax purposes on the basis of space, floor area, or on another similar basis, that method of apportionment overrides the rules in this subpart to the extent of the amount of the deduction:

(b) depreciation recovery income on disposal is dealt with in section EE 49 (Amount of depreciation recovery income when item partly used for business):

(c) depreciation loss on disposal is dealt with in sections EE 44 to EE 48, and EE 50(6) and (7) (which relate to amounts of depreciation loss).

Relationship with other sections

(3) This section—

(a) supplements the general permission and overrides the capital limitation and the private limitation, but the other limitations still apply:

(b) overrides section EE 50(2) (Amount of depreciation loss when item partly used to produce income).

Defined in this Act: amount, asset, capital limitation, deduction, depreciation loss, depreciation recovery income, general permission, private limitation

Section DG 8: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 9 Apportionment formula

What this section does

(1) This section provides the formula for use where it is referred to in section DG 8 to calculate the way in which an amount of expenditure or loss that a person incurs in relation to an asset is apportioned between its income-earning use and its private or other use.

Formula

(2) The apportionment formula is—

expenditure × income-earning days ÷ (income-earning days + counted days).

Definition of items in formula

(3) In the formula,—

(a) **expenditure** is the total expenditure or loss that is incurred by the person for an income year in relation to the asset, other than expenditure that is related solely to—

(i) the income-earning use of the asset as described in section DG 7:

(ii) the private use of the asset:

(iii) a use of the asset for which the expenditure is of a capital nature:

(b) **income-earning days** is the total number of days in the income year for which the person derives income from the use of the asset, other than exempt income, including any days on which—

(i) the use made of the asset is use described in section DG 4(3) to (5):

(ii) the asset has become unavailable for use because another person who had earlier reserved the asset for their own use, subsequently did not take advantage of that reservation:

(iii) a fringe benefit tax liability arises:

(c) **counted days** is the total number of days in the income year on which the asset is in use, and the day is not an income-earning day as described in paragraph (b).

Other units of measurement

(4) A unit of measurement of time other than days, whether relating to hours, or nights, or anything else, is to be used in the formula and in subsection (3)(b) and (c), if it achieves a more appropriate apportionment. For this purpose, the same unit must be used in relation to both items in subsection (3)(b) and (c).

Example

Jim rents out his aeroplane at market value for 100 hours in an income year, and uses it for his personal enjoyment for 50 hours. Jim incurs expenditure of $10,000 for general repairs and maintenance of the plane. He may deduct two-thirds of the expenditure (section DG 9(2)). The formula is $10,000 × (100/(100 + 50)) = $6,666.67.

Defined in this Act: amount, asset, deduction, exempt income, fringe benefit tax, income, income year, market value, private use

Section DG 9: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 9(1): amended (with effect on 27 March 2021), on 30 March 2022, by section 71 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section DG 9(1): amended (with effect on 1 April 2013), on 24 February 2016, by section 102(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 9(3)(a): replaced (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 30 June 2014, by section 54(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 9(3)(a)(iii): replaced (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 102(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 9(3)(b): amended (with effect on 1 April 2013 and applying for 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 30 June 2014, by section 54(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

When assets held in corporate structures

Heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 10 Interest expenditure rules

Groups of companies

(1) Sections DG 11 to DG 14 provide for the apportionment of interest expenditure incurred by a company that has an asset to which this subpart applies, and by other companies that are in the same group of companies as the company, and by shareholders. Companies must provide information disclosure statements under section 30D of the Tax Administration Act 1994 to enable the calculations to be made.

Relationship with subpart DH

[Repealed]

(1B) *[Repealed]*

Exclusions: group companies

(2) A company (**company A**) that is treated as part of a wholly-owned group under this subpart, but is not part of a wholly-owned group for the other purposes of this Act, is excluded from the interest expenditure rules in sections DG 11 to DG 14 for an income year if—

(a) no private use of an asset of a company in the group has been made in the income year by a shareholder of company A:

(b) no tax losses have been made available under subpart IC (Grouping tax losses) between company A and other companies in the group.

Exclusion: corporate shareholders

(3) Section DG 13 does not apply to a corporate shareholder if—

(a) the shareholder has a direct or indirect interest of less than 50% in the company that has the asset; and

(b) the shareholder has not enjoyed any private use of the asset.

Exclusion: non-corporate shareholders

(4) Section DG 14 does not apply to a shareholder if—

(a) the shareholder has a direct or indirect interest of less than 50% in the company that has the asset; and

(b) the shareholder has not enjoyed any private use of the asset.

Treatment of qualifying companies

(5) The interest expenditure rules apply to a qualifying company in the following way:

(a) the company is treated as if section DG 11(3) applied to it in order to calculate the amount of the company's net asset balance; and

(b) sections DG 12 to DG 14 then apply to determine the amount of the deduction to which the company, another company, or a shareholder is entitled.

Associated persons

(6) For the purposes of subsections (2), (3), and (4), a reference to a shareholder includes a person associated with the shareholder, unless the associated person is also a shareholder.

Defined in this Act: amount, asset, associated person, company, deduction, group of companies, income year, interest expenditure, net asset balance, private use, qualifying company, shareholder, tax loss, wholly-owned group

Section DG 10: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 10(1B) heading: repealed, on 1 April 2025, pursuant to section 43(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 10(1B): repealed, on 1 April 2025, by section 43(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 10 list of defined terms **beneficiary**: repealed, on 1 April 2025, by section 43(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 10 list of defined terms **disallowed residential property**: repealed, on 1 April 2025, by section 43(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 10 list of defined terms **interposed residential property holder**: repealed, on 1 April 2025, by section 43(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DG 11 Interest expenditure: close companies

What this section does

(1) This section quantifies the amount of a deduction that a close company is allowed for an income year when—

(a) the company has an asset to which this subpart applies; and

(b) the company incurs interest expenditure for the income year.

Determining values and deductions

(2) The company must first determine the amount of its debt value and its asset value for the income year, and then apply either subsection (3) or subsections (4) to (6).

Debt value less than asset value

(3) If the debt value for the income year is equal to or less than the asset value for the income year, the company is allowed a deduction for interest expenditure incurred for the income year of an amount calculated using the formula in subsection (3B).

Formula

(3B) The formula is—

interest expenditure × (income-earning days + capital-use days)
÷ (income-earning days + counted days).

Definition of items in formula

(3C) In the formula in subsection (3B),—

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

(b) **income-earning days** is the number of days in the income year for which the company derives income from the use of the asset, other than exempt income, including days on which—

(i) the use of the asset is described in section DG 4(3) to (5):

(ii) the asset has become unavailable for use because another person who had earlier reserved the asset for their own use, subsequently did not take advantage of that reservation:

(iii) a fringe benefit tax liability arises:

(c) **capital-use days** is the number of days in the income year on which the asset is used in such a way that the expenditure relating to the use is of a capital nature:

(d) **counted days** is the number of days in the income year on which the asset is in use, each of which is not an income-earning day as described in paragraph (b).

Debt value more than asset value

(4) If the debt value for the income year is more than the asset value for the income year, the company must calculate a reduced amount of interest expenditure for the income year using the formula—

interest expenditure × company's asset value ÷ company's debt value.

Definition of items in formula

(5) In the formula in subsection (4),—

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

(b) **company's asset value** is the amount of the company's asset value for the income year:

(c) **company's debt value** is the amount of the company's debt value for the income year.

Apportionment of reduced amounts

(6) The company is allowed a deduction for the income year of a portion of the reduced amount described in subsection (4),—

(a) of an amount calculated using the formula in subsection (3B); and

(b) treating the reduced amount as if it were the item **interest expenditure** in the formula.

Deductions for interest expenditure in excess of reduced amounts

(6B) The company is allowed a deduction for the amount of interest expenditure calculated under subsection (6C) to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart.

Formula

(6C) The formula is—

interest expenditure − reduced amount.

Definition of items in formula

(6D) In the formula in subsection (6C),—

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

(b) **reduced amount** is the reduced amount of interest expenditure calculated using the formula in subsection (4).

Net asset balance

(7) When subsection (3) applies for an income year, the amount that remains outstanding after subtracting the debt value for the income year from the asset value for the income year (the **net asset balance**), must be used under sections DG 12 to DG 14, as applicable.

Meaning of asset value

(8) For the purposes of this subpart, **asset value** means the value of the asset at the end of an income year, using—

(a) for land, including an improvement to land, the amount given under subsection (8B):

(b) for other property, its adjusted tax value.

Asset value for land, including improvements to land

(8B) For the purposes of subsection (8)(a), the asset value is the following amount, as applicable:

(a) the amount given by the later of either—

(i) its most recent capital value or annual value as set by the relevant local authority; or

(ii) its cost on acquisition or, if the transaction involves an associated person, its market value:

(b) if the land or improvement to land is a leasehold estate in land, the market value of the leasehold estate which the person may establish by a valuation that is or has been made by a registered valuer no more than 3 years before the end of the income year:

(c) if different activities are carried out on the land on a single record of title within the meaning of the Land Transfer Act 2017, the value applying under paragraph (a) or (b), as applicable, adjusted as follows:

(i) by multiplying the value by the percentage that the area of land that is the portion of the land used in relation to the asset to which this subpart applies bears to the total land area described in the record of title:

(ii) by a valuation that is or has been made by a registered valuer no more than 3 years before the end of the income year, of the portion of land used in relation to the asset to which this subpart applies.

Meaning of debt value

(9) For the purposes of this subpart, **debt value**—

(a) means the average outstanding amount that gives rise to the interest payable by the company, measured by reference to the amounts outstanding at the start of and at the end of an income year; and

(b) for a person who has, in the income year, more than 1 asset to which this subpart applies, is reduced in subsection (5)(c), sections DG 12(6)(c) and DG 13(8)(c), by an amount previously taken into account under this subpart for the income year.

Example

Holiday Home Ltd holds a holiday home with a rateable value of $200,000. The company has debt of $40,000, with associated interest expenditure of $4,000. Since the debt value is less than the asset value, all the interest expenditure must be apportioned (section DG 11(3)–(3C)).

Boat Ltd has a charter boat whose adjusted tax value is $60,000. The company has debt of $100,000, with associated interest expenditure of $10,000. Since the debt value is more than the asset value, the company must apportion the interest expenditure of $6,000 (section DG 11(4)–(6)). The formula is $10,000 × ($60,000/$100,000) = $6,000.

The remaining interest expenditure of $4,000 is not subject to apportionment under subpart DG and is allowed as a deduction under section DB 7 (section DG 11(6B)–(6D)). The formula is $10,000−$6,000 = $4,000.

Defined in this Act: adjusted tax value, amount, asset, asset value, associated person, close company, cost, debt value, deduction, income, income year, interest, interest expenditure, land, market value, net asset balance, pay

Section DG 11: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 11(1)(b): replaced (with effect on 27 March 2021), on 31 March 2023, by section 42(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DG 11(3): replaced (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(3B) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(3B): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(3C) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(3C): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(5): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6)(a): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6)(b): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6B) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6B): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6C) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6C): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6D) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(6D): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11(8)(a): replaced (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 30 June 2014, by section 55(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 11(8B) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on

30 June 2014, by section 55(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 11(8B): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 30 June 2014, by section 55(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 11(8B)(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section DG 11(8B)(c)(i): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section DG 11 example: replaced (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 103(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 11 list of defined terms **beneficiary**: repealed (with effect on 27 March 2021), on 31 March 2023, by section 42(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DG 11 list of defined terms **disallowed residential property**: repealed (with effect on 27 March 2021), on 31 March 2023, by section 42(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DG 11 list of defined terms **interposed residential property holder**: repealed (with effect on 27 March 2021), on 31 March 2023, by section 42(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

DG 12 Interest expenditure: group companies

When this section applies

(1) This section applies for an income year when—

(a) a close company or a qualifying company (**company A**) has a net asset balance; and

(b) company A is part of the same group of companies as another company (**company B**); and

(c) company B has interest expenditure for which it is allowed a deduction.

How this section applies: looping rule

(2) This section applies sequentially to every group company B until—

(a) the net asset balance for the income year is reduced to zero, or is treated as reduced to zero; or

(b) no other group companies exist to which this section applies.

Debt value less than net asset balance

(3) If company B's debt value for the income year is equal to or less than the net asset balance for the income year, company B is allowed a deduction of a portion of interest expenditure incurred for the income year,—

(a) of an amount calculated by company A using the formula in section DG 11(3B); and

(b) treating company B's total interest expenditure for the income year as if it were the item **interest expenditure** in the formula.

Recalculation of net asset balance

(4) In the application of subsection (3), the amount of the net asset balance must be recalculated on each application, being reduced by an amount equal to each counted group company's debt value.

Debt value more than net asset balance

(5) If company B's debt value for the income year is more than the net asset balance for the income year, company B must calculate a reduced amount of interest expenditure for the income year using the formula—

interest expenditure × net asset balance ÷ company B's debt value.

Definition of items in formula

(6) In the formula in subsection (5),—

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

(b) **net asset balance** is the amount of the net asset balance for the income year:

(c) **company B's debt value** is the amount of company B's debt value for the income year.

Apportionment of reduced amounts

(7) Company B is allowed a deduction for the income year of a portion of the reduced amount described in subsection (5),—

(a) of an amount calculated by company A using the formula in section DG 11(3B); and

(b) treating the reduced amount as if it were the item **interest expenditure** in the formula.

Deductions for interest expenditure in excess of reduced amounts

(7B) Company B is allowed a deduction for the amount of interest expenditure calculated under subsection (7C) to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart.

Formula

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

interest expenditure − reduced amount.

Definition of items in formula

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

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

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

Net asset balance zero

(8) Once a calculation is made under subsection (5), company B's net asset balance is treated as zero.

Net asset balance

(9) If a net asset balance remains outstanding after the application of this section for an income year, the amount must be used under sections DG 13 and DG 14, as applicable.

Example

Holiday Home Ltd has an asset balance of $160,000 ($200,000 less $40,000) and is wholly owned by Parent Ltd. Parent has debt of $30,000, with associated interest expenditure of $3,000. Since Parent's debt value is less than the asset balance, all of Parent's interest expenditure must be apportioned (section DG 12(3)).

Defined in this Act: amount, asset value, close company, company, debt value, deduction, group of companies, income year, interest expenditure, net asset balance, qualifying company

Section DG 12: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 12(3)(a): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(3)(b): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(6): amended (with effect on 1 April 2013), on 24 February 2016, by section 104(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7)(a): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7)(b): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7B) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on

24 February 2016, by section 104(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7B): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7C) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7C): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7D) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 12(7D): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 104(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DG 13 Interest expenditure: corporate shareholders

When this section applies

(1) This section applies to a company that is not in the same group of companies as another company (**company A**), that is a close company or qualifying company, when—

(a) a net asset balance remains outstanding for an income year after the application of—

(i) first, section DG 12, if applicable; or

(ii) secondly, section DG 11; and

(b) the company is 1 or more of—

(i) a company that is a shareholder in company A:

(ii) a company that is a shareholder in a company that is part of the same group of companies as company A and has a voting interest in company A:

(iii) a company that has a voting interest in a company referred to in subparagraph (i) or (ii).

How this section applies: looping rule

(2) This section applies sequentially as follows:

(a) first, to the companies referred to in subsection (1)(b)(i) and (ii); and

(b) secondly, to the extent to which the debt value of the company for the income year remains less than the company's share of the net asset balance, to the companies that are shareholders in a company referred to in paragraph (a); and

(c) so on, until either—

(i) the company's share of the net asset balance for the income year is reduced to zero or is treated as reduced to zero; or

(ii) no other corporate shareholders exist to which this section applies.

Limitation by share in asset balance

(3) The deduction that the company is allowed for interest expenditure incurred for the income year is limited by its share of the net asset balance. The share of the asset balance is calculated using the formula—

net asset balance × company's interest.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **net asset balance** is the amount of the net asset balance after the application of section DG 11 or DG 12, as applicable, and as recalculated under subsection (6):

(b) **company's interest** is the relevant voting interest in company A, expressed as a percentage.

Debt value less than asset balance

(5) If the debt value for the company for the income year is equal to or less than its share of the net asset balance for the income year, the company is allowed a deduction of a portion of interest expenditure incurred for the income year,—

(a) of an amount calculated by company A using the formula in section DG 11(3B); and

(b) treating the total interest expenditure for the income year as if it were the item **interest expenditure** in the formula.

Recalculation of asset balance

(6) In the application of subsection (5), the amount that is the company's share of the net asset balance must be recalculated on each application, being reduced by an amount equal to each counted company's debt value.

Debt value more than asset balance

(7) If the debt value for the company for the income year is more than its share of the net asset balance, the company must calculate a reduced amount of interest expenditure incurred for the income year using the formula—

interest expenditure × company's share of net asset balance
÷ company's debt value.

Definition of items in formula

(8) In the formula in subsection (7),—

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

(b) **company's share of net asset balance** is the amount calculated for the company under subsection (3):

(c) **company's debt value** is the amount of the debt value of the company for the income year.

Apportionment of reduced amounts

(9) The company is allowed a deduction for the income year of a portion of the reduced amount described in subsection (7),—

(a) of an amount calculated by company A using the formula in section DG 11(3B); and

(b) treating the reduced amount as if it were the item **interest expenditure** in the formula.

Deductions for interest expenditure in excess of reduced amounts

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

Formula

(9C) The formula is—

interest expenditure − reduced amount.

Definition of items in formula

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

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

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

Net asset balance zero

(10) Once a calculation is made under subsection (7), the amount that is the company's share of the net asset balance is treated as zero.

Net asset balance

(11) If a net asset balance remains outstanding after the application of this section for an income year, the amount must be used under section DG 14.

Example

Parent Ltd has 2 equal corporate shareholders, company Y, which has debt of $20,000 with associated interest expenditure of $2,000, and company Z, which has debt of $70,000 with associated interest expenditure of $7,000. Both com-

panies' share of the net asset balance is $65,000 ($130,000 × 50%). Since company Y's debt value is less than its share of the net asset balance, all its interest expenditure must be apportioned (section DG 13(5)). Company Z's debt value is greater than its share of the net asset balance, so it must apportion interest expenditure of $6,500 (section DG 13(7)–(9)). The formula is $7,000 × ($65,000/$70,000) = $6,500.

Defined in this Act: amount, company, debt value, deduction, group of companies, income year, interest expenditure, net asset balance, shareholder, voting interest

Section DG 13: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 13(1): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(1)(b): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(5)(a): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(5)(b): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9)(a): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9)(b): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9B) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9B): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February

2016, by section 105(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9C) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9C): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9D) heading: inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 13(9D): inserted (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 105(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DG 14 Interest expenditure: non-corporate shareholders

When this section applies

(1) This section applies for a person, for an income year and a company (**company A**) that is a close company or qualifying company, when—

(a) a net asset balance remains outstanding for an income year after the application of—

(i) first, section DG 13, if applicable:

(ii) secondly, section DG 12, if applicable:

(iii) thirdly, section DG 11, if neither applies; and

(b) the person—

(i) is not a company; and

(ii) has a voting interest in company A; and

(iii) has interest expenditure for which they are allowed a deduction.

Amount to be apportioned

(2) For a natural person, the amount of interest expenditure that must be apportioned is only the amount of interest that the person incurs on money borrowed to acquire shares in company A or in a company referred to in section DG 13(1)(b).

Method of apportionment

(3) The apportionment is made using the rules set out in section DG 13(2) to (10), treating the person as if they were the company.

Relationship with subpart DH

[Repealed]

(4) *[Repealed]*

Example

Company Y has 2 shareholders: Thomas, who has borrowed $200,000 to acquire a 50% interest in the company, and Brent, who has borrowed $10,000 to buy his 50% interest. Each has a share of the remaining net asset balance of $22,500. The formula is ($65,000 − $20,000) × 50% = $22,500. Since Thomas's debt value is greater than his share of the net asset balance, Thomas must apportion 11.25% of his total interest expenditure (sections DG 14 and DG 13(7)–(9)). The formula is 22,500/200,000. Since Brent's debt value is less than his share of the net asset balance, all Brent's interest expenditure must be apportioned (sections DG 14 and DG 13(5)).

Defined in this Act: amount, company, deduction, income year, interest, interest expenditure, net asset balance, share, voting interest

Section DG 14: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 14(1): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 106(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 14(1)(b): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 106(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 14(1)(b)(i): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DG 14(4) heading: repealed, on 1 April 2025, pursuant to section 44 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 14(4): repealed, on 1 April 2025, by section 44 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DG 14 list of defined terms **trustee**: repealed, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Quarantined expenditure

Heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by

section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 15 Quarantined expenditure rules

Sections DG 16 and DG 18 provide the rules that limit the amount of a person's deduction under sections DG 7, DG 8, and DG 11 to DG 14 for an income year when the income derived from the use of the asset does not reach a specified threshold. The excess expenditure is quarantined and denied as a deduction for the income year. Sections DG 17 and DG 19 provide for the allocation of the quarantined amount to a later income year when the income derived is sufficient to offset the expenditure. Companies must provide information disclosure statements under section 30D of the Tax Administration Act 1994 to enable the calculations to be made.

Defined in this Act: amount, asset, company, deduction, income, income year

Section DG 15: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 16 Quarantined expenditure when asset activity negative

When this section applies

(1) This section applies when—

(a) a person incurs expenditure or loss for which they are allowed a deduction that is limited under section DG 7, DG 8, or DG 11, as applicable, for an income year; and

(b) the amount of income derived for the income year from the use of an asset, other than an amount of exempt income, is less than 2% of—

(i) for land, including an improvement to land, the amount given under subsection (1B):

(ii) for other property to which this subpart applies, its adjusted tax value.

Amount for land, including improvements to land

(1B) For the purposes of subsection (1)(b)(i), the amount is the following amount, as applicable:

(a) the amount given by the later of either—

(i) its most recent capital value or annual value as set by the relevant local authority; or

(ii) its cost on acquisition or, if the transaction involves an associated person, its market value:

(b) if the land or improvement to land is a leasehold estate in land, the market value of the leasehold estate which the person may establish by a

valuation that is or has been made by a registered valuer no more than 3 years before the end of the income year:

(c) if different activities are carried out on the land on a single record of title within the meaning of the Land Transfer Act 2017, the value applying under paragraph (a) or (b), as applicable, adjusted as follows:

(i) by multiplying the value by the percentage that the area of land that is the portion of the land used in relation to the asset to which this subpart applies bears to the total land area described in the record of title:

(ii) by a valuation that is or has been made by a registered valuer no more than 3 years before the end of the income year, of the portion of land used in relation to the asset to which this subpart applies.

Quarantined amount

(2) The amount of the person's excess expenditure for the income year is calculated using the formula—

expenditure − asset income.

Definition of items in formula

(3) In the formula,—

(a) **expenditure** is the total of the following amounts:

(i) the total amount of deductions that the person is allowed for the income year under sections DG 7, DG 8, and DG 11, as applicable and after any necessary apportionment; and

(ii) an amount of the person that was quarantined under this section for an earlier income year and is not yet allocated to an income year:

(b) **asset income** is the total amount of income, other than an amount of exempt income, derived for the income year from the use of the asset.

No deduction for quarantined amount

(4) The excess expenditure calculated under subsection (2) is quarantined and denied as a deduction for the income year.

Outstanding profit balance

(5) If the amount of expenditure for the income year is less than the amount of income for the income year, the excess income is the **outstanding profit balance** for the income year to be used under section DG 18. If the amount of expenditure for the income year is equal to or more than the amount of income for the income year, the outstanding profit balance is treated as zero.

Zero result

(6) For the purposes of the formula in subsection (2), if the amount of income for the income year is greater than the amount of expenditure for the income year, the result of the formula is treated as zero.

Example

David has a city apartment with a rateable value of $300,000. He rents out the apartment and also uses it privately. He receives market rate rental of $4,000 from non-associates, and $6,000 from associates. David's total allowable expenditure, under sections DG 7, DG 8, and DG 11, is $15,000. The income from associates is exempt under section CW 8B, and is ignored. David therefore has asset income of $4,000 and deductions of $15,000, giving rise to an excess of expenditure over income of $11,000. Since David's income from non-associates is less than 2% of the apartment's rateable value, the excess expenditure of $11,000 is denied as a deduction. The amount denied may be allocated to a later income year under section DG 17.

Defined in this Act: adjusted tax value, amount, asset, associated person, cost, deduction, exempt income, income, income year, land, market value

Section DG 16: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 16(1)(a): amended (with effect on 1 April 2013 and applying, for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i); for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 24 February 2016, by section 107(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DG 16(1)(b)(i): replaced (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 30 June 2014, by section 56(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 16(1B) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), by section 56(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 16(1B): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), by section 56(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 16(1B)(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section DG 16(1B)(c)(i): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section DG 16 example: amended (with effect on 1 April 2013), on 30 June 2014, by section 59 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DG 17 Allocation of amounts quarantined under section DG 16

When this section applies

(1) This section applies for an income year (the **current year**) when—

(a) a person has an amount of excess expenditure quarantined under section DG 16 in relation to an asset for an income year before the current year; and

(b) the person's income for the current year from the use of the asset is more than the amount of their deductions under sections DG 7, DG 8, and DG 11, as applicable.

Deduction and allocation

(2) The amount of previously quarantined expenditure that the person is allowed as a deduction for the current year must not be more than the lesser of—

(a) the amount referred to in subsection (1)(a):

(b) the amount calculated using the formula—

asset income − expenditure.

Definition of items in formula

(3) In the formula,—

(a) **asset income** is the total amount of income, other than an amount of exempt income, derived for the current year from the use of the asset:

(b) **expenditure** is the total amount of deductions that the person is allowed in relation to the asset for the current year under sections DG 7, DG 8, and DG 11, as applicable, and after any necessary apportionment.

Outstanding profit balance

(4) If the lesser amount in subsection (2) is the quarantined amount referred to in subsection (2)(a), an outstanding profit balance arises of an amount that is the difference between the amount of income for the current year and the amount of expenditure for the current year, including the quarantined amount allocated to the current year. The outstanding profit balance is available for use under section DG 19.

Zero result

(5) For the purposes of the formula in subsection (2), if the amount of expenditure for the current year is greater than the amount of income for the current year, the result of the formula is treated as zero.

Modification for certain assets

(6) For the purposes of subsection (1)(a), a quarantined amount that is related to an asset may be used in relation to another asset of the person if—

(a) the first asset is damaged, destroyed, or lost, and is no longer held by the person; and

(b) a second asset is acquired to replace the first asset; and

(c) the 2 assets are identical or substantially the same.

Example, *continued from section DG 16*

In the following income year, David derives $10,000 from renting his city apartment at market rates to a non-associate. David's total allowable expenditure, under sections DG 7, DG 8, and DG 11, is $8,000. He also has expenditure of $11,000 quarantined from the previous income year. David is able to deduct $2,000 of that quarantined expenditure. The remaining $9,000 continues to be quarantined and may be allowed as a deduction for a later income year.

Defined in this Act: amount, asset, deduction, income, income year

Section DG 17: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 17(3)(a): amended, on 30 June 2014 (applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), by section 57(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DG 17 example: amended (with effect on 1 April 2013), on 30 June 2014, by section 59 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DG 18 Quarantined expenditure: group companies and shareholders

When this section applies

(1) This section applies when—

(a) a person incurs expenditure for an income year for which they are allowed a deduction that is limited under 1 or more of sections DG 12 to DG 14; and

(b) the income year is an income year in which section DG 16(1)(b) applies.

How this section applies: first looping rule

(2) The first application of this section is to every group company B in sequence until no other group companies exist to which this subsection applies.

How this section applies: second looping rule

(3) The second application of this section is sequentially to—

(a) first, 1 or more of the following persons, none of which is a company referred to in subsection (2):

(i) a person who is a shareholder in company A:

(ii) a person who is a shareholder in a company that is part of the same group of companies as company A and has a voting interest in company A; and

(b) secondly, a person who is a shareholder in a company referred to in paragraph (a); and

(c) so on, until no other persons exist to which this subsection applies.

Quarantined amount

(4) The amount of the person's excess expenditure for the income year is calculated using the formula—

expenditure − outstanding profit balance.

Definition of items in formula

(5) In the formula,—

(a) **expenditure** is the total of the following amounts:

(i) the total amount of deductions that the person is allowed for the income year under sections DG 12 to DG 14, as applicable and after any necessary apportionment; and

(ii) an amount of the person that was quarantined under this section for an earlier income year and is not yet allocated to an income year:

(b) **outstanding profit balance**,—

(i) for company B, is the amount of the outstanding profit balance referred to in section DG 16(5):

(ii) for a shareholder, is the amount that is the person's share of the outstanding profit balance referred to in section DG 16(5), calculated using the formula in section DG 13(3), treating the outstanding profit balance as if it were the net asset balance.

No deduction for quarantined amount

(6) The excess expenditure calculated under subsection (4) is either quarantined or remains quarantined, as applicable, and is denied as a deduction for the income year.

Recalculation of outstanding profit balance

(7) For the purposes of subsections (4) and (5)(b), the amount that is the outstanding profit balance must be recalculated on each application, being reduced by an amount equal to the amount of any deduction counted.

Zero result

(8) For the purposes of the formula in subsection (4), if the amount of the outstanding profit balance for the income year is greater than the amount of expenditure for the income year, the result of the formula is treated as zero.

Example

Aircraft Ltd owns an aircraft to which the rules in this subpart apply; the income derived from the asset in the current year is less than 2% of the cost of the aircraft. The company has calculated an outstanding profit balance of $12,000 after the application of section DG 16. Aircraft is 100% owned by Parent Ltd, which has apportioned interest expenditure of $5,000 calculated under section DG 12. Parent has 2 equal shareholders, Alisa who has apportioned interest expenditure

of $8,000, and Hamish who has apportioned interest expenditure of $1,000, both calculated under section DG 14. Parent must apply section DG 18 first, and is not required to quarantine any of its interest expenditure; the outstanding profit balance is reduced to $7,000 ($12,000 − $5,000). Alisa's and Hamish's share of the outstanding profit balance is $3,500 each ($7,000 × 50%). Alisa must quarantine $4,500 of interest expenditure ($8,000 − $3,500); Hamish is not required to quarantine any interest expenditure.

Defined in this Act: amount, asset, company, deduction, group of companies, income year, net asset balance, shareholder, voting interest

Section DG 18: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 18 example: amended (with effect on 1 April 2013), on 30 June 2014, by section 59 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DG 19 Allocation of amounts quarantined under section DG 18

When this section applies

(1) This section applies for an income year (the **current year**) when—

(a) a person has an amount of excess expenditure quarantined under section DG 18 for an income year before the current year; and

(b) an outstanding profit balance referred to in section DG 17(4) is available for use for the current year.

How this section applies

(2) This section applies sequentially in the order set out in section DG 18(2) and (3) until the outstanding profit balance is reduced to zero.

Deduction and allocation

(3) The amount of previously quarantined expenditure that the person is allowed as a deduction for the current year must not be more than the lesser of—

(a) the quarantined amount referred to in subsection (1)(a):

(b) the amount calculated using the formula—

outstanding profit balance − expenditure.

Definition of items in formula

(4) In the formula,—

(a) **outstanding profit balance**,—

(i) for company B, is the amount of the outstanding profit balance determined for the company for the current year under section DG 18(5), if applicable, or otherwise under section DG 17(4):

(ii) for a shareholder, is the amount that is the person's share of the outstanding profit balance for the current year under section DG 18(5), if applicable, or otherwise under section DG 17(4),

calculated using the formula in section DG 13(3), treating the outstanding profit balance as if it were the net asset balance:

(b) **expenditure** is the total amount of deductions that the person is allowed for the current year under sections DG 12 to DG 14, as applicable, and after any necessary apportionment.

Recalculation of outstanding profit balance

(5) For the purposes of subsections (3) and (4)(a), the amount that is the outstanding profit balance must be recalculated on each application, being reduced by an amount equal to the amount of any deduction for quarantined expenditure counted.

Zero result

(6) For the purposes of the formula in subsection (3), if the amount of expenditure for the current year is greater than the amount of the outstanding profit balance for the current year, the result of the formula is treated as zero.

Example, *continued from section DG 18*

In the following income year, Aircraft Ltd has calculated an outstanding profit balance of $16,000. Section DG 19 does not apply to Parent Ltd or Hamish because they have no previously quarantined interest expenditure. However, the section does apply to Alisa because she has $4,500 of quarantined interest expenditure from the previous year. Because Parent Ltd does not have any current year expenditure, Alisa's share of the outstanding profit balance of Parent Ltd is $8,000 ($16,000 × 50%).

Alisa's current year apportioned interest expenditure is $7,000, calculated under section DG 14. Alisa is allowed a deduction for all her current year expenditure and also a deduction for $1,000 of previously quarantined expenditure ($8,000 − $7,000). Her remaining quarantined expenditure is $3,500 ($4,500 − $1,000).

Defined in this Act: amount, company, deduction, income year, net asset balance, shareholder

Section DG 19: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DG 19 example: replaced (with effect on 1 April 2013), on 30 June 2014, by section 59 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Certain modifications to rules

Heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by

section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 20 When income cannot be separately attributed

Exclusion from rules

(1) Sections DG 16 and DG 18 do not apply to the use of an asset for an income year when—

(a) the person derives an amount of income for the income year from the use of the asset in a business activity; and

(b) because of the nature of the activity, an amount cannot be separately attributed to the use of the asset.

Re-inclusion

(2) Subsection (1) does not apply if—

(a) the person also uses the asset in deriving an amount of income that is separately attributable to the use of the asset; and

(b) the use of the asset referred to in paragraph (a) is at least 80% of the total use of the asset both in the business activity referred to in subsection (1) and as described in paragraph (a).

Example

Paul uses a helicopter on his farm to check stock for 50 hours in an income year, rents it out for 50 hours, and also uses it privately. While the income from the rental is clear, the income Paul derives in relation to the use of the helicopter in farming operations is not. The use of the helicopter falls outside the rules under the exclusion in section DG 20(1), and does not meet the requirements for re-inclusion under section DG 20(2) as the use of the helicopter to earn rental income is only 50% of the total income-earning use of the helicopter. Any loss attributable to the helicopter is not quarantined.

Defined in this Act: amount, asset, business, income, income year

Section DG 20: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 21 Opting out of treatment under this subpart

Opt-out threshold

(1) If the amount of income derived for an income year from the use of an asset is less than $4,000, the person who has the asset may choose to treat the income as exempt income under section CW 8B(2) (Certain amounts derived from use of assets). The threshold amount does not include an amount of income exempt under section CW 8B(3).

Quarantined expenditure

(2) If, in relation to the use of an asset in an income year, the person has an amount of quarantined expenditure for the income year, they may choose to treat the amount of income derived that gives rise to the quarantined expenditure as exempt income under section CW 8B for the income year.

Consequences of opting out

(3) When a person who has an asset chooses under subsection (1) or (2) to treat the income derived from the use of the asset as exempt income, any interest expenditure that must be apportioned under section DG 9 is treated as expenditure incurred in deriving exempt income.

No application to companies

(4) This section does not apply when the person who has the asset is a company.

Example

Mike rents his bach out through the Internet to a non-associate. The gross amount he receives for an income year is $3,000. Mike can opt out of the rules in this subpart, which would mean that he would not be liable to tax on the amount, but would also not be entitled to claim any deductions in relation to the bach.

Defined in this Act: amount, asset, exempt income, income, income year, interest expenditure

Section DG 21: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DG 22 Application of rules to part years

When this section applies

(1) This section applies when the total income-earning use, private use, and non-use of an asset of a person relates to only part of an income year.

Non-use period

(2) For the purposes of section DG 3(1)(b), the number of days is calculated using the formula—

$$(\text{days} \div 365) \times 62.$$

When assets acquired during year: debt value

(3) For the purposes of section DG 11(9), if the company acquires the asset during the income year, the debt value is treated as the outstanding amount at the end of the income year.

When assets disposed of during year: debt value

(4) For the purposes of section DG 11(9), if the company disposes of the asset during the income year, the debt value is treated as the outstanding amount at the start of the income year.

When assets both acquired and disposed of during year

(5) For the purposes of section DG 11(9), if the company both acquires and disposes of the asset during the income year, the debt value is treated as the average of the outstanding amounts on the date on which the asset was acquired and the date of its disposal.

When assets acquired during year: interest expenditure

(6) For the purposes of sections DG 11 to DG 14, when company A acquires or disposes of an asset during an income year, the amount of interest expenditure that must be apportioned is calculated on a pro rata basis.

Ring-fenced losses in part years

(7) For the purposes of section DG 16(1)(b), the threshold is calculated using the formula—

$$(\text{days} \div 365) \times 2\%.$$

Definition of item in formulas

(8) In the formulas in subsections (2) and (7), **days** is the number of days in the income year on which the person has the asset, and for the purposes of the calculation, section DG 9(4) similarly applies.

Defined in this Act: amount, asset, company, debt value, income year, interest expenditure, private use

Section DG 22: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 30(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Subpart DH—Interest incurred in relation to certain land

[Repealed]

Subpart DH: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

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DH 1 Interest related to certain land

[Repealed]

Section DH 1: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 2 When this subpart applies

[Repealed]

Section DH 2: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 3 When this subpart applies: companies

[Repealed]

Section DH 3: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 4 When this subpart does not apply: exemptions for new builds, development, social or emergency or transitional housing, and council housing

[Repealed]

Section DH 4: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 5 Key terms

[Repealed]

Section DH 5: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 6 Interposed residential property percentage

[Repealed]

Section DH 6: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 7 Grandparented residential interest

[Repealed]

Section DH 7: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 8 Deduction not allowed

[Repealed]

Section DH 8: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 9 Exception to limited denial of deductions: loans denominated in foreign currencies

[Repealed]

Section DH 9: repealed (with effect on 27 March 2021), on 31 March 2023, by section 45 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

DH 10 Limited denial of deductibility: simplified calculation of interest affected

[Repealed]

Section DH 10: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 11 Denied amounts: treatment upon disposal of disallowed residential property

[Repealed]

Section DH 11: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DH 12 Valuation

[Repealed]

Section DH 12: repealed, on 1 April 2025, by section 48 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Subpart DI—New investment assets

Subpart DI: inserted (with effect on 22 May 2025), on 29 May 2025, by section 5 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

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DI 1 New investment assets

Purpose

(1) The main purpose of this subpart is to allow a person a deduction in relation to expenditure on a new investment asset, effectively accelerating depreciation or amortisation, as applicable, for that asset.

Outline

(2) In this subpart,—

(a) section DI 2 provides rules for when this subpart applies and does not apply:

(b) section DI 3 provides the meaning of **new asset transferee**:

(c) section DI 4 provides the meaning of **new investment asset**:

(d) section DI 5 allows deductions for expenditure on new investment assets:

(e) section DI 6 provides relationships between this subpart and other provisions of the Act for a person allowed a deduction for a new investment asset and also for certain other people, for example, new asset transferees. Section DI 6 removes, where appropriate, the amount of a deduction for a new investment asset from the calculation of other deductions, tax cost bases, and associated calculations for the asset under relevant depreciation and amortisation provisions, so as to ensure that those other deductions are calculated post-new investment asset deduction. Section DI 6 contains examples of its application.

Defined in this Act: deduction, new asset transferee, new investment asset

Section DI 1: inserted (with effect on 22 May 2025), on 29 May 2025, by section 5 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

DI 2 When this subpart applies and does not apply

When this subpart applies

(1) This subpart applies for a person,—

(a) for an asset acquired by them that is depreciable property, if—

(i) the asset first becomes available for use in New Zealand by the person on or after 22 May 2025, other than as trading stock; and

(ii) the asset has never previously been used or available for use in New Zealand for any purpose, other than as trading stock; and

(iii) the person has chosen to apply this subpart to the asset in a return of income for the income year:

(b) for an asset acquired by them that is not depreciable property, if—

(i) the person incurs the expenditure in relation to the asset on or after 22 May 2025; and

(ii) the person has chosen to apply this subpart to the asset in a return of income for the income year.

When this subpart does not apply

(2) This subpart does not apply to expenditure the person incurs before 22 May 2025 in relation to an asset that is not depreciable property.

Defined in this Act: depreciable property, income year, New Zealand, return of income, trading stock

Section DI 2: inserted (with effect on 22 May 2025), on 29 May 2025, by section 5 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

DI 3 Meaning of new asset transferee

New asset transferee means one of the following persons that acquires an asset to which another person (**person A**) previously chose to apply this subpart:

(a) an associate of person A:

(b) a company amalgamating with person A:

(c) a person who is a party to a relationship agreement with person A or who is associated with a person who is a party to a relationship agreement with person A:

(d) a person who is a transferee of person A's estate in the circumstances described in section FC 1(1)(a) or (b) (Disposals to which this subpart applies).

Defined in this Act: associated person, company, relationship agreement

Section DI 3: inserted (with effect on 22 May 2025), on 29 May 2025, by section 5 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

DI 4 Meaning of new investment asset

New investment asset—

(a) means, for a person, an asset they acquire and own if the asset is—

(i) depreciable property for which the person has a depreciation loss, including a zero amount of depreciation loss (for example, some commercial buildings):

(ii) an improvement for which the person is allowed a deduction under section DO 4 (Improvements to farm land):

(iii) a planting for which the person is allowed a deduction under section DO 5 (Expenditure on land: planting of listed horticultural plants):

(iv) an improvement for which the person is allowed a deduction under section DO 12 (Improvements to aquacultural business):

(v) an improvement for which the person is allowed a deduction under section DP 3 (Improvements to forestry land):

(vi) an asset that is acquired with petroleum development expenditure:

(vii) an asset that is acquired with mining development expenditure:

(viii) an improvement to an asset of the type in subparagraph (i):

(b) does not include an asset if and to the extent to which it is—

(i) a dwelling:

(ii) fixed life intangible property:

(iii) a petroleum privilege or a petroleum permit:

(iv) a mining right or a mining permit.

Defined in this Act: commercial building, depreciable property, depreciation loss, dwelling, fixed life intangible property, improvement, mining development expenditure, mining permit, petroleum development expenditure, petroleum permit

Section DI 4: inserted (with effect on 22 May 2025), on 29 May 2025, by section 5 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

DI 5 New investment asset deduction

Deduction

(1) For the income year in which an asset becomes a new investment asset, a person is allowed a deduction equal to the amount calculated by the following formula:

$$0.2 \times (\text{expenditure} - \text{contribution}).$$

Definition of items in formula

(2) In the formula,—

(a) **expenditure** is the amount of expenditure the person incurs in acquiring the asset, excluding expenditure to which this subpart does not apply (*see* section DI 2(2)):

(b) **contribution** is the total amount of the following:

(i) capital contributions for the asset if section DB 64 (Capital contributions) applies:

(ii) the payment amount that section DF 1(3) (Government grants to businesses) applies to, for the asset.

Link with subject matter

(3) The person is allowed the deduction under this section despite section DF 1(2).

Link with subpart DA

(4) Subsection (1) overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital contribution, capital limitation, deduction, general limitation, general permission, income year, new investment asset

Section DI 5: inserted (with effect on 22 May 2025), on 29 May 2025, by section 5 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

DI 6 Relationship to cost, calculations, etc, in other provisions

For a person (**person A**) allowed a deduction under section DI 5 for a new investment asset, and for a person that is a new asset transferee in relation to person A and the asset,—

(a) the asset's adjusted tax value, base value, cost, or value, as applicable, is reduced by the amount of person A's deduction for the purposes of quantifying the amount of depreciation loss under subpart EE (Depreciation) for the asset:

(b) the relevant diminished value, expenditure, cost, value, or consideration, as applicable, is reduced by the amount of person A's deduction for the purposes of quantifying the amount of a deduction under subparts DO (Farming and aquacultural business expenditure), DP (Forestry expenditure), DT (Petroleum mining expenditure), and DU (Mineral mining expenditure) for the asset.

Example 1

ABC company purchases a new investment asset for $10,000 on 1 October 2025 (**Asset A**). Asset A is depreciable property and has a DV rate of 10%. Asset A is used for 6 months in the income year ended 31 March 2026. The amount ABC company can deduct in the 2025–26 income year is the total of:

- 20% × $10,000 expenditure (section DI 5) = $2,000
- 10% × 6/12 × ($10,000 − $2,000) (section DI 6(a)) = $400.

The total deduction for Asset A in the 2025–26 income year is $2,400.

Example 2

ABC company transfers Asset A to an associate (**associate B**) at the end of the 2025–26 income year. Under a provision of this Act, associate B steps into the shoes of ABC company (for example, section FM 15(2)). The original acquisition cost of $10,000 is reduced for associate B, for depreciation purposes, to $9,600 by operation of section DI 6. Depreciation deductions of $400 are effectively transferred (*see* section FM 15(7)). Section DI 6(a) in effect also transfers the $2,000 new investment asset deduction claimed by ABC company to associate B for the purposes of the item **new investment asset amount** in section EE 48(1B) and (1C). When associate B disposes of Asset A for $9,600, associate B has clawback income of $2,000 under section EE 48.

Defined in this Act: adjusted tax value, amount, deduction, depreciation loss, diminished value, new asset transferee, new investment asset

Section DI 6: inserted (with effect on 22 May 2025), on 29 May 2025, by section 5 of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Subpart DN—Attributed losses from foreign equity

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Attributed controlled foreign company (CFC) loss

DN 1 Attributed controlled foreign company loss

Deduction

(1) A person is allowed a deduction for an attributed controlled foreign company (CFC) loss, subject to the jurisdictional ring-fencing rule in section DN 4.

Link with subpart DA

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

Defined in this Act: attributed CFC loss, capital limitation, deduction, general limitation, general permission, supplement

Compare: 2004 No 35 s DN 1

DN 2 When attributed CFC loss arises

General rule

(1) A person has an **attributed CFC loss** from a foreign company in an income year if—

(a) the foreign company is a CFC at any time during 1 of its accounting periods, under sections EX 1 to EX 7 (which relate to the definition of a controlled foreign company); and

(b) the accounting period ends during the income year; and

(bb) the person is not a portfolio investment entity; and

(c) the person has an income interest in the foreign company for the accounting period, under sections EX 8 to EX 13 (which relate to calculating a person's income interest); and

(d) at any time in the accounting period, the person is a New Zealand resident who is not a transitional resident; and

(e) the person's income interest is 10% or more for the accounting period, under sections EX 14 to EX 17 (which relate to the 10% threshold); and

(f) the CFC has a net attributable CFC loss for the accounting period under section EX 20C (Net attributable CFC income or loss); and

(g) *[Repealed]*

(h) the CFC is not a non-attributing active CFC for the accounting period, under section EX 21B (Non-attributing active CFCs); and

(i) the CFC is not a non-attributing Australian CFC for the accounting period, under section EX 22 (Non-attributing Australian CFCs).

Special rule: Attributable CFC amount from personal services

(2) If a person and a non-attributing active CFC or non-attributing Australian CFC meet the requirements of subsection (1)(a) to (e) and the CFC derives income from personal services that is an attributable CFC amount under section EX 20B(3)(h) (Attributable CFC amount), the person has **attributed CFC loss** from the CFC equal to the product of—

(a) the person's income interest in the CFC:

(b) the amount by which the CFC's expenditure incurred in deriving the income from personal services exceeds the income from personal services.

Defined in this Act: accounting period, attributable CFC amount, attributed CFC loss, CFC, foreign company, grey list, income interest, income year, net attributable CFC loss, New Zealand resident, non-attributing active CFC, non-attributing Australian CFC, portfolio investment entity, transitional resident

Compare: 2004 No 35 s DN 2

Section DN 2(1) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 90(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2(1)(bb): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 12(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 2(1)(f): substituted (with effect on 30 June 2009), on 6 October 2009, by section 90(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2(1)(g): repealed (with effect on 30 June 2009), on 6 October 2009, by section 90(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2(1)(h): added (with effect on 30 June 2009), on 6 October 2009, by section 90(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2(1)(i): added (with effect on 30 June 2009), on 6 October 2009, by section 90(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2(2) heading: added (with effect on 30 June 2009), on 6 October 2009, by section 90(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2(2): added (with effect on 30 June 2009), on 6 October 2009, by section 90(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2 list of defined terms **attributable CFC amount**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 90(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2 list of defined terms **branch equivalent loss**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 90(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2 list of defined terms **net attributable CFC loss**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 90(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2 list of defined terms **non-attributing active CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 90(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2 list of defined terms **non-attributing Australian CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 90(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 2 list of defined terms **portfolio investment entity**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 12(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

DN 3 Calculation of attributed CFC loss

The amount of an attributed CFC loss is calculated under sections EX 18 to EX 20 (which relate to the calculation of attributed CFC income or loss).

Defined in this Act: amount, attributed CFC loss

Compare: 2004 No 35 s DN 3

DN 4 Ring-fencing cap on deduction

Amount of deduction: CFC not elective attributing CFC

(1) The deduction that a person is allowed in an income year for an attributed CFC loss from a CFC (the **first CFC**) that is not an elective attributing CFC for the person in the income year is no more than the total of—

(a) total attributed CFC income of the person for the income year from other CFCs, each of which is resident in the same country as the first CFC for the relevant accounting period:

(b) total FIF income of the person for the income year from FIFs,—

(i) each of which is resident in the same country as the first CFC for the relevant accounting period; and

(ii) for each of which the person uses the attributable FIF income method.

Amount of deduction: elective attributing CFC

(1B) The deduction that a person is allowed in an income year for an attributed CFC loss from a CFC (the **first CFC**) that is an elective attributing CFC for the person in the income year is no more than the total of—

(a) total attributed CFC income of the person for the income year from other CFCs, each of which—

(i) is resident in the same country as the first CFC for the relevant accounting period; and

(ii) is an elective attributing CFC for the person in the income year; and

(iii) has the same election commencement year as the first CFC:

(b) total FIF income of the person for the income year from FIFs, each of which—

(i) is resident in the same country as the first CFC for the relevant accounting period; and

(ii) is an elective attributing FIF for the person in the income year; and

(iii) has the same election commencement year as the first CFC.

Income only once

(2) When subsection (1) or (1B) is applied to an attributed CFC loss, an amount of attributed CFC income or FIF income may be used only to the extent to which the income is not used when—

(a) subsection (1) or (1B) is applied to another attributed CFC loss; or

(b) section DN 8 is applied to a FIF loss.

Relationship with subpart IQ

(3) Any excess not able to be deducted because of subsection (1) or (1B) is an attributed CFC net loss able to be used under sections IQ 2, IQ 4, and IQ 9 (which relate to the use of attributed CFC net losses).

Defined in this Act: accounting period, amount, attributed CFC income, attributed CFC loss, attributed CFC net loss, attributable FIF income method, CFC, deduction, election commencement year, elective attributing CFC, elective attributing FIF, FIF, FIF income, FIF loss, income year

Compare: 2004 No 35 s DN 4

Section DN 4(1) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 24(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4(1): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 24(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4(1)(b)(ii): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 24(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4(1B) heading: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 24(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4(1B): inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 24(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4(2): amended (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 24(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4(3): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 24(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 13(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 4 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 13(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 4 list of defined terms **election commencement year**: inserted, on 2 November 2012, by section 24(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4 list of defined terms **elective attributing CFC**: inserted, on 2 November 2012, by section 24(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 4 list of defined terms **elective attributing FIF**: inserted, on 2 November 2012, by section 24(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Foreign investment fund (FIF) loss

DN 5 Foreign investment fund loss

Deduction

(1) A person is allowed a deduction for a FIF loss.

Ring-fencing rule for loss calculated under attributable FIF income method

(2) The deduction for a FIF loss calculated under the attributable FIF income method is subject to the jurisdictional ring-fencing rule in section DN 8.

Link with subpart DA

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

Defined in this Act: attributable FIF income method, calculation method, capital limitation, deduction, FIF loss, general limitation, general permission, supplement

Compare: 2004 No 35 s DN 5

Section DN 5(2) heading: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 14(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 5(2): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 14(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 5 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 14(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 5 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 14(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

DN 6 When FIF loss arises

General rule

(1) A person has a **FIF loss** in an income year if,—

(a) at any time in the year, the person has—

(i) rights in a foreign company, or a foreign superannuation scheme, or an entity listed in schedule 25, part A (Foreign investment funds); or

(ii) rights under a life insurance policy issued by a non-resident; and

(b) at that time, the rights are an attributing interest in a FIF under section EX 29 (Attributing interests in FIFs); and

(c) at that time, the rights are not exempt from being an attributing interest in a FIF under any of—

(i) the exemption for ASX-listed Australian companies in section EX 31 (Exemption for ASX-listed Australian companies):

(ii) the exemption for Australian unit trusts with 25% turnover in section EX 32 (Exemption for Australian unit trusts with 25% turnover):

(iii) the exemption for Australian regulated superannuation savings in section EX 33 (Exemption for Australian regulated superannuation savings):

(iv) the CFC rules exemption in section EX 34 (CFC rules exemption):

(v) the exemption in section EX 35 (Exemption for interest in FIF resident in Australia):

(vi) the 10-year exemption for a venture capital company emigrating to a grey list country in section EX 36 (Venture capital company emigrating to grey list country: 10-year exemption):

(vii) the 10-year exemption for a grey list company owning a New Zealand venture capital company in section EX 37 (Grey list company owning New Zealand venture capital company: 10-year exemption):

(viib) the exemption for shares in a grey list company acquired under a venture investment agreement in section EX 37B (Share in grey list company acquired under venture investment agreement):

(viii) the exemption for an employee share scheme of a grey list company in section EX 38 (Exemptions for employee share schemes):

(ix) *[Repealed]*

(x) *[Repealed]*

(xi) the foreign exchange control exemption in section EX 40 (Foreign exchange control exemption):

(xii) the exemption for a non-resident or transitional resident, in section EX 41 (Income interest of non-resident or transitional resident):

(xiii) *[Repealed]*

(xiva) the exemption for an interest in a foreign superannuation scheme that is not a FIF superannuation interest in section EX 42B (Interests in foreign superannuation scheme other than FIF superannuation interests):

(xiv) the annuity or pension exemption in section EX 43 (Non-resident's pension or annuity exception):

(xv) an exemption given by sections EX 50, EX 18A(2)(b)(i), and EX 21B (which relate to the attributable FIF income method and FIFs corresponding to non-attributing active CFCs); and

(d) if the person is a natural person,—

(i) the total cost, calculated under section EX 68 (Measurement of cost), of attributing interests in FIFs that the person holds at any time in the year when the person is a New Zealand resident is more than $50,000:

(ii) the person includes, in a return for the year, FIF income or loss from an attributing interest in a FIF:

(iii) the person has, in the return for 1 of the preceding 4 income years (the **earlier year**), included FIF income or loss from attributing interests in FIFs with a total cost of $50,000 or less, calculated under section EX 68, at all times in the earlier year when the person is a New Zealand resident; and

(e) if the person is acting as trustee of a trust that meets the requirements of subsection (4),—

(i) the total cost, calculated under section EX 68, of attributing interests in FIFs that the person holds at any time in the year is more than $50,000:

(ii) the person includes, in a return for the year, FIF income or loss from an attributing interest in a FIF:

(iii) the person has, in a return for 1 of the preceding 4 income years (the **earlier year**), included FIF income or loss from attributing

interests in FIFs with a total cost of $50,000 or less, calculated under section EX 68, at all times in the earlier year; and

(f) at any time in the year, the person is a New Zealand resident who is not a transitional resident and holds the attributing interest; and

(g) under the relevant calculation method chosen by the person, a loss amount is calculated for the income year or relevant accounting period under sections EX 44 to EX 56 (which relate to the calculation of FIF income or loss), EX 60 or EX 61 (which relate to top-up FIF income).

Treatment of transaction under section EX 63, EX 65, or EX 67

(1B) If a person is treated under section EX 63(5), EX 65 or EX 67 (which relate to changes in method or application of FIF rules) as disposing of or acquiring rights in an income year, the disposal or acquisition is ignored for the purposes of subsection (1)(d) and (e).

Look-through calculation methods

(2) Despite subsection (1), if the calculation method is the attributable FIF income method,—

(a) FIF loss arises in the income year only if the relevant accounting period of the FIF ends during the year; and

(b) the tests in subsection (1)(a), (b), (c), and (f) are applied on the basis that references in subsection (1)(a), (b), (c), and (f) to any time in the income year are read as references to any time in the relevant accounting period.

FIF loss from CFC with FIF interest

(3) **FIF loss** also includes an amount of additional FIF loss that a person with an income interest of 10% or more in a CFC has in an income year under section EX 58 (Additional FIF income or loss if CFC owns FIF), regardless of whether the CFC is a non-attributing active CFC under section EX 21B (Non-attributing active CFCs) or a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs).

Requirements for trustees

(4) Subsection (1)(e) applies to the trustee of a trust for an income year if—

(a) the trust is of the estate of a deceased person and the income year begins on or before the day that is 5 years after the person's death:

(b) the settlor of the trust—

(i) is a relative or legal guardian of a beneficiary of the trust, or a person associated with a relative or legal guardian of a beneficiary of the trust; and

(ii) is required by a court order to pay damages or compensation to the beneficiary:

(c) the settlor of the trust—

(i) is the estate of a deceased person; and

(ii) is required by a court order to settle on the trust the proceeds of damages or compensation for the beneficiaries of the trust:

(d) the settlor of the trust is the Accident Compensation Corporation.

Defined in this Act: accounting period, amount, attributable FIF income method, attributing interest, calculation method, CFC, employee share scheme, FIF, FIF income, FIF loss, FIF superannuation interest, foreign company, foreign superannuation scheme, grey list, grey list company, income interest, income year, life insurance policy, loss, New Zealand resident, non-attributing Australian CFC, non-resident, relative, settlor, share, shareholder, transitional resident, trustee, unit trust, venture investment agreement

Compare: 2004 No 35 s DN 6

Section DN 6(1)(c)(iii): replaced (with effect on 1 April 2014), on 24 February 2016, by section 108(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DN 6(1)(c)(iv): amended, on 24 February 2016, by section 108(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DN 6(1)(c)(v): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 15(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6(1)(c)(viib): inserted (with effect on 1 April 2008), on 29 March 2025, by section 43(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DN 6(1)(c)(viii): amended (with effect on 29 September 2018), on 31 March 2023, by section 48(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DN 6(1)(c)(viii): amended, on 29 September 2018, by section 50 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DN 6(1)(c)(ix): repealed, on 30 March 2025, by section 43(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DN 6(1)(c)(x): repealed, on 30 March 2025, by section 43(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DN 6(1)(c)(xiii): repealed, on 1 April 2014, by section 36 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DN 6(1)(c)(xiva): inserted (with effect on 1 April 2014), on 29 March 2025, by section 43(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DN 6(1)(c)(xiv): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 15(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6(1)(c)(xv): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 15(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6(1)(d): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 15(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6(1)(d): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DN 6(1)(e): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 15(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6(1B) heading: inserted, on 1 April 2008, by section 344(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DN 6(1B): inserted, on 1 April 2008, by section 344(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DN 6(2): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 15(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6(3) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 91(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 6(3): substituted (with effect on 30 June 2009), on 6 October 2009, by section 91(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 6(3): amended, on 24 February 2016, by section 108(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DN 6 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 15(5)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 15(5)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 15(5)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6 list of defined terms **employee share scheme**: inserted (with effect on 29 September 2018), on 31 March 2023, by section 48(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DN 6 list of defined terms **FIF income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 15(5)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6 list of defined terms **FIF superannuation interest**: inserted (with effect on 1 April 2014), on 29 March 2025, by section 43(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DN 6 list of defined terms **loss**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 15(5)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 6 list of defined terms **non-attributing Australian CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 91(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DN 6 list of defined terms **settlor**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DN 6 list of defined terms **venture investment agreement**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 43(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

DN 7 Calculation of FIF loss

The amount of a FIF loss is calculated, using the relevant calculation method, under sections EX 44 to EX 61 (which relate to the calculation of FIF income or loss).

Defined in this Act: amount, calculation method, FIF loss

Compare: 2004 No 35 s DN 7

DN 8 Ring-fencing cap on deduction: attributable FIF income method

Amount of deduction: FIF not elective attributing FIF

(1) The deduction that a person is allowed in an income year for a FIF loss from a FIF (the **first FIF**) that is not an elective attributing FIF for the person in the income year is no more than the total of—

(a) total attributed CFC income of the person for the income year from CFCs, each of which is resident in the same country as the first FIF for the relevant accounting period:

(b) total FIF income of the person for the income year from other FIFs,—

(i) each of which is resident in the same country as the first FIF for the relevant accounting period; and

(ii) for each of which the person uses the attributable FIF income method.

Amount of deduction: elective attributing FIF

(1B) The deduction that a person is allowed in an income year for a FIF loss from a FIF (the **first FIF**) that is an elective attributing FIF for the person in the income year is no more than the total of—

(a) total attributed CFC income of the person for the income year from CFCs, each of which—

(i) is resident in the same country as the first FIF for the relevant accounting period; and

(ii) is an elective attributing CFC for the person in the income year; and

(iii) has the same election commencement year as the first FIF:

(b) total FIF income of the person for the income year from other FIFs, each of which—

(i) is resident in the same country as the first FIF for the relevant accounting period; and

(ii) is an elective attributing FIF for the person in the income year; and

(iii) has the same election commencement year as the first FIF.

Income only once

(2) When subsection (1) or (1B) is applied to a FIF loss, an amount of attributed CFC income or FIF income may be used only to the extent to which the income is not used when applying—

(a) subsection (1) or (1B) to another FIF loss; or

(b) section DN 4 to an attributed CFC loss.

Relationship with section IQ 3

(3) Any excess not able to be deducted because of subsection (1) or (1B) is a FIF net loss able to be used under section IQ 3 (Ring-fencing cap on FIF net losses).

Defined in this Act: accounting period, amount, attributed CFC income, attributable FIF income method, attributed CFC loss, CFC, deduction, election commencement year, elective attributing CFC, elective attributing FIF, FIF, FIF income, FIF loss, FIF net loss, income year

Compare: 2004 No 35 s DN 9

Section DN 8(1) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 25(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8(1): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 25(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8(1)(b)(ii): amended (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 2 November 2012, by section 25(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8(1B) heading: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 25(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8(1B): inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 25(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8(2): amended (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 25(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8(3): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 25(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 16(3)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 8 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 16(3)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section DN 8 list of defined terms **election commencement year**: inserted, on 2 November 2012, by section 25(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8 list of defined terms **elective attributing CFC**: inserted, on 2 November 2012, by section 25(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DN 8 list of defined terms **elective attributing FIF**: inserted, on 2 November 2012, by section 25(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

DN 9 Treatment of certain costs incurred in acquiring FIF interests

No deduction

(1) A person is denied a deduction for an amount of expenditure that they incur in acquiring a FIF interest from which income under section CX 57B (Amounts derived during periods covered by calculation methods) is derived.

Link with subpart DA

(2) This section overrides the general permission.

Defined in this Act: amount, deduction, FIF interest, general permission, income

Section DN 9: inserted, on 29 March 2018, by section 51 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart DO—Farming and aquacultural business expenditure

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Farming

DO 1 Enhancements to land

Deduction

(1) A person is allowed a deduction for expenditure that they incur on the following in carrying on a farming or agricultural business on land in New Zealand:

(a) the destruction of weeds or plants detrimental to the land:

(b) the destruction of animal pests detrimental to the land:

(c) the repair of flood or erosion damage to the land:

(d) the destruction of scrub, stumps, or undergrowth on the land:

(e) the clearing or removing from the land of scrub, stumps, or undergrowth:

(f) the construction on the land of fences for farming or agricultural purposes, including buying wire or wire netting for the purpose of making new or existing fences rabbit-proof:

(g) the regrassing and fertilising of all kinds of pasture, if the expenditure is not incurred in the course of a significant capital activity.

Link with subpart DA

(2) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: business, capital limitation, deduction, general limitation, general permission, New Zealand, significant capital activity

Compare: 2004 No 35 s DO 1

Section DO 1 heading: amended (with effect on 1 April 2011), on 17 July 2013, by section 31 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DO 2 Plantings for erosion, shelter, and water protection purposes

When this section applies

(1) This section applies when a person carries on a farming or agricultural business on land in New Zealand, whether or not the business is the principal business carried on on the land.

Deduction

(2) The person is allowed a deduction for expenditure that they incur in planting or maintaining trees or plants, whether or not on the land, for the purpose of—

(a) preventing or combating erosion of the land:

(b) providing shelter to the land:

(c) preventing or mitigating detrimental effects on a watercourse or body of water from the discharge of farming or agricultural contaminants.

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: business, capital limitation, deduction, general limitation, general permission, New Zealand

Compare: 2004 No 35 s DO 2

Section DO 2 heading: replaced (with effect on 1 April 2011), on 17 July 2013, by section 32(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DO 2(2): replaced (with effect on 1 April 2011 and applying to a person for expenditure incurred: (a) in the 2011–12 or a later income year; (b) in an income year corresponding to a tax year beginning on or after 1 April 2008 and before 1 April 2011 if the person includes the expenditure as a deduction in a tax return made on or before the due date for a tax return for the income year), on 17 July 2013, by section 32(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DO 3 Trees on farms

When this section applies

(1) This section applies when—

(a) a person carries on, on land in New Zealand, a farming or agricultural business that is the principal business carried on on the land; and

(b) they plant or maintain trees on the land; and

(c) the trees are not—

(i) trees for which the person is allowed a deduction under section DO 2; or

(ii) trees planted mainly to produce fruit; or

(iii) trees planted under a forestry encouragement agreement under the Forestry Encouragement Act 1962.

Deduction

(2) The person is allowed the following deductions:

(a) in an income year in which the person incurs expenditure on planting trees on the land, they are allowed a deduction of the lesser of $7,500 and the expenditure that they incur; and

(b) in an income year in which the person incurs expenditure on maintaining trees on the land, they are allowed a deduction of the lesser of $7,500 and the expenditure that they incur.

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: business, capital limitation, deduction, general limitation, general permission, income year, New Zealand

Compare: 2004 No 35 s DO 3

DO 4 Improvements to farm land

When this section applies

(1) This section applies when—

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

(b) an improvement described in schedule 20, part A (Expenditure on farming, horticultural, aquacultural, and forestry improvements) has been made to the land; and

(c) the expenditure on the improvement is not expenditure to which sections DO 5 to DO 7 apply.

Deduction: expenditure: owner of land

(2) A person who owns the land is allowed a deduction for expenditure to which all the following apply:

(a) it is incurred on making the improvement; and

(b) it is incurred by the person or by another person; and

(c) it is not incurred on anything described in any of sections DO 1 to DO 3; and

(d) it is incurred in the 1995–96 income year or in a later income year, not including the income year in which the person disposes of the land, the income year being the income year of the person who owns the land; and

(e) it is incurred in developing the land; and

(f) it is of benefit to the business in the income year in which the person is allowed the deduction.

Deduction: expenditure: non-owner of land

(3) A person who does not own the land is allowed a deduction for expenditure to which all the following apply:

(a) it is incurred on making the improvement; and

(b) it is incurred by the person; and

(c) it is not incurred on anything described in any of sections DO 1 to DO 3; and

(d) it is incurred in the 1995–96 income year or in a later income year, not including the income year in which the person ceases to carry on the business on the land; and

(e) it is incurred in developing the land; and

(f) it is of benefit to the business in the income year in which the person is allowed the deduction.

Amount, and timing, of deduction

(4) The amount of the deduction is calculated using the formula—

schedule 20 percentage × diminished value.

Definition of items in formula

(5) In the formula,—

(a) **schedule 20 percentage** is the percentage set out opposite the description of the improvement in schedule 20, part A:

(b) **diminished value** is the diminished value of the improvement.

Amount, and timing, for non-listed horticultural plants

(6) When non-listed horticultural plants described in schedule 20, part A, clause 9 have ceased to exist, or to be used in deriving income, on or after 16 December 1991,—

(a) subsection (4) does not apply; and

(b) the amount of the deduction is the diminished value of the non-listed horticultural plants at the time they ceased to exist or to be used in deriving income; and

(c) the deduction is allocated to the income year in which the non-listed horticultural plants ceased to exist or to be used in deriving income.

Link with subpart DA

(7) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Amendment of schedule 20 by Order in Council

(8) The Governor-General may by Order in Council make regulations amending schedule 20 to vary the categories of improvements and percentages of diminished value of those improvements allowed as a deduction.

Secondary legislation

(9) An Order in Council under subsection (8) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, business, capital limitation, deduction, diminished value, general limitation, general permission, income, income year, New Zealand, non-listed horticultural plant, own

Compare: 2004 No 35 s DO 4

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section DO 4(9) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section DO 4(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

DO 5 Expenditure on land: planting of listed horticultural plants

When this section applies

(1) This section applies when—

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

(b) the land has been developed by the planting of listed horticultural plants on the land.

Deduction and timing

(2) For an income year in which the planting benefits the business and for which subsection (3) does not apply, the person is allowed a deduction relating to expenditure incurred by the person, or by another person, in developing the land.

Income year in which no deduction

(3) The person is denied a deduction under subsection (2) for an income year in which—

(a) if the person owns the land, the person disposes of the land:

(b) if the person does not own the land, the person ceases carrying on the business on the land.

Amount of deduction other than under subsections (6) and (7)

(4) For expenditure to which subsections (6) and (7) do not apply for the income year, the amount of the deduction under subsection (2) is calculated using the formula—

$$\text{rate} \times \text{diminished value}.$$

Definition of items in formula

(5) In the formula,—

(a) **rate** is the percentage rate determined for the kind of listed horticultural plant by the Commissioner under section 91AAB of the Tax Administration Act 1994:

(b) **diminished value** is the diminished value of the expenditure.

Deduction: expenditure on replaced plant if no deduction under section DO 6

(6) If a listed horticultural plant in a planting of the person ceases in an income year to exist or to be used in deriving assessable income and the person has no deduction under section DO 6 for the income year for the expenditure incurred in replacing the listed horticultural plant,—

(a) the person is allowed a deduction:

(b) the amount of the deduction is the diminished value of the expenditure on the listed horticultural plant at the time that the listed horticultural plant ceases to exist or to be used in deriving assessable income:

(c) the deduction is allocated to the income year in which the listed horticultural plant ceases to exist or to be used in deriving income.

Treatment of expenditure on replaced plant if deduction under section DO 6

(7) If a listed horticultural plant in a planting of the person ceases in an income year to exist or to be used in deriving assessable income and the person is allowed a deduction under section DO 6 for the income year for all or some of the expenditure incurred in replacing the listed horticultural plant,—

(a) the person is not allowed a deduction under this section; and

(b) the person may add the diminished value, immediately before the replacement, of the expenditure on the listed horticultural plant to the diminished values, at the end of the income year, of the expenditure on listed horticultural plants that are in the planting at the end of the income year; and

(c) the person may choose the method of making the addition by applying the method in a return of income for the income year.

Link with subpart DA

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

Defined in this Act: assessable income, business, capital limitation, deduction, diminished value, general limitation, general permission, income year, listed horticultural plant, planting, return of income

Compare: 2004 No 35 s DO 4B

Section DO 5(4) formula: replaced (with effect on 1 April 2013 and applying for listed horticultural plants that are planted on land on or after the first day of the 2013–14 income year), on 30 June 2014, by section 60(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DO 6 Expenditure on land: horticultural replacement planting

When this section applies

(1) This section applies to a person who carries on a horticultural business on land in New Zealand and who, in an income year (the **current income year**)—

(a) plants, or causes to be planted, on the land a listed horticultural plant as a replacement plant:

(b) regrafts, or causes to be regrafted, a listed horticultural plant on the land as a replacement plant.

Deduction

(2) The person is allowed a deduction of an amount set out in 1 of subsections (3) and (5) if, in the current income year,—

(a) the person incurs expenditure in replacing a listed horticultural plant; and

(b) the replacement plant benefits the business; and

(c) the person does not dispose of the land on which the listed horticultural plant is cultivated; and

(d) the person chooses that this section apply to the expenditure by making a return of income for the current income year on that basis.

Amount of deduction if no deduction in 1 or both of 2 preceding income years

(3) If the person is denied a deduction under this section for 1 or both of the 2 income years preceding the current income year, the amount of the deduction under subsection (2) is calculated using the formula—

replacement expenditure × 7.5% ÷ fraction.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **replacement expenditure** is the amount of the expenditure incurred by the person in replacing the listed horticultural plant:

(b) **fraction** is the greater of 7.5% and the replaced area fraction for the planting for the current income year.

Amount of deduction if deduction in both of 2 preceding income years

(5) If the person has been allowed a deduction under this section for a planting for both of the 2 income years preceding the current income year, the amount of the deduction under subsection (2) is the lesser of—

(a) the amount that is calculated using the formula in subsection (6):

(b) the amount that is calculated using the formula in subsection (8).

Formula for first amount

(6) The first amount is calculated using the formula—

replacement expenditure × 7.5% ÷ fraction.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **replacement expenditure** is the amount of the expenditure incurred by the person:

(b) **fraction** is the greater of 7.5% and the replaced area fraction for the planting for the current income year.

Formula for second amount

(8) The second amount is calculated using the formula—

replacement expenditure × (15% − earlier fraction − later fraction)
÷ replaced area fraction.

Definition of items in formula

(9) In the formula in subsection (8),—

(a) **replacement expenditure** is the amount of the expenditure incurred by the person:

(b) **earlier fraction** is the lesser of 7.5% and the replaced area fraction for the planting for the earlier of the 2 income years preceding the current income year:

(c) **later fraction** is the lesser of 7.5% and the replaced area fraction for the planting for the later of the 2 income years preceding the current income year:

(d) **replaced area fraction** is the replaced area fraction for the planting for the current income year.

Timing of deduction

(10) The deduction is allocated to the current income year.

Link with subpart DA

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

Defined in this Act: assessable income, business, capital limitation, deduction, diminished value, general limitation, general permission, income year, listed horticultural plant, planting, replaced area fraction, replacement plant, return of income

Compare: 2004 No 35 s DO 4C

DO 7 Accounting for expenditure on listed horticultural plants under sections DO 5 and DO 6

Separate accounting for additional listed horticultural plants if deduction under section DO 6

(1) A person to whom section DO 5 applies must, for an income year and for later income years for which subsection (2) does not apply, account separately under sections DO 5 and DO 6 for listed horticultural plants if—

(a) the person has had a deduction under section DO 6 for 1 or both of the 2 income years preceding the income year; and

(b) the person acquires the listed horticultural plants in the income year; and

(c) the listed horticultural plants benefit the business of the person in the income year; and

(d) the listed horticultural plants are not replacement plants.

Combined accounting for listed horticultural plants if no deduction under section DO 6

(2) Despite subsection (1), a person may account under sections DO 5 and DO 6 for listed horticultural plants as 1 planting for an income year and later income years if the person has had no deduction under section DO 6 for both of the 2 income years preceding the income year.

Defined in this Act: deduction, income year, listed horticultural plant, planting, replacement plant

Compare: 2004 No 35 s DO 4D

DO 8 Meaning of planting and plot

In this section and sections DO 5 to DO 7,—

planting for a person and an income year means 1 or more listed horticultural plants—

(a) that are involved in the business of the person during the income year; and

(b) for which the person must account under sections DO 5 and DO 6, for the income year, separately from any other listed horticultural plants that are involved in the business of the person

plot means the land occupied by the listed horticultural plants in a planting.

Defined in this Act: income year, listed horticultural plant, planting

Compare: 2004 No 35 s DO 4E

DO 9 Meaning of replaced area fraction

Meaning

(1) In section DO 6, **replaced area fraction**, for a planting and an income year, means the amount calculated using the formula—

(replacement area ÷ plot area) × 100%.

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **replacement area** is the area, at the end of the income year, of the part of the plot on which listed horticultural plants in the planting are planted or regrafted during the income year as replacement plants:

(b) **plot area** is the total area, at the end of the income year, of the plot.

Defined in this Act: income year, listed horticultural plant, planting, plot, replacement plant

Compare: 2004 No 35 s DO 4E

DO 9B Meaning of diminished value

Meaning

(1) In section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise), sections DO 4, DO 5, DO 11, DO 12, DO 13, DP 3, DP 4, DZ 17, DZ 18, and schedule 20 (which relate to improvements to land and aquacultural business), **diminished value**, for an income year, means the amount calculated using the formula—

amount of expenditure + income derived − deductions allowed.

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **amount of expenditure** is the amount of expenditure incurred—

(i) on an improvement described in section DO 4, DO 5, DO 12, or DP 3:

(ii) of a type described in section DB 46:

(b) **income derived** is the total amount of income derived under section CB 28(8) (Environmental restoration accounts) in relation to the expenditure:

(c) **deductions allowed** is the total amount allowed as a deduction for the expenditure to any person—

(i) in any earlier income years under this Act or an earlier Act:

(ii) in the income year under this Act, except an amount allowed in the income year under section DB 46, DO 4, DO 5, DO 6, DO 12, or DP 3.

Defined in this Act: amount, deduction, diminished value, income, income year

Section DO 9B: inserted (with effect on 1 April 2008), on 28 March 2024, by section 49(1) (and see section 49(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DO 10 Farming or horticulture expenditure of lessor or sublessor

When this section applies

(1) This section applies when a person—

(a) is the owner of an estate in fee simple or of a leasehold estate in land in New Zealand; and

(b) grants a lease or a sublease of the land to a person who carries on a farming or agricultural business on the land; and

(c) in the term of the lease or sublease,—

(i) incurs expenditure relating to the land for which they are allowed a deduction under any of section DO 1, DO 2, DO 4, DO 5, or DO 6; or

(ii) is allowed a deduction under section DO 4(2), DO 5(2), or DO 6 for expenditure incurred by another person relating to the land.

Relationship with sections DO 1, DO 2, DO 4, DO 5, and DO 6

(2) Sections DO 1, DO 2, DO 4, DO 5, and DO 6, whichever is applicable to the person, applies as if the person were personally carrying on a farming or agricultural business on the land at the time they incur the expenditure or are allowed the deduction.

Defined in this Act: business, deduction, estate, lease, leasehold estate, New Zealand, own, term of the lease

Compare: 2004 No 35 s DO 5

DO 11 Improvement destroyed or made useless

When this section applies

(1) This section applies when, in an income year of a person,—

(a) the person owns land, or operates a business on land, to which an improvement described in schedule 20 (Expenditure on farming, horticultural, aquacultural, and forestry improvements) has been made for the purposes of the business; and

(b) the improvement is destroyed or made useless for the purpose of deriving the person's income; and

(c) the person would be entitled for the income year to a deduction under section DO 4 or DO 5 for expenditure on the improvement if the improvement had not been destroyed or made useless; and

(d) the uselessness occurs in an income year that corresponds to the 2005–06 tax year or a later tax year; and

(e) the uselessness is caused other than as a result of the action or failure to act of the person, an agent of the person, or an associated person.

Deduction: diminished value of expenditure

(2) The person is allowed a deduction of the amount of the diminished value, for the income year, of the expenditure on the improvement plus a deduction for the amount of expenditure for removing the improvement from the land referred to in subsection (1)(a).

Link with subpart DA

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

Defined in this Act: business, capital limitation, deduction, diminished value, general limitation, general permission, income, income year, tax year

Compare: 2004 No 35 s DO 5B

Section DO 11(1)(b): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 34(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DO 11(1)(c): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 34(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DO 11(1)(d): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 34(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DO 11(1)(e): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 34(4) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DO 11(2): amended (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 34(5) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

DO 11B Entering partners' livestock deduction

[Repealed]

Section DO 11B: repealed (with effect on 1 April 2009), on 6 October 2009, by section 92(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Aquaculture

DO 12 Improvements to aquacultural business

When this section applies

(1) This section applies when—

(a) a person carries on an aquacultural business in New Zealand; and

(b) the aquacultural business is—

(i) fish farming under a licence issued under the Freshwater Fish Farming Regulations 1983; or

(ii) mussel farming; or

(iii) rock oyster farming; or

(iv) scallop farming; or

(v) sea-cage salmon farming; and

(c) an improvement described in any of schedule 20, parts B to F (Expenditure on farming, horticultural, aquacultural, and forestry improvements) is made for the purposes of the business.

Deduction: expenditure: owner of improvement

(2) A person who owns the improvement is allowed a deduction for expenditure to which all the following apply:

(a) it is incurred on making the improvement; and

(b) it is incurred by the person or by another person; and

(c) it is incurred in the 1995–96 income year or in a later income year, not including the income year in which the person ceases to carry on the business, the income year being the income year of the person who owns the improvement; and

(d) it is incurred in developing the business; and

(e) it is of benefit to the business in the income year in which the person is allowed the deduction.

Deduction: expenditure: non-owner of improvement

(3) A person who does not own the improvement is allowed a deduction for expenditure to which all the following apply:

(a) it is incurred on making the improvement; and

(b) it is incurred by the person; and

(c) it is incurred in the 1995–96 income year or in a later income year, not including the income year in which the person ceases to carry on the business; and

(d) it is incurred in developing the business; and

(e) it is of benefit to the business in the income year in which the person is allowed the deduction.

Amount, and timing, of deduction

(4) The amount of the deduction is calculated using the formula—

schedule 20 percentage × diminished value.

Definition of items in formula

(5) In the formula,—

(a) **schedule 20 percentage** is the percentage set out opposite the description of the improvement in any of schedule 20, parts B to F:

(b) **diminished value** is the diminished value of the improvement.

Link with subpart DA

(6) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, business, capital limitation, deduction, diminished value, general limitation, general permission, income year, New Zealand

Compare: 2004 No 35 s DO 6

DO 13 Improvement destroyed or made useless

When this section applies

(1) This section applies when, in an income year of a person,—

(a) the person carries on an aquacultural business in New Zealand—

(i) that meets the requirements of section DO 12(1)(b); and

(ii) for the purposes of which an improvement described in schedule 20 (Expenditure on farming, horticultural, aquacultural, and forestry improvements) has been made; and

(b) the improvement is destroyed or irreparably damaged and made useless for the purpose of deriving income; and

(c) the person would be entitled for the income year to a deduction under section DO 12 for expenditure on the improvement if the improvement had not been destroyed or irreparably damaged and made useless; and

(d) the damage occurs in an income year that corresponds to the 2005–06 tax year or a later tax year; and

(e) the damage is caused other than as a result of the action or failure to act of the person, an agent of the person, or an associated person.

Deduction: diminished value of expenditure

(2) The person is allowed a deduction of the amount of the diminished value, for the income year, of the expenditure on the improvement.

Link with subpart DA

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

Defined in this Act: business, capital limitation, deduction, diminished value, general limitation, general permission, income, income year, tax year

Compare: 2004 No 35 s DO 7

Subpart DP—Forestry expenditure

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DP 1 Expenditure of forestry business

Deduction

(1) A person carrying on a forestry business on land in New Zealand is allowed a deduction for expenditure that they incur on—

(a) administrative overheads, rates, rent, insurance premiums, or other expenses of the same kinds:

(b) interest on money borrowed for the purposes of the business and employed as capital in the business:

(c) planting or maintaining trees on the land:

(d) applying fertiliser after the planting of the trees:

(e) disease control, pest control, or weed control:

(f) repair or maintenance of plant, machinery, or equipment used by the person mainly in—

(i) planting or maintaining trees on the land; or

(ii) preparing or otherwise developing the land for the person's forestry operations:

(g) repair or maintenance of land improvements, other than trees, effected on the land and used by the person mainly in the business:

(h) the construction to or on the land of access tracks that are—

(i) constructed for a specific operational purpose; and

(ii) used for no longer than 12 months after construction:

(i) the cost of standing timber that is lost or destroyed.

Timing of deduction

(2) Although timber is revenue account property, a deduction for expenditure described in subsection (1) is not allocated under section EA 2(2) (Other revenue account property) but under section BD 4(2) (Allocation of deductions to particular income years).

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: business, capital limitation, deduction, forestry business, general limitation, general permission, interest, New Zealand, revenue account property, standing timber, timber

Compare: 2004 No 35 s DP 1

Section DP 1(1)(e): amended (with effect on 1 April 2008), on 29 March 2025, by section 44(1) (and see section 44(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section DP 1 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

DP 2 Plant or machinery

When this section applies: first case

(1) This section applies when—

(a) a person incurs expenditure on acquiring, on or after 1 April 1975, plant or machinery; and

(b) the person first uses the plant or machinery on or after 1 April 1975; and

(c) the person uses the plant or machinery mainly in developing land in New Zealand for use in a forestry business to be carried on by them on the land.

When this section applies: second case

(2) This section also applies when—

(a) a person carrying on a forestry business on land in New Zealand incurs expenditure on acquiring, on or after 1 April 1975, plant or machinery; and

(b) the person first uses the plant or machinery on or after 1 April 1975; and

(c) the person uses the plant or machinery mainly in planting or maintaining trees on the land.

Deduction

(3) The person is allowed a deduction for an amount of depreciation loss for the plant or machinery.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: acquire, amount, business, capital limitation, deduction, depreciation loss, forestry business, general limitation, general permission, New Zealand

Compare: 2004 No 35 s DP 2

Section DP 2 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

DP 3 Improvements to forestry land

When this section applies

(1) This section applies when—

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

(b) an improvement described in schedule 20, part G (Expenditure on farming, horticultural, aquacultural, and forestry improvements) has been made to the land.

Deduction: expenditure: owner of land

(2) A person who owns the land is allowed a deduction for expenditure to which all the following apply:

(a) it is incurred on making the improvement; and

(b) it is incurred by the person or by another person; and

(c) it is incurred in the 1995–96 income year or in a later income year, not including the income year in which the person disposes of the land, the income year being the income year of the person who owns the land; and

(d) it is incurred in developing the land; and

(e) it is of benefit to the business in the income year in which the person is allowed the deduction.

Deduction: expenditure: non-owner of land

(3) A person who does not own the land is allowed a deduction for expenditure to which all the following apply:

(a) it is incurred on making the improvement; and

(b) it is incurred by the person; and

(c) it is incurred in the 1995–96 income year or in a later income year, not including the income year in which the person ceases to carry on the business on the land; and

(d) it is incurred in developing the land; and

(e) it is of benefit to the business in the income year in which the person is allowed the deduction.

Amount, and timing, of deduction

(4) The amount of the deduction is calculated using the formula—

schedule 20 percentage × diminished value.

Definition of items in formula

(5) In the formula,—

(a) **schedule 20 percentage** is the percentage set out opposite the description of the improvement in schedule 20, part G:

(b) **diminished value** is the diminished value of the improvement.

Link with subpart DA

(6) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, business, capital limitation, deduction, diminished value, forestry business, general limitation, general permission, income year, New Zealand, own

Compare: 2004 No 35 s DP 3

Section DP 3 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

DP 4 Improvement destroyed or made useless

When this section applies

(1) This section applies when, in an income year of a person,—

(a) the person operates a forestry business on land, to which there has been made an improvement; and

(b) the improvement is destroyed or irreparably damaged and made useless for the purpose of deriving income—

(i) in an income year that corresponds to the 2005–06 tax year or a later tax year; and

(ii) other than as a result of the action or failure to act of the person, an agent of the person, or an associated person; and

(c) the person would be entitled for the income year to a deduction under section DP 3 for expenditure on the improvement if the improvement had not been destroyed or made useless.

Deduction: diminished value of expenditure

(2) The person is allowed a deduction of the amount of the diminished value, for the income year, of the expenditure on the improvement.

Link with subpart DA

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

Defined in this Act: business, capital limitation, deduction, diminished value, forestry business, general limitation, general permission, income, income year, tax year

Compare: 2004 No 35 s DP 3B

Section DP 4 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

DP 5 Forestry encouragement agreement: deductions

When this section applies

(1) This section applies when a person makes a forestry encouragement agreement under the Forestry Encouragement Act 1962.

Deduction: forestry expenditure under agreement

(2) The person is allowed a deduction for expenditure that they incur if all the following apply to the expenditure:

(a) it is expenditure incurred in planting or maintaining trees under the agreement; and

(b) it is not expenditure for which an advance has been or is to be made under the agreement; and

(c) it is not expenditure represented in a payment made to the person under the Forestry Encouragement Grants Regulations 1983 and incurred in—

(i) planting or maintaining trees; or

(ii) meeting administrative overheads, rates, rent, insurance premiums, or other expenses of the same kinds; or

(iii) paying interest on money borrowed for the purpose of developing the trees and employed as capital in developing the trees.

Deduction: advance

(3) The person is allowed a deduction for expenditure that they incur in—

(a) making a payment of interest for an advance made under the agreement:

(b) making a payment reducing the principal of an advance made under the agreement.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, interest, pay

Compare: 2004 No 35 s DP 4

DP 6 Forestry encouragement agreement: no deduction

No deduction

(1) A person who has made a forestry encouragement agreement under the Forestry Encouragement Act 1962 is denied a deduction for an amount equal to the amount from which they are relieved in the following circumstances:

(a) an advance is made to the person under the agreement; and

(b) the advance is exempt income of the person under section CW 2 (Forestry encouragement agreements); and

(c) the person is later relieved from some or all of their liability to repay the principal.

Link with subpart DA

(2) This section overrides the general permission.

Defined in this Act: amount, deduction, exempt income, general permission, pay

Compare: 2004 No 35 s DP 5

DP 7 Land contouring: no deduction

No deduction

(1) A person who derives income under section CB 24 (Disposal of timber or right to take timber) or CB 25 (Disposal of land with standing timber) is denied a deduction for expenditure that they incur on land contouring in the course of deriving the income.

Link with subpart DA

(2) This section overrides the general permission.

Defined in this Act: deduction, general permission, income

Compare: 2004 No 35 s DP 6

DP 8 Forestry business on land acquired from the Crown, Maori owners, or holding company: no deduction

No deduction: forestry company

(1) A forestry company is denied a deduction for interest to which both the following apply:

(a) it is paid by the company under a qualifying debenture issued by the company; and

(b) it is exempt income of the person deriving it, under section CW 3 (Forestry companies and Maori investment companies).

No deduction: Maori investment company

(2) A Maori investment company is denied a deduction for interest to which both the following apply:

(a) it is paid by the company under a qualifying debenture issued by the company; and

(b) it is exempt income of the person deriving it, under section CW 3.

Relationship with section FA 2B

(3) Section FA 2B (Stapled debt securities) does not apply to a qualifying debenture.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: business, deduction, exempt income, forestry business, forestry company, general permission, holding company, interest, Maori investment company, Maori owners, pay, qualifying debenture

Compare: 2004 No 35 s DP 7

Section DP 8 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DP 8(3) heading: replaced, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 61(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DP 8(3): replaced, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 61(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DP 8 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DP 8 list of defined terms **substituting debenture**: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of

section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 61(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DP 9 Cost of acquiring timber: forestry business on land acquired from the Crown, Maori owners, or holding company

When this section applies

(1) This section applies when a forestry company acquires land with standing timber on it from a seller who is the Crown, the Maori owners, or a holding company of the forestry company.

Sellers of Maori land

(2) For the purposes of subsection (1),—

(a) land disposed of to the forestry company by the Maori Trustee or by a trustee for a Maori owner is treated as if it had been disposed of by the beneficial owners:

(b) land disposed of to the forestry company by a Maori incorporation is treated as if it had been disposed of by the members of the incorporation.

Cost of acquiring timber

(3) The cost to the forestry company of acquiring the timber is the lesser of—

(a) the cost of the timber to the seller at the date of the disposal; and

(b) the amount described in section CB 25(3) (Disposal of land with standing timber).

Defined in this Act: business, forestry business, forestry company, holding company, Maori incorporation, Maori owners, standing timber, trustee

Compare: 2004 No 35 s DP 8

Section DP 9 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DP 9(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DP 9(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DP 9(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DP 9(3)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DP 9 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

DP 9B Treaty of Waitangi claim settlements: rights to take timber

When this section applies

(1) This section applies when a person's right to take timber (the **old right**) has been extinguished, and new rights (the **new rights**) to take timber are granted to the person in place of the old right, if section CW 1B (Treaty of Waitangi claim settlements: rights to take timber) applied to exempt income for the extinguishing of the old right.

Cost of acquiring new rights

(2) The person who is granted the new rights is treated, for each new right, as having acquired the new right for a cost equal to the expenditure they incurred in relation to the old right, but only to the extent that the expenditure relates to the land covered by the new right and has not been deducted previously.

Defined in this Act: exempt income, land, person, right to take timber

Section DP 9B: inserted (with effect on 1 April 2008), on 29 August 2011, by section 17 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

DP 10 Cost of acquiring timber or right to take timber: other cases

Acquiring land with standing timber

(1) For a person acquiring land with standing timber on it in a disposal to which section CB 25 (Disposal of land with standing timber) applies, the cost of acquiring the timber is the amount that is, under section CB 25, income of the person disposing of the land.

Recharacterisation or avoidance

(2) For a person acquiring timber or a right to take timber in a disposal or distribution to which section FB 6, FB 7, GC 1, or GC 2 (which relate to the disposal of trading stock) applies, the cost of acquiring the timber or the cost of acquiring a right to take timber is the amount treated as—

(a) *[Repealed]*

(b) the consideration under sections FB 6 and FB 7 (which relate to the disposal of timber under a relationship agreement); or

(c) the price realised under section GC 1 (Certain disposals of trading stock at below market value); or

(d) the price realised under section GC 2 (Disposals of timber rights or standing timber).

Transfers between associated persons

(3) Subsections (4) and (5) apply if—

(a) a person (the **transferor**) disposes of timber, a right to take timber, or standing timber, to an associated person (the **transferee**); and

(b) as a result, the transferor has an amount of income under section CB 24 or CB 25 (which relate to income from timber).

Limit on deduction for transferor

(4) The deduction that the transferor is allowed for the cost of the timber, right to take timber, or standing timber must not be more than the amount of the income.

Transferee's deduction

(5) The deduction that the transferee is allowed for the cost of acquiring the timber is calculated on the basis that the transferee acquired the timber for the total of—

(a) the cost to the transferee of acquiring the timber; and

(b) the amount, if any, for which the transferor is denied a deduction under subsection (4).

Defined in this Act: amount, associated person, dispose, income, right to take timber, standing timber, timber

Compare: 2004 No 35 ss DP 9, GD 15

Section DP 10(2): amended, on 1 April 2024, by section 50(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DP 10(2)(a): repealed, on 1 April 2024, by section 50(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DP 10(2)(c): amended, on 1 April 2024, by section 50(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DP 10(5): amended (with effect on 1 April 2008), on 7 December 2009, by section 14(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DP 10 list of defined terms **pay**: repealed, on 1 April 2024, by section 50(4) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DP 11 Cost of timber

When this section applies

(1) This section applies when a person—

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

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

Deduction

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

Timing of deduction

(3) The deduction is allocated—

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

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

Meaning of timber

(4) In this section, **timber** includes—

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

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

(c) the creation of a forestry right as defined in section 2 of the Forestry Rights Registration Act 1983, other than a right in favour of the proprietor in relation to establishing, maintaining, and harvesting timber.

Exception

(4B) Subsection (2) does not apply if the amount of income of the person under section CB 24 would be exempt income under section CW 1B (Treaty of Waitangi claim settlements: rights to take timber) but for section CW 1B(3).

Link with subpart DA

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

Defined in this Act: amount, capital limitation, cost of timber, deduction, dispose, exempt income, general permission, income, income year, timber, trading stock

Section DP 11: substituted (with effect on 1 April 2008), on 7 December 2009, by section 15(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DP 11(4B) heading: inserted (with effect on 1 April 2008), on 27 February 2014, by section 37 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DP 11(4B): inserted (with effect on 1 April 2008), on 29 August 2011, by section 18(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DP 11 list of defined terms **exempt income**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 18(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DP 11 list of defined terms **income**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 18(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Subpart DQ—Income equalisation schemes and environmental restoration accounts schemes

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DQ 1 Main income equalisation scheme

Deduction

(1) A person who has made a deposit for a tax year is allowed a deduction of the amount quantified in section EH 7(2) (Deduction of deposit).

Timing of deduction

(2) The deduction is allocated to the income year corresponding to the tax year described in section EH 7(3).

Link with subpart DA

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

Defined in this Act: amount, capital limitation, deduction, deposit, general limitation, general permission, income year, main income equalisation scheme, person, supplement, tax year

Compare: 2004 No 35 s DQ 1

DQ 2 Adverse event income equalisation scheme

[Repealed]

Section DQ 2: repealed, on 18 March 2019, by section 154(1) (and see section 154(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

DQ 3 Thinning operations income equalisation scheme

Deduction

(1) A person who has made a deposit for a tax year is allowed a deduction of the amount quantified in section EH 67(2) (Deduction of deposit).

Timing of deduction

(2) The deduction is allocated to the income year corresponding to the tax year described in section EH 67(3).

Link with subpart DA

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

Defined in this Act: amount, capital limitation, deduction, deposit, general limitation, general permission, income year, person, supplement, tax year, thinning operations income equalisation scheme

Compare: 2004 No 35 s DQ 3

DQ 4 Environmental restoration accounts scheme

Deduction for payment

(1) A person is allowed a deduction of the amount set out in section EK 7 (Deduction for payment) if the person has made a payment for an income year to the Commissioner under section EK 2 (Persons who may make payment to environmental restoration account) and the amount is not refunded under section EK 9 (Refund of payment if excess, lacking details).

Timing of deduction

(2) The deduction under subsection (1) is allocated to the income year referred to in section EK 7.

Deduction for transfer

(3) A person is allowed a deduction for an income year of the amount set out in section EK 8 (Deduction for transfer) if in an income year the person receives—

(a) a transfer under section EK 15 (Transfer on application) that is treated under section EK 15(3) as being a payment by the person:

(b) a transfer under section EK 16(3)(b) (Transfer on death, bankruptcy, or liquidation):

(c) a transfer under section EK 19 (Environmental restoration account of amalgamating company).

Timing of deduction

(4) A deduction under subsection (3) is allocated to the income year referred to in section EK 8.

Link with subpart DA

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

Defined in this Act: apply, capital limitation, deduction, general limitation, general permission, income year, pay, supplement

Compare: 2004 No 35 s DQ 4

Section DQ 4(3)(a): amended, on 2 June 2016, by section 12(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section DQ 4 list of defined terms **apply**: inserted, on 2 June 2016, by section 12(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Subpart DR—Life insurance business expenditure

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DR 1 Policyholder base allowable deduction of life insurer

Deduction

(1) If, but for this section, a life insurer has an amount of policyholder base allowable deduction for an income year and that amount is neither a deduction

under this Part nor denied as a deduction under this Part, the amount is a deduction of the life insurer for the income year.

No cross-deducting: section EY 2

(2) A policyholder base allowable deduction is not allowed against shareholder base income. Section EY 2 (Policyholder base) deals with allowing policyholder base allowable deductions against policyholder base income, and deals with deductions that relate to the life insurer's schedular income derived by their life fund PIE that is a multi-rate PIE.

Link with subpart DA

(3) Subsections (1) and (2) override the general permission.

Defined in this Act: amount, deduction, general permission, income year, life fund PIE, life insurer, multi-rate PIE, policyholder base allowable deduction, policyholder base income, shareholder base income

Section DR 1: substituted, on 1 July 2010, by section 94(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DR 2 Shareholder base allowable deduction of life insurer

Deduction

(1) If, but for this section, a life insurer has an amount of shareholder base allowable deduction for an income year and that amount is neither a deduction under this Part nor denied as a deduction under this Part, the amount is a deduction of the life insurer for the income year.

No cross-deducting

(2) A shareholder base allowable deduction is not allowed against policyholder base income.

Link with subpart DA

(3) Subsections (1) and (2) override the general permission.

Defined in this Act: amount, deduction, general permission, income year, life insurer, policyholder base income, shareholder base allowable deduction

Section DR 2: substituted, on 1 July 2010, by section 94(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DR 3 Life reinsurance premiums to reinsurer outside New Zealand

No deduction for premiums under certain policies

(1) A life insurer is denied a deduction for life reinsurance premiums they incur if the relevant life reinsurance policy,—

(a) was not offered in New Zealand; and

(b) was not entered into in New Zealand.

No deduction for premiums to certain life reinsurers

(2) A life insurer is denied a deduction for a life reinsurance premium incurred under a life reinsurance policy with a life reinsurer who is resident in a country

or territory outside New Zealand if the life reinsurance premium is excluded from taxation by New Zealand under a double tax agreement between New Zealand and the country or territory.

Defined in this Act: deduction, double tax agreement, life insurer, life reinsurance, life reinsurance policy, life reinsurer, New Zealand

Section DR 3: substituted, on 1 July 2010, by section 94(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DR 3 heading: replaced, on 1 July 2018, by section 11(1) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3(1) heading: replaced, on 1 July 2018, by section 11(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3(1)(a): amended, on 27 February 2014, by section 38 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DR 3(2) heading: inserted, on 1 July 2018, by section 11(3) (and see section 11(5) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3(2): inserted, on 1 July 2018, by section 11(3) (and see section 11(5) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3 list of defined terms **amount**: repealed, on 1 July 2018, by section 11(4)(a) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3 list of defined terms **double tax agreement**: inserted, on 1 July 2018, by section 11(4)(b) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3 list of defined terms **general permission**: repealed, on 1 July 2018, by section 11(4)(a) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3 list of defined terms **income year**: repealed, on 1 July 2018, by section 11(4)(a) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section DR 3 list of defined terms **life reinsurer**: inserted, on 1 July 2018, by section 11(4)(b) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

DR 4 Life insurers' claims

No deduction on account of claims

(1) For a life insurer's life insurance policies, the life insurer is denied a deduction relating to the life insurer's outstanding claims or for a claim's expenditure or loss for an income year, except as provided by—

(a) section EY 24 (Outstanding claims reserving amount: non-participation policies not annuities):

(b) subsection (2).

Deduction for payments of current claims

Link with subpart DA

(2) The life insurer is allowed a deduction as provided by section EY 20 (Shareholder base allowable deductions: non-participation policies) for the amount of expenditure or loss relating to the life risk component of a claim paid for the income year under a life insurance policy that is not an annuity and not a profit participation policy.

(3) This section supplements the general permission. The general limitations still apply, except that the capital limitation does not apply for a life insurer and the life risk components of claims under life insurance policies that are not annuities and not profit participation policies and have been transferred to the life insurer.

Defined in this Act: capital limitation, claim, deduction, general limitation, general permission, life insurance policy, life insurer, life risk component, profit participation policy

Section DR 4: added, on 1 July 2010, by section 94(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DR 4 heading: replaced (with effect on 1 July 2010), on 27 February 2014, by section 39(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DR 4(2): replaced, on 27 February 2014, by section 39(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DR 4(3): amended (with effect on 1 July 2010), on 27 February 2014, by section 39(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DR 4 list of defined terms **capital limitation**: inserted (with effect on 1 July 2010), on 27 February 2014, by section 39(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DR 4 list of defined terms **life risk component**: inserted (with effect on 1 July 2010), on 27 February 2014, by section 39(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DR 4 list of defined terms **profit participation policy**: inserted (with effect on 1 July 2010), on 27 February 2014, by section 39(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Subpart DS—Film industry expenditure

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DS 1 Acquiring film rights

Deduction

(1) A person is allowed a deduction for expenditure that they incur in acquiring a film right, if the film is completed, whether it is completed before, at the time, or after the film right is acquired.

Exclusion

(2) This section does not apply to expenditure that a person incurs in acquiring a film right if—

(a) the person operates a television station, a television network, or a cable television system, and the film right is acquired mainly to enable the film to be broadcast in New Zealand; or

(b) the film is intended to be shown as an advertisement; or

(c) the expenditure is film production expenditure; or

(d) section DS 2B applies to the expenditure.

Timing of deduction

(3) The deduction is allocated under section EJ 4 (Expenditure incurred in acquiring film rights in feature films) or EJ 5 (Expenditure incurred in acquiring film rights in films other than feature films).

No other deduction

(4) No other deduction for expenditure incurred in acquiring a film right is allowed under a provision of this Act other than section DS 2B.

Avoidance arrangements

(5) The amount of the deduction may be reduced under—

(a) section GB 17 (Excessive amounts for film rights or production expenditure):

(b) section GB 18 (Arrangements to acquire film rights or incur production expenditure).

Link with subpart DA

(6) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: arrangement, capital limitation, completed, deduction, film, film production expenditure, film right, general limitation, general permission, New Zealand

Compare: 2004 No 35 s DS 1

Section DS 1(2): substituted (with effect on 1 April 2008), on 7 December 2009, by section 16(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section DS 1(4): amended, on 1 April 2008, by section 345(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

DS 2 Film production expenditure

Deduction

(1) A person is allowed a deduction for film production expenditure if—

(a) the film is completed; and

(b) the person has a film right in it—

(i) before it is completed:

(ii) at the time it is completed:

(iii) after it is completed.

Inclusions

(2) For the purposes of subsection (1),—

(a) if a person (**person A**) reimburses another person (**person B**) for film production expenditure that person B incurs, and does it before the film is completed, the reimbursement is treated as film production expenditure incurred by person A; and

(b) if a person (**person A**) reimburses another person (**person B**) for expenditure on interest incurred by person B in producing the film, person A may treat the reimbursement as film production expenditure incurred by person A.

Exclusion

(3) This section does not apply to film production expenditure if the film—

(a) is produced mainly for broadcast in New Zealand by a person who operates a television station, a television network, or a cable television system:

(b) is intended to be shown as an advertisement:

(c) section DS 2B applies to the film production expenditure.

Timing of deduction

(4) The deduction is allocated under—

(a) section EJ 4 or EJ 5 (which relate to expenditure incurred in acquiring film rights) if the film is one for which a large budget film grant is made; or

(b) section EJ 7 or EJ 8 (which relate to film production expenditure) if the film is not one for which a large budget film grant is made.

No other deduction

(5) No other deduction for film production expenditure is allowed under a provision of this Act other than section DS 2B.

Avoidance arrangements

(6) The amount of the deduction may be reduced or the timing of the deduction may be delayed under—

(a) section GB 17 (Excessive amounts for film rights or production expenditure):

(b) section GB 18 (Arrangements to acquire film rights or incur production expenditure):

(c) section GB 19 (When film production expenditure payments delayed or contingent).

Link with subpart DA

(7) The link between this section and subpart DA (General rules) is as follows:

(a) it overrides the capital limitation; and

(b) the other general limitations still apply; and

(c) either—

(i) the general permission must be satisfied; or

(ii) a provision that supplements the general permission must be satisfied.

Defined in this Act: arrangement, capital limitation, completed, deduction, film, film production expenditure, film right, general limitation, general permission, large budget film grant, New Zealand, pay, supplement

Compare: 2004 No 35 s DS 2

Section DS 2(3) heading: substituted, on 1 April 2008, by section 346(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DS 2(3): substituted, on 1 April 2008, by section 346(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DS 2(4) heading: substituted, on 1 January 2010, by section 95(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DS 2(4): substituted, on 1 January 2010, by section 95(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DS 2(4)(a): amended (with effect on 1 January 2010), on 7 September 2010, by section 23(1)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DS 2(4)(b): amended (with effect on 1 January 2010), on 7 September 2010, by section 23(1)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DS 2(5): amended, on 1 April 2008, by section 346(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DS 2 list of defined terms **government screen production payment**: repealed (with effect on 1 January 2010), on 7 September 2010, by section 23(2)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DS 2 list of defined terms **government screen production payment**: inserted, on 1 January 2010, by section 95(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DS 2 list of defined terms **large budget film grant**: inserted (with effect on 1 January 2010), on 7 September 2010, by section 23(2)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DS 2 list of defined terms **large budget screen production grant**: repealed, on 1 January 2010, by section 95(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DS 2B Expenditure when film or film right intended for disposal

When this section applies

(1) This section applies when—

(a) a person incurs film production expenditure or expenditure in acquiring a film right; and

(b) at the time of incurring the expenditure, the person intends to dispose of the film or film right.

Deduction

(2) The person is allowed a deduction for the amount of the expenditure allocated under section EA 2 (Other revenue account property).

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, film, film production expenditure, film right, general limitation, general permission

Compare: 2004 No 35 s DS 2B

Section DB 2B: inserted, on 1 April 2008, by section 347 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

DS 3 Clawback of deductions for film reimbursement schemes

Reduction of deductions

(1) A person who disposes of property under a film reimbursement scheme must use the formula in subsection (3) to reduce—

(a) the total deductions that they have been allowed for the disposal under the scheme under section DS 1 or DS 2; or

(b) the total deductions that they would be allowed for the disposal under the scheme under section DS 1 or DS 2 in the absence of this section.

Order of reduction

(2) Deductions must be reduced in the same order as they have been allowed or would be allowed.

Formula

(3) The total deductions must be reduced to an amount equal to the greater of zero and the amount calculated using the formula—

total deductions − total consideration.

Definition of items in formula

(4) In the formula,—

(a) **total deductions** is the total amount of deductions that—

(i) the person has been allowed under section DS 1 or DS 2; or

(ii) the person would be allowed under section DS 1 or DS 2 in the absence of this section:

(b) **total consideration** is the total amount of consideration for the disposal of the property that the person derives and that is not film income.

Application of Tax Administration Act 1994

(5) Section 44A of the Tax Administration Act 1994 applies to a person to whom this section applies.

Amendment of assessment

(6) Despite the time bar, the Commissioner may amend an assessment at any time in order to give effect to this section.

Exclusion

(7) This section does not apply to a deduction for expenditure excluded under section DZ 11 (Film reimbursement scheme on or before 30 June 2001).

Defined in this Act: amount, assessment, Commissioner, deduction, film income, film reimbursement scheme, time bar

Compare: 2004 No 35 s DS 3

DS 4 Meaning of film reimbursement scheme

Meaning

(1) **Film reimbursement scheme** means an arrangement to which subsections (2) to (4) apply.

Deduction allowed

(2) The first requirement for a film reimbursement scheme is that it is a scheme under which a person may incur expenditure for which they are allowed a deduction under—

(a) section DS 1 or DS 2, or would be allowed a deduction in the absence of section DS 3:

(b) subpart DA (General rules), if the expenditure is for—

(i) a film right:

(ii) a right to an amount that is dependent on or calculated by reference to income from the rental, sale, use, or other exploitation of a film.

Disposal of property

(3) The second requirement for a film reimbursement scheme is that 1 of the following applies:

(a) it enables the person or an associated person to dispose of property; or

(b) it gives a right to the person or an associated person to dispose of property; or

(c) it gives a right, the right creates an obligation for the person or an associated person, and the person or the associated person may meet the obligation by disposing of property.

Consideration not film income

(4) The third requirement for a film reimbursement scheme is that it is a scheme under which some or all of the consideration for the property would not be film income.

Associated persons

[Repealed]

(5) *[Repealed]*

Defined in this Act: amount, arrangement, associated person, deduction, film income, film reimbursement scheme, film right, income, shareholder

Compare: 2004 No 35 s DS 4

Section DS 4(5) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DS 4(5): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DS 4 list of defined terms **1973 version provisions**: repealed, on 1 April 2010, by section 96(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DS 4 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 96(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DS 4 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 96(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DS 4 list of defined terms **loss-attributing qualifying company**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Subpart DT—Petroleum mining expenditure

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Petroleum exploration expenditure

DT 1A Ring-fenced allocations

When this section applies

(1) This section applies to an amount of a person's deductions for expenditure and loss for an income year to the extent to which it is—

(a) petroleum exploration expenditure:

(b) petroleum development expenditure:

(c) residual expenditure.

Basis for allocation of deductions

(2) If, but for this subsection, an amount that relates to petroleum mining operations undertaken outside New Zealand would be allocated to an income year (the **current year**), including an amount carried forward and allocated to the current year, the amount that is allocated to the current year is no more than the amount of the person's income derived for the current year from all petroleum mining operations undertaken outside New Zealand.

Excess allocations: carried forward and re-instated next year

(3) Any excess not allocated to the current year because of subsection (2) is carried forward and treated as—

(a) relating to petroleum mining operations undertaken outside New Zealand for the next income year; and

(b) allocated to that next income year.

Restriction on reinstating excess allocations

(4) Despite subsection (3), the excess is not allocated to the next income year, and no deduction is allowed or allocated to any income year for the excess, if sections IA 5, IB 3, IP 3, and IP 3B (which relate to the carrying forward of tax losses for companies) would not have allowed the excess to be carried

forward to that next income year in a loss balance, treating the excess as a tax loss component arising on the last day of the current year.

Defined in this Act: deduction, income year, loss balance, New Zealand, petroleum development expenditure, petroleum exploration expenditure, petroleum mining operation, residual expenditure, tax loss component

Section DT 1A: inserted (with effect on 1 April 2008), on 6 October 2009, by section 97(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 1A(4): amended (with effect on 1 April 2020), on 30 March 2022, by section 76 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section DT 1A(4): amended (with effect on 1 April 2020), on 30 March 2021, by section 33 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

DT 1 Petroleum exploration expenditure

Deduction

(1) A person is allowed a deduction for petroleum exploration expenditure incurred by them.

Relationship with section DT 2

(2) This section is overridden by section DT 2.

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, petroleum exploration expenditure, supplement

Compare: 2004 No 35 s DT 1

DT 2 Arrangement for petroleum exploration expenditure and disposal of property

What this section applies to

(1) This section applies to a person and an arrangement if—

(a) the person may incur expenditure under the arrangement and would be allowed a deduction for the expenditure under section DT 1; and

(b) the person or a person associated with them may dispose of property—

(i) under the arrangement; or

(ii) under a right given by the arrangement to the person or the associated person; or

(iii) in meeting an obligation of the person or the associated person arising from a right given by the arrangement; and

(c) the property is not—

(i) exploratory material; or

(ii) a petroleum permit; or

(iii) material or a permit that relates to petroleum mining operations undertaken outside New Zealand, and that material or permit are substantially the same as those described in subparagraphs (i) or (ii), with necessary modifications made to this subpart and the Crown Minerals Act 1991.

Amount of deduction

(2) The person is allowed a deduction in an income year for the expenditure described in subsection (1)(a) but only to the extent of an amount equal to the greater of zero and the amount calculated using the formula—

expenditure − (consideration − lesser amount).

Exclusion

(3) If consideration for the property is derived in an income year, the person's deductions in earlier income years for the expenditure described in subsection (1)(a) are reduced so that the total of those deductions is equal to the greater of zero and the amount calculated using the formula—

previous expenditure − consideration.

Definition of items in formulas

(4) In the formulas in subsections (2) and (3),—

(a) **expenditure** is the amount of expenditure for which the person would be allowed a deduction in the income year under section DT 1(1):

(b) **consideration** is the total consideration for the property that is derived before or during the income year:

(c) **lesser amount** is the lesser of—

(i) the amount of consideration; and

(ii) the amount of expenditure for which a person would be allowed a deduction in earlier income years under section DT 1(1):

(d) **previous expenditure** is the amount of expenditure for which a person would be allowed a deduction in earlier income years under section DT 1(1).

Order of reduction

(5) When an adjustment under subsection (3) is being made, deductions are treated as denied in the same order in time as they would have been allowed under section DT 1(1).

Application of Tax Administration Act 1994

(6) Section 44A of the Tax Administration Act 1994 applies to a person to whom this section applies.

Amendment of assessment

(7) Despite the time bar, the Commissioner may amend an assessment at any time in order to give effect to this section.

Relationship with section DT 1

(8) This section overrides section DT 1.

Link with subpart DA

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

Defined in this Act: amount, arrangement, assessment, associated person, Commissioner, consideration, deduction, dispose, exploration permit, exploratory material, income year, petroleum, petroleum exploration expenditure, prospecting permit, supplement, time bar

Compare: 2004 No 35 s DT 2

Section DT 2 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DT 2(1)(b): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 98(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 2(1)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 98(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 2(1)(c)(ii): substituted (with effect on 1 April 2008), on 6 October 2009, by section 98(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 2(1)(c)(iii): substituted (with effect on 1 April 2008), on 6 October 2009, by section 98(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 2 list of defined terms **1973 version provisions**: repealed, on 1 April 2010, by section 98(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 2 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 98(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 2 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 98(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DT 3 Acquisition of privileges and permits

When expenditure for privileges or permits incurred

(1) The consideration that a person pays to acquire a privilege or permit referred to in subsection (2) from a petroleum miner is incurred in the income year in which the petroleum miner disposes of the privilege or permit to the person.

Privileges and permits

(2) Subsection (1) applies to the person and a privilege or permit if—

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

(b) the privilege or permit is—

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

(ii) a prospecting permit for petroleum:

(iii) an exploration permit for petroleum.

Defined in this Act: dispose, existing privilege, exploration permit, income year, pay, petroleum, petroleum miner, prospecting permit

Section DT 3: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years but not applying to a person in relation to a tax position taken by the person for an arrangement entered into before 26 February 2015; and relying upon the definition of **petroleum exploration expenditure** as it was before the amendment made by section 235(44) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016), on 24 February 2016, by section 109(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DT 4 Acquisition of exploratory material

The consideration that a person pays to acquire exploratory material from a petroleum miner is treated as petroleum exploration expenditure incurred in the income year in which the petroleum miner disposes of the material to the person.

Defined in this Act: consideration, dispose, exploratory material, income year, pay, petroleum exploration expenditure, petroleum miner

Compare: 2004 No 35 s DT 4

Petroleum development expenditure

DT 5 Petroleum development expenditure

Deduction

(1) A petroleum miner is allowed a deduction for petroleum development expenditure incurred by them.

Timing of deduction

(2) For an income year, an amount of the deduction is allocated to that year, as provided by—

(a) section EJ 12 (Petroleum development expenditure: default allocation rule); or

(b) section EJ 12B (Petroleum development expenditure: reserve depletion method); or

(c) section EJ 13 (Permanently ceasing petroleum mining operations).

Relationship with section DZ 3

(3) This section is overridden by section DZ 3 (Petroleum mining: development expenditure from 1 October 1990 to 15 December 1991).

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, petroleum development expenditure, petroleum miner, supplement

Compare: 2004 No 35 s DT 5

Section DT 5(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 99(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 5(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 99(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 5(2) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 99(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 5(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 99(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DT 5(2)(b): amended, on 1 April 2018, by section 52(1) (and see section 52(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 5(2)(c): inserted, on 1 April 2018, by section 52(2) (and see section 52(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DT 6 Expenditure on petroleum mining assets

Expenditure that a person incurs in acquiring a petroleum mining asset is treated as petroleum development expenditure if, at the time the asset is acquired,—

(a) petroleum is produced in commercial quantities on a continuing basis under a petroleum permit that is the one being acquired; or

(b) petroleum is produced in commercial quantities on a continuing basis under a petroleum permit that applies to the permit area in which an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) is to be used; or

(c) an application for a petroleum mining permit for the permit area has been made by a person entitled under section 32(3) of the Crown Minerals Act 1991.

Defined in this Act: permit area, petroleum, petroleum development expenditure, petroleum mining asset, petroleum permit

Compare: 2004 No 35 s DT 6

Section DT 6: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DT 6(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DT 7 Exploratory well expenditure

When this section applies

(1) This section applies when—

(a) a petroleum miner incurs exploratory well expenditure; and

(b) the miner then uses the exploratory well for the commercial production of petroleum; and

(c) the exploratory well expenditure is then treated, under section CT 3 (Exploratory well used for commercial production), as income of the miner.

Treatment of expenditure

(2) An amount equal to the amount that is treated as income is treated as petroleum development expenditure—

(a) incurred by the petroleum miner in the income year in which commercial production from the well starts; and

(b) allocated as provided by section DT 5(2).

Defined in this Act: amount, commercial production, exploratory well expenditure, income, income year, petroleum, petroleum development expenditure, petroleum miner

Compare: 2004 No 35 s DT 7

Section DT 7(2): replaced, on 1 April 2018, by section 53(1) (and see section 53(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DT 7B Resuming commercial production: petroleum development expenditure

When this section applies

(1) This section applies when a petroleum miner has had an amount of petroleum development expenditure treated as income under section CT 5B (Resuming commercial production).

Amount of income treated as petroleum development expenditure

(2) An amount equal to the amount that is treated as income under section CT 5B is treated as petroleum development expenditure—

(a) incurred by the petroleum miner in the income year referred to in section CT 5B; and

(b) allocated as provided by section DT 5(2).

Defined in this Act: amount, deduction, income, income year, petroleum development expenditure, petroleum miner

Section DT 7B: inserted, on 1 April 2018, by section 54(1) (and see section 54(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DT 8 Acquisition of certain petroleum mining assets

When expenditure for petroleum mining assets incurred

(1) The consideration that a person pays to acquire a petroleum mining asset, excluding a privilege or permit referred to in subsection (2), from a petroleum miner is incurred in the income year in which the petroleum miner disposes of the petroleum mining asset to the person.

Privileges and permits

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

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

(b) the privilege or permit is—

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

(ii) a prospecting permit for petroleum:

(iii) an exploration permit for petroleum.

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

Section DT 8: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years but not applying to a person in relation to a tax position taken by the person for an arrangement entered into before 26 February 2015; and relying upon the definition of **petroleum exploration expenditure** as it was before the amendment made by section 235(44) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016), on 24 February 2016, by section 110(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DT 9 Disposal of petroleum mining asset to associate

When this section applies

(1) This section applies when—

(a) a petroleum miner disposes of a petroleum mining asset to—

(i) a person associated with the miner; or

(ii) a person who holds the asset for the miner; or

(iii) a person who holds the asset for a person associated with the miner; and

(b) section EJ 16(2) (Disposal of petroleum mining asset to associate) prevents the miner from taking the full amount of a deduction allocated under section EJ 15 (Disposal of petroleum mining asset) to the income year in which the miner disposes of the asset.

No deduction

(2) The miner is denied a deduction for the amount that section EJ 16(2) prevents from being allocated to the income year in which the miner disposes of the asset.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: amount, associated person, deduction, dispose, general permission, income year, petroleum miner, petroleum mining asset

Compare: 2004 No 35 s DT 9

Section DT 9(1)(b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 19(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DT 9(2): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 19(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

DT 10 Disposal of petroleum mining asset outside association

When this section applies

(1) This section applies when—

(a) a petroleum miner disposes of a petroleum mining asset to a person described in subsection (2) (**person A**); and

(b) person A disposes of the asset to a person described in subsection (3) (**person B**).

Person A

(2) For the purposes of subsection (1)(a), the persons are—

(a) an associated person of the miner; or

(b) a person who holds the asset for the miner; or

(c) a person who holds the asset for an associated person of the miner.

Person B

(3) For the purposes of subsection (1)(b), the persons are—

(a) a person not associated with the miner; or

(b) a person who does not hold the asset for the miner; or

(c) a person who does not hold the asset for a person associated with the miner.

Deduction

(4) Person A is allowed a deduction.

Amount of deduction

(5) The amount of the deduction is the amount for which the petroleum miner is denied a deduction under section DT 9.

Timing of deduction

(6) The deduction is allocated to the income year in which person A disposes of the asset.

Link with subpart DA

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

Defined in this Act: amount, associated person, capital limitation, deduction, dispose, general limitation, general permission, income year, petroleum miner, petroleum mining asset, supplement

Compare: 2004 No 35 s DT 10

DT 11 Association ending

When this section applies

(1) This section applies when—

(a) a petroleum miner disposes of a petroleum mining asset to a person (**person A**) who is—

(i) an associated person of the miner; or

(ii) a person who holds the asset for an associated person of the miner; or

(iii) a person who holds the asset for the miner; and

(b) while person A holds the asset,—

(i) the association between the miner and the associated person ends; or

(ii) the association between the miner and the person who holds the asset for the miner ends.

Exclusion

(2) This section does not apply when the petroleum miner and the other party to the association end their association—

(a) for the purpose of the miner being allowed a deduction under this section; or

(b) for various purposes, 1 of which is, as a more than merely incidental purpose, the miner being allowed a deduction under this section.

Deduction

(3) The petroleum miner is allowed a deduction.

Amount of deduction

(4) The amount of the deduction is the amount for which the petroleum miner is denied a deduction under section DT 9.

Timing of deduction

(5) The deduction is allocated to the income year in which the association ends.

Link with subpart DA

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

Defined in this Act: amount, associated person, capital limitation, deduction, dispose, general limitation, general permission, income year, petroleum miner, petroleum mining asset, supplement

Compare: 2004 No 35 s DT 11

Other expenditure

DT 12 Damage to assets

Deduction

(1) A petroleum miner is allowed a deduction for the cost of repairing a damaged asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset).

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, petroleum miner, supplement

Compare: 2004 No 35 s DT 12

DT 13 Disposal of ownership interests in controlled petroleum mining entities

No deduction

(1) A person who disposes of shares or trust interests in a controlled petroleum mining entity is denied a deduction for their cost.

Application of Tax Administration Act 1994

(2) Section 65 of the Tax Administration Act 1994 applies when this section applies.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: controlled petroleum mining entity, deduction, dispose, share

Compare: 2004 No 35 s DT 13

DT 14 Farm-out arrangements

When this section applies

(1) This section applies when a farm-in party under a farm-out arrangement incurs farm-in expenditure that, if it were incurred by the farm-out party, would be petroleum development expenditure, exploratory well expenditure, or prospecting expenditure.

Treatment of farm-in expenditure

(2) The farm-in expenditure is treated as if it were petroleum development expenditure, exploratory well expenditure, or prospecting expenditure, as applicable.

Deduction

(3) The farm-in party is allowed a deduction for the farm-in expenditure that is incurred under the farm-out arrangement on or after 16 December 1991.

Relationship with section DZ 5

(4) Farm-in expenditure that is incurred before 16 December 1991 is dealt with in section DZ 5 (Farm-out arrangements for petroleum mining before 16 December 1991).

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, exploratory well expenditure, farm-in expenditure, farm-in party, farm-out arrangement, general limitation, general permission, petroleum development expenditure, prospecting expenditure, supplement

Compare: 2004 No 35 s DT 14

DT 15 Persons associated with petroleum miner

When this section applies

(1) This section applies to a person associated with a petroleum miner when—

(a) the petroleum miner has some or all of an existing privilege; and

(b) the associated person—

(i) undertakes petroleum mining operations or decommissioning in the licence area of the existing privilege; and

(ii) does so under an arrangement for reward; and

(iii) when doing so is not a petroleum miner in relation to the petroleum mining operations or decommissioning.

Deduction

(2) The associated person is allowed a deduction for expenditure or loss that they incur in the petroleum mining operations or decommissioning described in subsection (1).

Amount of deduction

(3) The amount of the deduction is limited to the extent of the amount of income that they derive from the petroleum mining operations or decommissioning.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: amount, arrangement, associated person, decommissioning, deduction, existing privilege, general permission, income, petroleum miner, petroleum mining operations

Compare: 2004 No 35 s DT 15

Section DT 15(1)(b)(i): amended, on 1 April 2018, by section 55(1) (and see section 55(6) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 15(1)(b)(iii): amended, on 1 April 2018, by section 55(2) (and see section 55(6) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 15(2): amended, on 1 April 2018, by section 55(3) (and see section 55(6) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 15(3): amended, on 1 April 2018, by section 55(4) (and see section 55(6) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 15 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 55(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DT 16 Decommissioning

Deduction

(1) A petroleum miner is allowed a deduction for expenditure that they incur on decommissioning.

Timing of deduction

(2) The deduction is allocated to the income year in which the expenditure is incurred.

Relationship with section EA 2

(3) This section overrides section EA 2 (Other revenue account property).

Link with subpart DA

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

Defined in this Act: capital limitation, decommissioning, deduction, general limitation, general permission, income year, petroleum miner, supplement

Compare: 2004 No 35 s DT 16

Section DT 16 heading: replaced, on 1 April 2018, by section 56(1) (and see section 56(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 16(1): amended, on 1 April 2018, by section 56(2) (and see section 56(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 16 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 56(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 16 list of defined terms **removal or restoration operations**: repealed, on 1 April 2018, by section 56(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

General provisions

DT 17 Attribution of expenditure

Petroleum mining permit

(1) A deduction for expenditure incurred to acquire a petroleum permit is attributable to the permit area of the petroleum permit.

Other assets

(2) A deduction for expenditure incurred to acquire an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) is attributable to—

(a) the asset; and

(b) the permit area to which the asset relates.

Relationship between subpart and section GB 20

(3) This section applies for the purposes of this subpart, section GB 20 (Arrangements involving petroleum and mineral mining), and section 91 of the Tax Administration Act 1994.

Defined in this Act: permit area, petroleum permit

Compare: 2004 No 35 s DT 17

Section DT 17(3) heading: replaced, on 1 April 2018, by section 57(1) (and see section 57(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 17(3): amended, on 1 April 2018, by section 57(2) (and see section 57(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 17(3): amended, on 1 April 2014, by section 40 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DT 18 Replacement permits

In this subpart, a reference to a petroleum permit includes a reference to a replacement permit. All expenditure incurred, deductions allowed, and petroleum mining assets that are attributable to the petroleum permit are attributable to the replacement permit.

Defined in this Act: deduction, petroleum mining asset, petroleum permit, replacement permit

Compare: 2004 No 35 s DT 18

DT 19 Partnership interests and disposal of part of asset

In this subpart, unless the context requires otherwise,—

(a) a partner is treated as having a share or interest in a petroleum permit or other property of a partnership to the extent of their interest in the income of the partnership:

(b) references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: dispose, income, petroleum permit

Compare: 2004 No 35 s DT 19

DT 20 Petroleum mining operations outside New Zealand

This subpart applies, with any necessary modifications, to a petroleum miner undertaking petroleum mining operations that are or decommissioning that is—

(a) outside New Zealand and undertaken through a branch or a controlled foreign company; and

(b) substantially the same as the petroleum mining activities governed by this subpart.

Defined in this Act: controlled foreign company, decommissioning, New Zealand, petroleum miner, petroleum mining operations

Compare: 2004 No 35 s DT 20

Section DT 20: amended, on 1 April 2018, by section 58(1) (and see section 58(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DT 20 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 58(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart DU—Mineral mining expenditure

Subpart DU: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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DU 1 Mining expenditure: prospecting and exploration expenditure

Deduction

(1) A mineral miner is allowed a deduction for the following expenditure:

(a) mining prospecting expenditure:

(b) mining exploration expenditure, subject to sections DU 6 and DU 7.

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, mineral miner, mining exploration expenditure, mining prospecting expenditure

Section DU 1: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DU 1(2): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 62(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DU 1 list of defined terms **capital limitation**: inserted (with effect on 1 April 2014), on 30 June 2014, by section 62(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DU 2 Mining expenditure: rehabilitation expenditure

Deduction

(1) A mineral miner is allowed a deduction for mining rehabilitation expenditure.

Timing of deduction

(2) The deduction is allocated to the income year in which the mineral miner incurs the amount of mining rehabilitation expenditure.

Tax credit

(3) If a mineral miner has a net mining loss for a tax year after taking into account an amount of mining rehabilitation expenditure incurred in relation to a permit area, they may have a tax credit for the amount under section LU 1 (Tax credits for mineral miners) for the corresponding income year.

Link with subpart DA

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

Defined in this Act: amount, capital limitation, corresponding income year, deduction, general limitation, general permission, income year, mineral miner, mining rehabilitation expenditure, net mining loss, permit area, tax credit, tax year

Section DU 2: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 3 Acquisition of land for mining operations

Deduction

(1) A mineral miner is allowed a deduction for expenditure incurred in acquiring land or an interest in land for the purposes of their mining operations or associated mining operations.

Exclusions

(2) Subsection (1) does not apply to the following expenditure:

(a) expenditure incurred on or in relation to land that—

(i) does not constitute a mining permit area or land adjacent to it:

(ii) does not form, or is not intended to form, part of a mining permit area or land adjacent to it:

(b) expenditure referred to in section DU 8(1):

(c) expenditure for which the mineral miner has a deduction before disposing of the land or interest in land:

(d) residual expenditure.

Timing of deduction

(3) The deduction is allocated to the income year in which the mineral miner disposes of the land or interest in land.

Treatment of losses on disposal of land

(4) If the mineral miner has a net mining loss for a tax year after taking into account the amount derived from the disposal of the land or interest in land, they may have a tax credit for the amount of the loss on disposal under section LU 1 (Tax credits for mineral miners) for the corresponding income year.

Link with subpart DA

(5) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, associated mining operations, capital limitation, deduction, general limitation, general permission, interest, income year, land, mineral miner, mining operations, net mining loss, permit area, residual expenditure, tax credit, tax year

Section DU 3: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 4 Acquisition of mineral mining assets

Deduction for assets acquired before mining permits

(1) If a person acquires a mineral mining asset before the date on which a mining permit for the permit area to which the asset relates is obtained, they are allowed a deduction for expenditure incurred in acquiring the asset.

Mining development expenditure for later assets

(2) If a person acquires a mineral mining asset after the date on which a mining permit for the permit area to which the asset relates is obtained, the expenditure incurred in acquiring the asset is treated as mining development expenditure.

No application costs

(3) For the purposes of this section, expenditure incurred does not include the cost of an application for a mining right or mining permit.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, mineral mining asset, mining development expenditure, mining permit, permit area

Section DU 4: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 5 Farm-out arrangements

When this section applies

(1) This section applies when a farm-in party under a farm-out arrangement incurs farm-in expenditure that, if it were incurred by the farm-out party, would fall into 1 of the classes of mining expenditure referred to in section DU 8(1).

Treatment of farm-in expenditure

(2) The farm-in expenditure is treated as if it were the applicable class of mining expenditure.

Link with subpart DA

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

Defined in this Act: capital limitation, farm-in expenditure, farm-out arrangement, general limitation, general permission

Section DU 5: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 6 Deduction for certain mining expenditure spread over assumed life of mine

When this section applies

(1) This section applies when—

(a) a mineral miner—

(i) incurs an amount of mining development expenditure for an income year on or in relation to their mining operations or associated mining operations in a mining permit area:

(ii) has incurred an amount of mining exploration expenditure in relation to a mining permit area on acquiring or creating property for which the mineral miner has been allowed a deduction in an earlier income year, and the amount is recovered as income under section CU 4 (Recovery of certain expenditure); and

(b) the mineral miner starts to use the mining permit area to derive income; and

(c) the mineral miner either does not meet the requirements to allow allocation of the expenditure under section EJ 20E (Certain mining expenditure spread on basis of units of production) or, if they do, they do not choose to allocate the expenditure under that section.

No deduction (with exception)

(2) The mineral miner is denied a deduction for the expenditure except to the extent quantified and allocated under section EJ 20B (Certain mining expenditure spread over assumed life of mine).

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, associated mining operations, capital limitation, deduction, general limitation, general permission, income, income year, mineral miner, mining development expenditure, mining exploration expenditure, mining operations, permit area

Section DU 6: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 7 Deduction for certain mining expenditure spread on basis of units of production

When this section applies

(1) This section applies when a mineral miner—

(a) incurs expenditure described in section DU 6(1)(a) on or in relation to their mining operations or associated mining operations in a mining permit area; and

(b) starts to use the permit area to derive income; and

(c) either—

(i) uses IFRS rules to prepare their financial statements; or

(ii) keeps appropriate records that are sufficient to enable the Commissioner to verify the calculations used by the mineral miner; and

(d) chooses to apply this section in the way described in section EJ 20E(2) (Certain mining expenditure spread on basis of units of production).

What this section does not apply to

(1B) This section does not apply to an amount of mining outgoing excess of a loss-attributing qualifying company.

No deduction (with exception)

(2) The mineral miner is denied a deduction for the expenditure except to the extent quantified and allocated under section EJ 20E.

Link with subpart DA

(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: associated mining operations, capital limitation, Commissioner, deduction, financial statement, general limitation, general permission, IFRS, income, mineral miner, mining operations, permit area

Section DU 7: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DU 7(1B) heading: inserted, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09, 2009–10, and 2010–11 income years), by section 59(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DU 7(1B): inserted, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09, 2009–10, and 2010–11 income years), by section 59(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Classes of mining expenditure

Heading: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 8 Classes of mineral mining expenditure

Classes

(1) Sections DU 9 to DU 12 set out the classes of mineral mining expenditure. They are—

(a) mining prospecting expenditure, *see* section DU 9:

(b) mining exploration expenditure, *see* section DU 10:

(c) mining development expenditure, *see* section DU 11:

(d) mining rehabilitation expenditure, *see* section DU 12.

No recharacterisation as mining prospecting expenditure

(2) For the purposes of this subpart, subpart CU (Income from mineral mining), sections EJ 20B to EJ 20E (which relate to spreading rules for certain mining expenditure), GB 20 (Arrangements involving petroleum and mineral mining), IA 7(7), IS 1, and IS 2 (which relate to tax losses), and LU 1 (Tax credits for mineral miners), no amount of expenditure that properly falls into a class of expenditure referred to in subsection (1)(b) to (d) may be characterised as mining prospecting expenditure because of the timing of the expenditure or for any other reason.

Defined in this Act: amount, mining development expenditure, mining exploration expenditure, mining prospecting expenditure, mining rehabilitation expenditure

Section DU 8: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 9 Some definitions

Meaning of mining prospecting expenditure

(1) **Mining prospecting expenditure**—

(a) means expenditure that a mineral miner incurs directly in relation to the acquisition of—

(i) a prospecting right under the Crown Minerals Act 1991:

(ii) mining prospecting information, including labour, materials, services, and administrative expenses directly incurred in acquiring the information; and

(b) includes prospecting for minerals by electrical, geochemical, gravimetric, magnetic, radioactive, seismic, or other geological methods; and

(c) does not include—

(i) the cost of land, plant, or machinery:

(ii) expenditure referred to in section DU 8(1)(b) to (d):

(iii) residual expenditure.

Meaning of mining prospecting information

(2) **Mining prospecting information** means geological, geophysical, or technical information—

(a) that is about the presence, absence, extent, or volume of listed industrial minerals in an area; or

(b) that is likely to assist in determining the presence, absence, extent, or volume of listed industrial minerals in an area.

Defined in this Act: land, listed industrial mineral, mineral miner, mining prospecting expenditure, mining prospecting information, residual expenditure

Section DU 9: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 10 Meaning of mining exploration expenditure

Mining exploration expenditure—

(a) means expenditure that a mineral miner incurs in exploring or searching in New Zealand for a listed industrial mineral; and

(b) includes expenditure that the mineral miner incurs directly in relation to—

(i) acquiring an exploration right or permit under the Crown Minerals Act 1991:

(ii) geological mapping and geophysical surveys:

(iii) systematic searches for areas containing listed industrial minerals:

(iv) searching by drilling in areas containing listed industrial minerals:

(v) searching for ore containing a listed industrial mineral within or in the vicinity of an ore body by crosscuts, drilling, drives, rises, shafts, or winzes; and

(c) does not include—

(i) the cost of land, plant, or machinery:

(ii) expenditure referred to in section DU 8(1)(a), (c), and (d):

(iii) residual expenditure.

Defined in this Act: land, listed industrial mineral, mineral miner, mining exploration expenditure, residual expenditure

Section DU 10: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DU 11 Meaning of mining development expenditure: exclusion of operational expenditure

Meaning of mining development expenditure

(1) **Mining development expenditure** means—

(a) expenditure that a mineral miner incurs in preparing a permit area for their mining operations or associated mining operations:

(b) expenditure on operations that are carried on by a mineral miner on a permit area in New Zealand for the purpose of deriving income and consist of—

(i) mining for 1 or more listed industrial mineral; or

(ii) performing work directly related to mining for 1 or more listed industrial mineral; or

(iii) undertaking earthworks, including tailing dams, that are necessary for the working of the mine.

Inclusions

(2) **Mining development expenditure** includes expenditure that the mineral miner incurs directly in relation to the permit area in—

(a) acquiring a mining right or permit under the Crown Minerals Act 1991 for their mining operations or associated mining operations:

(b) obtaining required resource consents for their mining operations or associated mining operations:

(c) establishing mine infrastructure on any of the following:

(i) plant or machinery, including vehicles or vessels:

(ii) production equipment or facilities:

(iii) storage facilities:

(d) providing, or contributing to the cost of providing, communication equipment, fuel, light, power, or water in relation to their mining operations or associated mining operations in the permit area.

Exclusions

(3) **Mining development expenditure** does not include—

(a) the cost of land:

(b) operational expenditure:

(c) expenditure on property acquired after the start of commercial production from the permit area that has an estimated useful life that does not depend on the remaining assumed life of the mine:

(d) expenditure referred to in section DU 8(1)(a), (b), and (d):

(e) residual expenditure.

Meaning of operational expenditure

(4) For the purposes of this section and section IS 2(1) (Treatment of net losses resulting from certain expenditure), **operational expenditure** means expenditure that—

(a) is incurred in operations carried on by a mineral miner in a mining permit area; and

(b) is incurred after the start of commercial production from the mining permit area; and

(c) does not create, or contribute to the creation of, an asset that has an estimated useful life of more than 1 year.

Defined in this Act: associated mining operations, commercial production, estimated useful life, income, land, listed industrial mineral, mineral miner, mining development expenditure, mining operations, New Zealand, operational expenditure, permit area, residual expenditure

Section DU 11: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DU 11(4)(c): amended (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 63(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DU 12 Meaning of mining rehabilitation expenditure

Mining rehabilitation expenditure—

(a) means expenditure that a mineral miner incurs in New Zealand directly in relation to rehabilitation of land that is the permit area of their mining operations or associated mining operations carried out as a result of—

(i) the mineral miner's permit requirements:

(ii) the requirements of an access arrangement issued under the Crown Minerals Act 1991 or regulations made under that Act:

(iii) an obligation of the mineral miner under the Resource Management Act 1991 or regulations made under that Act:

(iv) a concession under the Conservation Act 1987:

(v) an authority under the Historic Places Act 1993; and

(b) includes an amount that the mineral miner pays to restore, or towards restoring, the area of their operations either during or after those operations; and

(c) does not include—

(i) the cost of land:

(ii) expenditure referred to in section DU 8(1)(a) to (c):

(iii) residual expenditure.

Defined in this Act: amount, associated mining operations, land, mineral miner, mining operations, New Zealand, pay, permit area, residual expenditure

Section DU 12: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 41(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DU 12(a)(iii): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Subpart DV—Expenditure specific to certain entities

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Superannuation funds

DV 1 Publicising superannuation funds

When this section applies

(1) This section applies when a superannuation fund incurs expenditure to which all the following apply:

(a) it is incurred in developing, marketing, selling, promoting, or advertising the fund; and

(b) it is not incurred in acquiring a building, equipment, land, machinery, or plant; and

(c) it is assessable income of the recipient.

Deduction

(2) The superannuation fund is allowed a deduction for the expenditure.

Link with subpart DA

(3) This section supplements the general permission and overrides the capital limitation and the exempt income limitation. The other general limitations still apply.

Defined in this Act: assessable income, capital limitation, deduction, exempt income limitation, general limitation, general permission, superannuation fund, supplement

Compare: 2004 No 35 s DV 1

DV 2 Transfer of expenditure to master fund

When this section applies

(1) This section applies when—

(a) a superannuation fund (the **member superannuation fund**) invests some or all of its funds in another superannuation fund (the **master superannuation fund**); and

(b) while the member superannuation fund has funds invested in the master superannuation fund, the member superannuation fund incurs expenditure of a kind described in subsection (2).

Expenditure on publicising or managing

(2) The expenditure is expenditure to which all the following apply:

(a) it is incurred—

(i) in developing, marketing, selling, promoting, or advertising the fund; or

(ii) in managing the fund; and

(b) it is not incurred in acquiring a building, equipment, land, machinery, or plant; and

(c) it is assessable income of the recipient.

When expenditure becomes master superannuation fund's

(3) The member superannuation fund may choose to treat some or all of the expenditure as expenditure incurred by the master superannuation fund in deriving assessable income.

How election made

(4) The member superannuation fund makes the election by giving notice to the Commissioner within 1 of the following times:

(a) the time in which its return of income must be filed under section 37 of the Tax Administration Act 1994; or

(b) a longer time allowed by the Commissioner.

Effect of election

(5) When the member superannuation fund makes an election, subsections (6) to (9) apply to the part or the whole, as chosen, of the expenditure.

When expenditure incurred

(6) The expenditure is treated as being incurred by the master superannuation fund as follows:

(a) for a master fund that is a multi-rate PIE, in the income year in which the expenditure is transferred by the member superannuation fund; or

(b) for other master funds, in the same income year as that in which it was incurred by the member superannuation fund.

Deduction allowed to master superannuation fund

(7) The master superannuation fund is allowed a deduction for the expenditure. The amount of the deduction is limited by subsection (8).

Amount of deduction

(8) The formula in section DV 3 is used to calculate the maximum deduction that the master superannuation fund is allowed for expenditure of the member superannuation fund treated as being incurred by the master superannuation fund.

Amount of deduction when master fund is multi-rate PIE

(8B) Despite subsection (8), a master superannuation fund that is a multi-rate PIE is allowed a deduction for expenditure transferred to it by a member superannuation fund. However, the maximum amount transferred must be no more than the member fund's share of the taxable income of the PIE for the income year in which the amount is transferred, any excess being treated as not transferred.

Deducted expenditure not incurred by member superannuation fund

(9) The expenditure for which the master superannuation fund is allowed a deduction is treated as not being incurred by the member superannuation fund.

Link with subpart DA

(10) The link between this section and subpart DA (General rules) is as follows:

(a) for subsection (7),—

(i) it supplements the general permission:

(ii) it overrides the capital limitation and the exempt income limitation:

(iii) the other general limitations still apply:

(b) subsection (9) overrides the general permission.

Defined in this Act: amount, assessable income, capital limitation, Commissioner, deduction, exempt income limitation, general limitation, general permission, income year, multi-rate PIE, notice, return of income, superannuation fund, supplement

Compare: 2004 No 35 s DV 2

Section DV 2(6): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 102(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 2(8B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 102(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 2(8B) heading: amended, on 29 March 2018 (with effect on 1 April 2008), by section 60 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section DV 2(8B): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 102(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 2 list of defined terms **investor interest**: repealed (with effect on 1 April 2010), on 21 December 2010, by section 43 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DV 2 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 102(6)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 2 list of defined terms **portfolio investor interest**: repealed, on 1 April 2010, by section 102(6)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 2 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 102(6)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DV 3 Formula for calculating maximum deduction

Formula

(1) The formula referred to in section DV 2(8) is—

taxable income − non-resident passive income.

Definition of items in formula

(2) The items in the formula are defined in subsections (3) and (4).

Taxable income

(3) **Taxable income** is the amount that would be the master superannuation fund's taxable income in the tax year in which the expenditure is incurred in the absence of sections DV 2 to DV 4.

Non-resident passive income

(4) **Non-resident passive income** is the total of any amounts of non-resident passive income of any of the kinds to which section RF 2(5) (Non-resident passive income) applies derived by the master superannuation fund in the corresponding income year in which the expenditure is incurred.

Defined in this Act: amount, corresponding income year, deduction, non-resident passive income, superannuation fund, tax year, taxable income

Compare: 2004 No 35 s DV 3

DV 4 Carry forward of expenditure

When this section applies

(1) This section applies when—

(a) the expenditure treated as being incurred by the master superannuation fund, under section DV 2(3), is more than the maximum amount for which it is allowed a deduction, as calculated under section DV 3, so there is surplus expenditure; and

(b) the member superannuation fund chooses to deal with the surplus expenditure under this section, rather than deducting it itself; and

(c) the member superannuation fund has funds invested in the master superannuation fund at the time referred to in section DV 2(1)(b) and while its election under section DV 2(3) continues and while it deals with the surplus expenditure under this section.

What this section does not apply to

(1B) This section does not apply to a transfer of expenditure to a master superannuation fund that is a multi-rate PIE.

KiwiSaver schemes

[Repealed]

(2) *[Repealed]*

Surplus carried forward

(3) The member superannuation fund carries the surplus expenditure forward to the next income year and takes the following steps:

(a) it gets the combined expenditure by adding the surplus expenditure to the expenditure, if any, incurred by it in the income year that it chooses to treat as being incurred by the master superannuation fund:

(b) it calculates the maximum deduction for the income year, using the formula in section DV 3:

(c) if the combined expenditure is the same as or less than the maximum deduction, it—

(i) treats the surplus expenditure as expenditure incurred by the master superannuation fund in deriving assessable income in the income year; and

(ii) applies subsections (5) to (8):

(d) if the combined expenditure is more than the maximum deduction, it—

(i) carries forward the new surplus expenditure to the next income year; and

(ii) applies subsection (4).

Surplus dealt with until gone

(4) The member superannuation fund repeats the steps in subsection (3) for the following income years until all surplus expenditure is deducted.

Deduction allowed to master superannuation fund

(5) Expenditure treated under subsection (3)(c)(i) as incurred by the master superannuation fund in deriving income is allowed as a deduction in the income year in which it is so treated. The amount of the deduction is limited by subsection (6).

Amount of deduction

(6) The maximum amount of a deduction under subsection (5) is the maximum deduction for the income year, calculated using the formula in section DV 3.

Deducted expenditure not incurred by member superannuation fund

(7) Expenditure for which the master superannuation fund is allowed a deduction is treated as not being incurred by the member superannuation fund.

Sequential deductions

(8) Expenditure for which the master superannuation fund is allowed a deduction must be deducted in sequence according to the income year in which the member superannuation fund incurred it.

Link with subpart DA

(9) The link between this section and subpart DA (General rules) is as follows:

(a) subsection (5) supplements the general permission and overrides the capital limitation; the other general limitations still apply:

(b) subsection (7) overrides the general permission.

Defined in this Act: amount, assessable income, capital limitation, deduction, general limitation, general permission, income, income year, KiwiSaver scheme, multi-rate PIE, superannuation fund, superannuation scheme, supplement

Compare: 2004 No 35 s DV 4

Section DV 4(1B) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 103(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 4(1B): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 103(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 4(2) heading: repealed, on 1 May 2011, by section 56 of the KiwiSaver Amendment Act 2011 (2011 No 8).

Section DV 4(2): repealed, on 1 May 2011, by section 56 of the KiwiSaver Amendment Act 2011 (2011 No 8).

Section DV 4 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 103(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 4 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 103(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DV 4B Carry forward of expenditure by member funds investing in portfolio investment entities

When this section applies

(1) This section applies when—

(a) a master fund that is a multi-rate PIE has a deduction under section DV 2(8B) for an income year for expenditure transferred to it by a member fund; and

(b) the amount of the expenditure that meets the tests set out in section DV 2(2) is more than the amount transferred for the income year, so there is surplus expenditure for the member fund.

Member fund carrying expenditure forward

(2) The member fund may carry forward the surplus expenditure for transfer under section DV 2(8B) in a later income year.

Expenditure as loss balance

(3) If the member fund carries forward surplus expenditure in an income year, the member fund may treat some or all of the expenditure as a loss balance for the corresponding tax year.

Defined in this Act: amount, deduction, income year, loss balance, master fund, multi-rate PIE, tax year

Section DV 4B: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 104(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Other entities

DV 5 Investment funds: transfer of expenditure to master funds

When this section applies

(1) This section applies when—

(a) a group investment fund that derives category A income, a public unit trust, or a superannuation fund (the **member fund**) invests some or all of its funds in a master fund; and

(b) while the member fund has funds invested in the master fund, the member fund incurs expenditure of a kind described in subsection (2); and

(c) the member fund has some or all of its funds invested in the master fund throughout the period starting at the time at which the member fund incurs the expenditure and ending with the close of the last day of the income year in which the expenditure is deducted by the master fund under this section.

Expenditure described

(2) The expenditure is expenditure for which the member fund is allowed a deduction,—

(a) including expenditure on a financial arrangement that is denominated in New Zealand dollars and for which expenditure is allocated using the yield to maturity method set out in subpart EW (Financial arrangements rules); and

(b) not including—

(i) expenditure on any other financial arrangement; or

(ii) expenditure on revenue account property.

When expenditure becomes master fund's

(3) The expenditure incurred by the member fund may be transferred to the master fund, subject to the following conditions:

(a) the member fund and the master fund must agree to the transfer of the expenditure; and

(b) the member fund may transfer expenditure only to the extent to which it has a tax loss in the corresponding tax year, with the tax loss calculated as if this section did not exist; and

(c) a member fund that is a group investment fund that derives category A income may transfer only expenditure that relates to the category A income.

Income year in which investment stops

(4) In an income year in which the member fund stops investing in the master fund,—

(a) neither the master fund nor the member fund is allowed a deduction for expenditure that would otherwise be transferable; and

(b) the member fund must treat the expenditure as a loss balance.

When expenditure incurred

(5) The expenditure referred to in subsection (3) is treated as being incurred by the master fund in the income year in which it is transferred by the member fund.

Deduction allowed to master fund

(6) The master fund is allowed a deduction for the expenditure, subject to the following conditions:

(a) a master fund that is a group investment fund that derives category A income may deduct expenditure only from its category A income; and

(b) the amount of the deduction is limited by subsection (7).

Amount of deduction

(7) The formula in section DV 6 is used to calculate the maximum deduction that the master fund is allowed for expenditure of the member fund treated as being incurred by the master fund.

Amount of deduction when master fund is multi-rate PIE

(7B) Despite subsection (7), a master fund that is a multi-rate PIE is allowed a deduction for expenditure transferred to it by a member fund. However, the maximum amount transferred must be no more than the member fund's share of the taxable income of the PIE for the income year in which the amount is transferred, any excess being treated as not transferred.

Additional transfer

(8) If, after the date on which the master fund has filed its return of income, the master fund is able to deduct more than the amount actually deducted, the Commissioner may allow the member fund to transfer expenditure to the extent of the difference after the return of income has been filed.

Deducted expenditure not incurred by member fund

(9) The expenditure for which the master fund is allowed a deduction is treated as not being incurred by the member fund.

Link with subpart DA

(10) The link between this section and subpart DA (General rules) is as follows:

(a) subsection (6) supplements the general permission and overrides the capital limitation; the other general limitations still apply:

(b) subsection (9) overrides the general permission.

Defined in this Act: amount, capital limitation, category A income, Commissioner, deduction, financial arrangement, general limitation, general permission, group investment fund, income year, loss balance, master fund, multi-rate PIE, public unit trust, return of income, revenue account property, superannuation fund, supplement, tax loss, tax year

Compare: 2004 No 35 s DV 5

Section DV 5(7B) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 105(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 5(7B): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 105(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 5 list of defined terms **investor interest**: repealed (with effect on 1 April 2010), on 21 December 2010, by section 44 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section DV 5 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 105(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 5 list of defined terms **portfolio investor interest**: repealed, on 1 April 2010, by section 105(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 5 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 105(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DV 6 Formula for calculating maximum deduction

Formula used to calculate maximum deduction

(1) The formula referred to in section DV 5(7) is—

taxable income − non-resident passive income.

Definition of items in formula

(2) The items in the formula are defined in subsections (3) and (4).

Taxable income

(3) **Taxable income** is the amount that would be the master fund's taxable income in the tax year in which the expenditure is transferred in the absence of sections DV 5 to DV 7.

Non-resident passive income

(4) **Non-resident passive income** is the total of any amounts of non-resident passive income of any of the kinds to which section RF 2(5) (Non-resident passive income) applies derived by the master fund in the corresponding income year in which the expenditure is incurred.

Multi-rate PIEs

(5) This section does not apply to an amount of expenditure transferred to a master fund that is a multi-rate PIE.

Defined in this Act: amount, corresponding income year, deduction, master fund, multi-rate PIE, non-resident passive income, taxable income

Compare: 2004 No 35 s DV 6

Section DV 6(5) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 106(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 6(5): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 106(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 6 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 106(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 6 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 106(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DV 7 Carry forward of expenditure

When this section applies

(1) This section applies when a member superannuation fund incurs expenditure that is more than—

(a) the member fund and master fund agree can be transferred; or

(b) the maximum amount that can be transferred.

Member fund carrying expenditure forward

(1B) The member fund may carry forward the expenditure for transfer in a later income year.

Expenditure as loss balance

(2) If the member fund carries forward expenditure in an income year, the member fund may treat some or all of the expenditure as a loss balance for the corresponding tax year.

Defined in this Act: income year, loss balance, master fund, tax year

Compare: 2004 No 35 s DV 7

Section DV 7(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 107(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 7(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 107(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 7(1B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 107(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 7(1B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 107(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DV 8 Non-profit organisations

When this section applies

(1) This section applies when an incorporated or unincorporated organisation—

(a) does not have the purpose of making a profit for a proprietor, member, or shareholder; and

(b) has a constitution that prohibits a distribution of property in any form to a member, proprietor, or shareholder.

Amount of deduction

(2) The organisation is allowed a deduction for the lesser of—

(a) $1,000; and

(b) the amount that would be the organisation's net income in the absence of this section.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission, net income, shareholder, supplement

Compare: 2004 No 35 s DV 8

DV 9 Trusts

No deduction

(1) A person who derives beneficiary income is denied a deduction for expenditure or loss that a trustee incurs in deriving the income.

Trustee income

(2) For the purpose of determining the deductions that a trustee is allowed in an income year, beneficiary income of beneficiaries of the trust in the income year is treated as trustee income.

Link with subpart DA

(3) The link between this section and subpart DA (General rules) is as follows:

(a) subsection (1) overrides the general permission:

(b) subsection (2) supplements the general permission; the general limitations still apply.

Defined in this Act: beneficiary income, deduction, general limitation, general permission, income year, supplement, trustee, trustee income

Compare: 2004 No 35 s DV 9

DV 10 Building societies

Deduction

(1) A building society is allowed a deduction for—

(a) expenditure incurred on money borrowed by way of withdrawable shares:

(b) interest and other financial charges incurred in providing money that is used to provide an interest-free loan to a person who holds a terminating share:

(c) an amount incurred in purchasing a balloted loan right from a person who holds a terminating share.

Timing of deduction

(2) The deduction for the amount referred to in subsection (1)(c) is allocated to the income year in which the amount is paid.

Meaning of balloted loan right

(3) In this section, **balloted loan right** means a right arising from a ballot that—

(a) is held by or for a building society; and

(b) is of terminating shares; and

(c) is held for the purpose of finding out which of the holders of the shares are entitled to receive an interest-free loan relating to their shares.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and other general limitations still apply.

Defined in this Act: amount, balloted loan right, building society, capital limitation, deduction, general limitation, general permission, income year, pay, terminating share, withdrawable share

Compare: 2004 No 35 s DV 10

DV 11 Distribution to member of co-operative company, excluded from being dividend

Deduction

(1) A co-operative company, or a company owned by a co-operative company, is allowed a deduction for a distribution made for an income year to a member of the co-operative company if an amount of the distribution is excluded by section CD 34B or CZ 41 (which relate to distributions to members of co-operative companies) from being a dividend.

Amount of deduction

(2) The amount of the deduction is the amount of the distribution that is excluded by section CD 34B or CZ 41, as applicable, from being a dividend.

Timing of deduction

(3) The deduction is allocated to the income year to which the distribution relates.

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: company, co-operative company, deduction, general permission, general limitation, income year, shareholder

Compare: 2004 No 35 s DV 10B

Section DV 11(1): amended (with effect on 1 July 2022), on 28 March 2024, by section 51(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DV 11(1): amended (with effect on 1 April 2010), on 7 September 2010, by section 24(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DV 11(2): amended (with effect on 1 July 2022), on 28 March 2024, by section 51(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section DV 11(2): amended (with effect on 1 April 2010), on 7 September 2010, by section 24(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DV 11(3): amended (with effect on 1 April 2010), on 7 September 2010, by section 24(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

DV 12 Maori authorities: donations

Deduction

(1) A Maori authority is allowed a deduction for—

(a) a donation that it makes to a Maori association, as defined in the Maori Community Development Act 1962, for the purposes of the Act:

(b) a charitable or other public benefit gift that it makes to a donee organisation.

No deduction

(1B) Despite subsection (1), a Maori authority is not allowed a deduction for the amount of a donation it makes or for the amount of a charitable or other public benefit gift it makes, to the extent to which the amount is, for the Maori authority, an asset ignored for the purposes of section HR 12 (Non-exempt charities: treatment of tax-exempt accumulations) and described in section HR 12(3)(a).

Amount of deduction

(2) The deduction for the total of all donations and gifts made in an income year is limited to the amount that would be the Maori authority's net income in the corresponding tax year in the absence of this section.

Link with subpart DA

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

Defined in this Act: amount, capital limitation, charitable or other public benefit gift, deduction, donee organisation, general limitation, general permission, income year, Maori authority, net income, supplement, tax year

Compare: 2004 No 35 s DV 11

Section DV 12(1)(b): amended, on 6 January 2010, by section 108(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DV 12(1)(b): amended, on 1 April 2008, by section 348(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DV 12(1B) heading: inserted (with effect on 14 April 2014), on 18 March 2019, by section 155 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DV 12(1B): inserted (with effect on 14 April 2014), on 18 March 2019, by section 155 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DV 12(2): amended, on 1 April 2008, by section 348(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section DV 12 list of defined terms **donee organisation**: inserted, on 6 January 2010, by section 108(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DV 13 Group companies

When this section applies

(1) This section applies when,—

(a) in an income year, a company (**company A**) that is part of a wholly-owned group of companies derives income under section CV 1 (Group companies); and

(b) no other provision of this Act allows company A a deduction for the expenditure it incurs in deriving the income; and

(c) if the wholly-owned group of companies were a single company, the single company would be allowed a deduction for the expenditure that company A incurs in deriving the income.

Amount, and timing, of deduction

(2) Company A is allowed a deduction for the expenditure in the income year in which the income is derived.

Link with subpart DA

(3) This section supplements the general permission and overrides the exempt income limitation. The other general limitations still apply.

Defined in this Act: company, deduction, exempt income limitation, general limitation, general permission, income, income year, supplement, wholly-owned group of companies

Compare: 2004 No 35 s DV 12

DV 14 Amalgamated company: expenditure on improvements for farming, horticultural, aquacultural, and forestry businesses

When this section applies

(1) This section applies when—

(a) an amalgamating company ends its existence on a resident's restricted amalgamation; and

(b) the amalgamated company acquires land or a business from the amalgamating company; and

(c) the amalgamating company would have been allowed a deduction under any of section DO 4, DO 5, DO 6, DO 12, or DP 3 (which relate to improvements and expenditure on land) for the land or business if the amalgamation had not occurred.

Deduction

(2) While the amalgamated company holds the land or carries on the business, it is allowed the deduction that the amalgamating company would have been allowed under section DO 4, DO 5, DO 6, DO 12, or DP 3.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amalgamated company, amalgamating company, business, deduction, general limitation, general permission, resident's restricted amalgamation, supplement

Compare: 2004 No 35 s DV 13

DV 15 Amalgamated companies: property passing on resident's restricted amalgamation

When this section applies

(1) This section results from sections FO 8 and FO 10 (which relate to resident's restricted amalgamations).

Deduction for bad debts or expenditure or loss

(2) On a resident's restricted amalgamation, an amalgamated company is allowed a deduction for an amount written off as bad, or an amount of expenditure or loss, including an amount of depreciation loss, incurred as a result of something that the amalgamating company did or did not do in the circumstances set out in section FO 8.

Depreciation loss for property transferred

(3) On a resident's restricted amalgamation, an amalgamating company is allowed a deduction for an amount of depreciation loss for property transferred to the amalgamated company for the period described in section FO 10(7).

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amalgamated company, amalgamating company, amount, deduction, depreciation loss, general permission, resident's restricted amalgamation

Compare: 2004 No 35 ss FE 3, FE 6A

DV 16 Consolidated groups: intra-group transactions

When this section applies

(1) This section applies in relation to a consolidated group of companies for the purposes of section FM 10 (Expenditure: intra-group transactions).

No deduction (with exception)

(2) A company that is a part of a consolidated group of companies is denied a deduction for expenditure or loss incurred through a payment or disposal to, or transaction or arrangement with, another group company, and a deduction would not be allowed for the expenditure or loss if the group were 1 company, except to the extent to which the expenditure or loss arises—

(a) from the company's acquisition of trading stock; or

(b) under sections FM 15 to FM 23 (which relate to accounting for particular property).

Other expenditure or loss

(3) A company that is part of a consolidated group is—

(a) allowed a deduction for expenditure or loss or an amount of depreciation loss:

(b) denied a deduction for expenditure or loss or amount of depreciation loss except to the extent to which the expenditure or loss is interest on money that the company has borrowed outside the consolidated group.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: amount, arrangement, company, consolidated group, deduction, depreciation loss, general permission, interest, pay

Compare: 2004 No 35 s HB 2(1)(b), (d)

DV 17 Consolidated groups: expenditure or loss incurred by group companies

When this section applies

(1) This section results from sections FM 11 and FM 12 (which relate to expenditure or loss incurred by group companies).

Deduction allowed: nexus with income derivation

(2) To the extent set out in section FM 11, if the consolidated group would be allowed a deduction for an item of expenditure or loss as 1 company because of a nexus between the expenditure and the income or carrying on of a business by another group company, a company that is part of the consolidated group is allowed a deduction.

No deduction except for interest on money borrowed

(3) To the extent set out in section FM 12, if the consolidated group would be denied a deduction for an item of expenditure or loss as 1 company, a company that is part of the consolidated group is denied a deduction, except for an amount of expenditure or loss that is interest on money borrowed by the company from a group company in the circumstances described in that section.

Link with subpart DA

(4) Subsection (2) supplements the general permission, and the general limitations still apply. Subsection (3) overrides the general permission.

Defined in this Act: amount, arrangement, company, consolidated group, deduction, depreciation loss, general permission, loss, pay

Compare: 2004 No 35 s HB 2(1)(c)

DV 18 Statutory producer boards and co-operative companies

When this section applies

(1) This section applies for the purposes of sections OB 73, OB 78, and OB 78B (which relate to imputation credits attached to cash distributions by statutory producer boards and co-operative companies) when a producer board or co-operative company chooses to treat a distribution as a dividend.

No deduction

(2) The producer board or co-operative company making the distribution is denied a deduction for the amount of the distribution.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: amount, co-operative company, deduction, general permission, imputation credit, statutory producer board

Compare: 2004 No 35 ss ME 30(2), ME 35(2)

Section DV 18(1): amended, on 26 June 2019, by section 60 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

DV 18B Cost base for shares when debt remitted within economic group

For a shareholder of a company that is a calculation company under section CD 43(6B) or (6C) (Available subscribed capital (ASC) amount), an amount of the subscriptions amount under section CD 43(6D) for the calculation company is treated as expenditure incurred for the purchase of the shareholder's shares in the calculation company. The maximum expenditure for the shareholder's shares is the subscriptions amount under section CD 43(6D) for the calculation company multiplied by one of the following interests, determined before the application of section YC 4 (Look-through rule for corporate shareholders):

(a) the shareholder's voting interests in the calculation company; or

(b) the shareholder's market value interest in the calculation company, if there is a market value circumstance.

Defined in this Act: amount, company, expenditure, market value circumstance, market value interest, share, voting interest

Section DV 18B: inserted (with effect on 1 April 2008), on 30 March 2017, by section 51(1) (and see section 51(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section DV 18B heading: amended (with effect on 1 April 2008), on 30 March 2022, by section 77 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

DV 19 Association rebates

When this section applies

(1) This section applies when an association—

(a) enters into a mutual transaction with a member; and

(b) in relation to the transaction, pays an association rebate to a member.

Deduction

(2) The association is allowed a deduction for the lesser of—

(a) the amount described in subsection (4); and

(b) the amount calculated using the formula in subsection (5).

Allocation

(3) The deduction is allowed in the income year corresponding to the accounting year for which the association rebate is paid.

Amount paid

(4) The amount referred to in subsection (2)(a) is the total amount that the association pays as association rebates to members for those mutual transactions with members that arise in the income year and which the association takes into account in determining its net income or net loss. In the calculation of the total amount, it is irrelevant that the amount paid may be limited or reduced because a member of the association has a share or interest in the capital of the association.

Amount under formula

(5) The amount is calculated using the formula—

assessable income − (deductions + amount distributed).

Definition of items in formula

(6) In the formula,—

(a) **assessable income** is the total amount of the association's assessable income attributable to mutual transactions with members:

(b) **deductions** are the total deductions that the association is allowed, other than under this section, that are attributable to the assessable income referred to in paragraph (a):

(c) **amount distributed** is the total amount that the association distributes to members in the income year through a cash distribution for which a determination is made under section OB 82(1)(a) (When and how co-operative company makes election).

Statutory producer boards' deductions

(7) When an association is a statutory producer board that pays an association rebate to a member—

(a) the amount allowed as a deduction is the amount referred to in subsection (4):

(b) the board may choose whether the rebate is a deduction in the income year in which the amount is paid, or in the income year in which the mutual transaction giving rise to the amount is made.

Link with subpart DA

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

Defined in this Act: accounting year, amount, assessable income, association, association rebate, capital limitation, deduction, general permission, imputation credit, income, income year, member, mutual transaction, net income, net loss, pay, share, statutory producer board

Compare: 2004 No 35 s HF 1(2), (3)(a), (b), (4)

Section DV 19(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 25(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DV 19(1)(a): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 20(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DV 19(2)(a): amended (with effect on 1 April 2008), on 18 March 2019, by section 156(1) (and see section 156(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DV 19(3): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 25(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DV 19(4): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 20(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DV 19(6)(a): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 20(3)(a) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DV 19(6)(b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 20(3)(b) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section DV 19 list of defined terms **accounting year**: inserted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 25(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Partners and partnerships

Heading: inserted, on 1 April 2008, by section 10(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

DV 20 Partners

A person who is a partner is allowed a deduction for expenditure or loss to the extent to which the deduction results from the application of subpart HG (Joint venturers, partners, and partnerships) to them and their partnership.

Defined in this Act: amount, deduction, partner, partnership

Section DV 20: inserted, on 1 April 2008, by section 10(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

DV 21 Losses for QCs entering partnership regime

When this section applies

(1) This section applies to a person when,—

(a) for an income year, a person's partnership (the **partnership**) has effectively replaced a qualifying company or companies under a QCP transitional process; and

(b) ignoring the application of section HZ 4B(3) (Qualifying companies: transition into partnership), the company or companies would have had loss balances to carry forward to the first or second income year, as applicable, starting on or after 1 April 2011 (the **relevant transitional income year**).

Losses extinguished

(2) Despite section HZ 4B(3), for the relevant transitional income year and subsequent income years, a loss balance under Part I (Treatment of tax losses) is cancelled if the loss balance arose in relation to an income year before the relevant transitional income year.

Deduction

(3) The person is allowed a deduction for an amount equal to an amount given by the formula in subsection (4), to the extent to which it is equal to or less than the net income the person would have for the income year if they were treated as having only income and deductions arising from the application of subpart HG (Joint venturers, partners, and partnerships) for the partnership.

Deduction formula

(4) For the purposes of subsection (3), the amount is calculated using the formula—

(loss balance extinguished − subsequent deductions) × partnership share.

Definition of items in formula

(5) In the formula,—

(a) **loss balance extinguished** is the loss balance cancelled under subsection (2):

(b) **subsequent deductions** is the total amount of deductions allowed for previous income years under this section for all persons with a partnership share in the partnership:

(c) **partnership share** is the person's average partnership share for the partnership for the income year.

Exception

(6) Despite subsection (3), a person is not allowed a deduction for an amount in subsection (4) to the extent to which—

(a) it arises from an amount carried forward under subparts IA and IQ (which relate to the treatment of foreign losses); and

(b) it is greater than the maximum amount they may subtract from their net income under subpart IQ, treating the amount as an attributed CFC net loss or a FIF net loss carried forward under subpart IQ, and the person

as having the net income they would have for the income year if they were treated as having only income and deductions arising from the application of subpart HG for the partnership.

Link with subpart DA

(7) This section overrides the general permission and the general limitations.

Defined in this Act: amount, attributed CFC net loss, company, deduction, FIF net loss, general limitation, general permission, income, income year, loss balance, net income, partnership, partnership share, QCP transitional process, qualifying company

Section DV 21: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 45(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Look-through companies

Heading: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 45(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

DV 22 Owners of look-through companies

A person who has an effective look-through interest for a look-through company has a deduction to the extent to which a deduction results from the application of subpart HB (Look-through companies) to them and the look-through company.

Defined in this Act: deduction, effective look-through interest, look-through company

Section DV 22: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 45(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

DV 23 Losses for QCs entering look-through companies rules

When this section applies

(1) This section applies to a person who has an effective look-through interest for a look-through company (the **LTC**) for an income year when—

(a) the LTC was a qualifying company that first becomes a look-through company for the first or second income year that starts on or after 1 April 2011; and

(b) but for becoming a look-through company and the application of section HB 3 (Loss balances extinguished), there would have been a loss balance to carry forward to the first or second income year that starts on or after 1 April 2011 (the **relevant transitional income year**).

Deduction

(2) The person is allowed a deduction for an amount equal to an amount given by the formula in subsection (3), to the extent to which it is equal to or less than the net income the person would have for the income year if they were treated as having only income and deductions arising from the application of subpart HB (Look-through companies) for the LTC.

Deduction formula

(3) For the purposes of subsection (2), the amount is calculated using the formula—

(loss balance extinguished − subsequent deductions) × effective interest.

Definition of items in formula

(4) In the formula,—

(a) **loss balance extinguished** is the loss balance that would have been carried forward to the relevant transitional income year:

(b) **subsequent deductions** is the total amount of deductions allowed for previous income years under this section for all persons with an effective look-through interest for the LTC:

(c) **effective interest** is the person's average effective look-through interest for the income year for the LTC.

Exception

(5) Despite subsection (2), a person is denied a deduction for an amount in subsection (3) to the extent to which—

(a) it arises from an amount carried forward under subparts IA and IQ (which relate to the treatment of foreign losses); and

(b) it is greater than the maximum amount they may subtract from their net income under subpart IQ, treating the amount as an attributed CFC net loss or a FIF net loss carried forward under subpart IQ, and the person as having the net income they would have for the income year if they were treated as having only income and deductions arising from the application of subpart HB for the LTC.

Link with subpart DA

(6) This section overrides the general permission and the general limitations.

Defined in this Act: amount, attributed CFC net loss, deduction, effective look-through interest, FIF net loss, general limitation, general permission, income, income year, look-through company, loss balance, net income, qualifying company

Section DV 23: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 45(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Sole traders

Heading: added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 45(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

DV 24 Losses for QCs becoming sole traderships

When this section applies

(1) This section applies to a person when,—

(a) for an income year, the person's sole tradership has effectively replaced a qualifying company under a QCST transitional process; and

(b) ignoring the application of section HZ 4D(3) (Qualifying companies: transition into sole traderships), the company would have had a loss balance to carry forward to the first or second income year, as applicable, starting on or after 1 April 2011 (the **relevant transitional income year**).

Losses extinguished

(2) Despite section HZ 4D(3), for the relevant transitional income year and subsequent income years, a loss balance under Part I (Treatment of tax losses) is cancelled if the loss balance arose in relation to an income year before the relevant transitional income year.

Deduction

(3) The person is allowed a deduction for an amount equal to an amount given by the formula in subsection (4).

Deduction formula

(4) For the purposes of subsection (3), the amount is calculated using the following formula:

loss balance extinguished − subsequent deductions.

Definition of items in formula

(5) In the formula,—

(a) **loss balance extinguished** is the loss balance cancelled under subsection (2):

(b) **subsequent deductions** is the total amount of deductions allowed for previous income years under this section.

Exception

(6) Despite subsection (3), a person is denied a deduction for an amount in subsection (4) to the extent to which—

(a) it arises from an amount carried forward under subparts IA and IQ (which relate to the treatment of foreign losses); and

(b) it is greater than the maximum amount they may subtract from their net income under subpart IQ, treating the amount as an attributed CFC net loss or a FIF net loss carried forward under subpart IQ.

Link with subpart DA

(7) This section overrides the general permission and the general limitations.

Defined in this Act: amount, attributed CFC net loss, deduction, FIF net loss, general limitation, general permission, income, income year, loss balance, net income, QCST transitional process, qualifying company

Section DV 24: added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 45(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

DV 25 Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests

Deduction

(1) A person is allowed a deduction for the amount of expenditure that the person has under section EM 6 (Income and expenditure for fair dividend rate hedge portions).

Link with subpart DA

(2) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission

Section DV 25: inserted, on 17 July 2013, by section 35 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Reinstatement of R&D tax losses

Heading: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 111(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DV 26 Deduction for reinstatement of R&D tax losses

Deduction

(1) A person is allowed a deduction for the amount given by section MX 7(7) (Reinstatement of R&D tax losses and R&D repayment tax).

Allocation of deduction

(2) The deduction is allocated to the income year in which the person incurs the expenditure of the R&D repayment tax.

Link with subpart DA

(3) This section overrides the general permission and the general limitations.

Defined in this Act: deduction, general limitation, general permission, income year, R&D repayment tax

Section DV 26: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 111(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Employee share schemes

Heading: inserted, on 29 September 2018, by section 61 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DV 27 Employee share schemes

When this section applies

(1) This section applies when a person is party to an employee share scheme.

No deduction except as provided by this section

(2) Except as provided by this section, the person is denied a deduction for an amount of expenditure or loss for an income year incurred in relation to the employee share scheme.

Interest, establishment and management

(3) Subsection (2) does not apply to an amount of expenditure or loss to the extent to which the amount relates to—

(a) a loan or interest:

(b) establishing or managing the employee share scheme.

Deduction under section CE 2(3)

(4) The person is allowed a deduction for the amount of the deduction they are allowed under section CE 2(3) (Benefits under employee share schemes) for the income year.

Employment income

(5) The person is allowed a deduction for an amount of expenditure or loss incurred on employment income other than under section CE 1(1)(d) (Amounts derived in connection with employment).

Deduction for benefit

(6) If the person is the employing or contracting company for an employee share scheme beneficiary described in section CE 7(a)(i) or (ii) (Meaning of employee share scheme) (the **employee**), the person has an amount of expenditure or loss calculated using the formula in subsection (7).

Formula

(7) For the purposes of subsection (6), the amount of the expenditure or loss is the positive amount calculated using the formula—

employee amount − previous deductions.

Definition of items in formula

(8) In the formula,—

(a) **employee amount** is the amount for the employee calculated under the formula in section CE 2(1):

(b) **previous deductions** is the total amount of deductions that have been allowed to a party to the employee share scheme or an associate for expenditure or loss incurred—

(i) in relation to the employee amount; and

(ii) before the date that is 6 months after the date of Royal assent for the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018.

Income

(9) A negative amount calculated using the formula in subsection (7) is an amount of income of the person.

Link with subpart DA

(10) Subsection (4) supplements the general permission. Subsection (4) overrides the employment limitation.

Defined in this Act: amount, associated person, company, deduction, employee share scheme, employee share scheme beneficiary, employment income, employment limitation, general permission, income, income year, interest, loan, share

Section DV 27: inserted, on 29 September 2018, by section 61 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DV 28 Exempt employee share schemes

When this section applies

(1) This section applies when a person is party to an exempt ESS.

No deduction

(2) The person is denied a deduction for expenditure or loss in relation to the exempt ESS, except to the extent to which the expenditure or loss relates to establishing or managing the exempt ESS.

Defined in this Act: exempt ESS, deduction

Section DV 28: inserted, on 29 March 2018 (applying on and after that date, or 6 April 2017 if shares under the exempt ESS were acquired after that date in other than the ordinary course of the exempt ESS), by section 62(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart DW—Expenditure specific to certain industries

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DW 1 Airport operators

No deduction (with exception)

(1) An airport operator is denied a deduction for expenditure or loss to the extent to which the expenditure or loss is, in terms of the joint venture agreement that

relates to the airport operator, a charge against any part of the joint income of the parties to the agreement that has been allocated or distributed to any party.

Meaning of expenditure

(2) In subsection (1), **expenditure** includes a provision that is treated as expenditure or loss in the nature of interest under sections HR 5 and HR 6 (which relate to airport operators).

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: airport operator, deduction, expenditure, general permission, income, joint venture agreement

Compare: 2004 No 35 s DW 1

DW 2 Bloodstock racing

No deduction

(1) A person is denied a deduction for expenditure or loss that they incur—

(a) on the racing of bloodstock; or

(b) in relation to the racing of bloodstock.

No deduction (with exception)

(2) A person is denied a deduction for expenditure or loss that they incur in preparing bloodstock for racing, except, first, when—

(a) the person is in the business of breeding bloodstock; and

(b) they incur the expenditure or loss in preparing for disposal of bloodstock that they are preparing for racing; and

(c) they do not race the bloodstock on which they incur the expenditure or loss.

No deduction (with exception)

(3) A person is denied a deduction for expenditure or loss that they incur in preparing bloodstock for racing, except, second, when—

(a) the person incurs the expenditure or loss in preparing the bloodstock for racing; and

(b) they receive consideration for preparing the bloodstock for racing; and

(c) the consideration is income of the person.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: bloodstock, business, deduction, general permission, income, loss

Compare: 2004 No 35 s DW 2

Section DW 2(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DW 3 Non-resident general insurers and shippers

No deduction

(1) A person listed in subsection (2) is denied a deduction for expenditure incurred in deriving the income described in the relevant section.

Persons

(2) The persons referred to in subsection (1) are—

(a) a non-resident person who derives income under section CR 3 (Income of non-resident general insurer):

(b) a non-resident person who derives income under section CV 16 (Non-resident shippers) for cargo, mail, or passengers shipped outside New Zealand.

(c) *[Repealed]*

Non-resident shipper's expenditure on depreciation

(3) The non-resident person referred to in subsection (2)(b) has no amount of depreciation loss in relation to that income.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: amount, deduction, depreciation loss, film, general permission, income, insurer, New Zealand, non-resident

Compare: 2004 No 35 ss FC 15, FC 20, FC 21(3), (5)

Section DW 3 heading: replaced, on 2 November 2012, by section 26(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DW 3(2)(b): amended, on 2 November 2012, by section 26(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DW 3(2)(c): repealed, on 2 November 2012, by section 26(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

DW 3B Lloyd's of London: deductions for life insurance business

No deductions

(1) Lloyd's of London is denied a deduction for expenditure incurred in deriving income under section CR 3B (Lloyd's of London: income from life insurance premiums).

Link with subpart DA

(2) This section overrides the general permission.

Defined in this Act: deduction, general permission, income, Lloyd's of London, premium

Section DW 3B: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 63(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

DW 4 Deduction for general insurance outstanding claims reserve

When this section applies

(1) This section applies for—

(a) an insurer who—

(i) uses IFRS 4, Appendix D, or IFRS 17 for general insurance contracts:

(ii) is a life insurer who has general insurance contracts; and

(b) general insurance contracts, excluding contracts having premiums to which section CR 3 (Income of non-resident general insurer) applies.

When this section does not apply

(1B) This section does not apply for contracts that section DZ 10 (General insurance with risk period straddling 1 July 1993) applies to.

No deduction on account of claims

(2) For an insurer's general insurance contracts, the insurer is denied a deduction relating to the insurer's outstanding claims liability or for a claim's expenditure or loss, except as provided by this section.

Formula for insurer's OCR deduction

(3) For an income year (the **current year**), an insurer is allowed a deduction for the amount by which zero is greater than the amount calculated using the formula—

opening outstanding claims reserve − closing outstanding claims reserve.

Definition of items in formula

(4) In the formula,—

(a) **opening outstanding claims reserve** is—

(i) the amount of the insurer's closing outstanding claims reserve for the income year before the current year (the **prior year**), if none of subparagraphs (ii), (iii), and (iv) applies; or

(ii) the amount of the insurer's reserve for outstanding claims liability, calculated at the end of the prior year, using the basis the insurer used for tax purposes in that prior year, if the current year is the first year that this section applies to the insurer; or

(iii) the amount of the insurer's reserve for outstanding claims liability, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year for general insurance contracts, if the insurer is a general insurer and the current year is the first year in which the insurer adopts IFRS 17 for general insurance contracts; or

(iv) the amount of the insurer's reserve for outstanding claims liability, calculated at the end of the prior year using the basis the insurer

used for tax purposes in that prior year for general insurance contracts, if the insurer is a life insurer with general insurance contracts who does not adopt IFRS 17 in the current year and the current year is the first year in which the insurer applies the definition of **present value (gross)** in section EY 24(5) (Outstanding claims reserving amount: non-participation policies not annuities):

(b) **closing outstanding claims reserve** is the amount of the insurer's outstanding claims reserve, calculated at the end of the current year.

Contracts transferred to insurer

(4B) If a person (the **transferor**) transfers a general insurance contract (the **contract**) to the insurer by a transfer to which section ED 3(1B) (Part-year tax calculations for transfers: general insurance OCR) applies, the amount of the item opening outstanding claims reserve for the contract under subsection (4) for the insurer is the amount calculated using the formula—

unreported claim events + reported claims unpaid + risk adjustment.

Definition of items in formula in subsection (4B)

(4C) In the formula in subsection (4B),—

(a) **unreported claim events** is the actuarially determined estimate of the present value of claims, not reported to the transferor before the transfer, for events occurring before the transfer,—

(i) taking into account the probability of the claims being paid and the future expenses for administering the claims; and

(ii) after subtracting the present value of relevant reinsurance claims of the insurer:

(b) **reported claims unpaid** is the actuarially determined estimate of the present value of the claims reported to the transferor before the transfer and not paid before the transfer,—

(i) taking into account the probability of the claims being paid and the future expenses for administering the claims; and

(ii) after subtracting the present value of relevant reinsurance claims of the insurer:

(c) **risk adjustment** is the appropriate adjustment for claims described in paragraph (a) or (b), to the extent to which the adjustment—

(i) is actuarially determined; and

(ii) reflects the uncertainty of the estimates arising from the use of the relevant best estimate assumptions; and

(iii) is not already included in the risk components of the claims.

Deduction for payments of current claims

(5) The insurer is allowed a deduction for the amount of expenditure or loss of a claim paid to an insured under a general insurance contract for the income year.

Link with subpart DA

(6) This section supplements the general permission. The general limitations still apply, except that the capital limitation does not apply for general insurance contracts after they are transferred to an insurer.

Defined in this Act: actuarially determined, amount, best estimate assumptions, capital limitation, deduction, general insurance, general limitation, general permission, IFRS 4, IFRS 17, income year, insurer, life insurer, New Zealand resident, non-resident, outstanding claims reserve, pay, present value (gross)

Section DW 4: added (with effect on 1 April 2008), on 6 October 2009, by section 109(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section DW 4(1)(a)(i): amended (with effect on 1 January 2023), on 31 March 2023, by section 49(1) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(1B) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 36(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DW 4(1B): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 36(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DW 4(4)(a)(i): amended (with effect on 1 January 2023), on 31 March 2023, by section 49(2) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(4)(a)(ii): amended (with effect on 1 January 2023), on 31 March 2023, by section 49(3) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(4)(a)(iii): inserted (with effect on 1 January 2023), on 31 March 2023, by section 49(4) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(4)(a)(iv): inserted (with effect on 1 January 2023), on 31 March 2023, by section 49(4) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(4B) heading: inserted, on 1 April 2014, by section 42(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4(4B): inserted, on 1 April 2014, by section 42(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4(4B) formula: amended (with effect on 1 January 2023), on 31 March 2023, by section 49(5) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(4C) heading: inserted, on 1 April 2014, by section 42(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4(4C): inserted, on 1 April 2014, by section 42(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4(4C)(c): amended (with effect on 1 January 2023), on 31 March 2023, by section 49(6)(a) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(4C)(c): amended (with effect on 1 January 2023), on 31 March 2023, by section 49(6)(b) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(4C)(c): amended (with effect on 1 January 2023), on 31 March 2023, by section 49(6)(c) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4(6): amended (with effect on 7 September 2010), on 2 November 2012, by section 27(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DW 4 list of defined terms **actuarially determined**: inserted, on 1 April 2014, by section 42(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4 list of defined terms **best estimate assumptions**: inserted, on 1 April 2014, by section 42(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4 list of defined terms **capital limitation**: inserted (with effect on 7 September 2010), on 2 November 2012, by section 27(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section DW 4 list of defined terms **general insurance**: inserted, on 1 April 2014, by section 42(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4 list of defined terms **general insurance contract**: repealed (with effect on 1 April 2008), on 7 September 2010, by section 26(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DW 4 list of defined terms **IFRS 17**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 49(7) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section DW 4 list of defined terms **New Zealand resident**: inserted, on 1 April 2014, by section 42(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4 list of defined terms **non-resident**: inserted, on 1 April 2014, by section 42(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DW 4 list of defined terms **pay**: inserted (with effect on 1 April 2008), on 7 September 2010, by section 26(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section DW 4 list of defined terms **present value (gross)**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 49(7) (and see section 49(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

DW 5 Aircraft operators: aircraft engines and aircraft engine overhauls

When this section applies

(1) This section applies for a person when—

(a) the person carries on a business involving the operation of an aircraft that includes an aircraft engine; and

(b) the person is required to maintain and repair the aircraft engine and pieces of the aircraft engine, when operating the aircraft, and to perform successive aircraft engine overhauls of the aircraft engine at intervals no greater than the scheduled overhaul period for the aircraft engine.

Deduction for aircraft engine overhaul

(2) For expenditure incurred by the person in carrying out an aircraft engine overhaul of an aircraft engine—

(a) the person has a deduction to the extent to which the process does not produce a significant increase in the performance of the aircraft engine by comparison with the aircraft engine's performance specifications before the aircraft engine overhaul:

(b) an amount for which the person does not have a deduction under paragraph (a)—

(i) is an increase in the cost of the aircraft to the person, if the aircraft engine is an unpriced aircraft engine; or

(ii) is an increase in the cost of the aircraft engine to the person, otherwise.

Deduction for aircraft engine when acquired for price

(3) A person who acquires an aircraft engine for use with an aircraft, other than as an unpriced aircraft engine with the aircraft, has a deduction of an amount given by subsection (4)—

(a) for expenditure incurred in acquiring the aircraft engine, if the aircraft engine is acquired other than under a finance lease; or

(b) for part of the value of the aircraft engine determined under section EW 32 (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease), if the aircraft engine is acquired under a finance lease.

Amount of deduction under subsection (3)

(4) The amount of the person's deduction under subsection (3) is—

(a) equal to the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition, if—

(i) when the aircraft engine is acquired, the aircraft engine has not been used significantly since being manufactured or having an aircraft engine overhaul; and

(ii) the estimated cost is less than the amount referred to in paragraph (c); or

(b) equal to a fraction, calculated from the proportion of the scheduled overhaul period for the aircraft engine that is unexpired when the aircraft engine is acquired, of the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition, if the fraction of the estimated cost is less than the amount referred to in paragraph (c); or

(c) equal to the expenditure incurred in acquiring the aircraft engine, if the amount is not given by paragraph (a) or (b).

Deduction for unpriced aircraft engine when acquired

(5) A person who acquires an aircraft including an unpriced aircraft engine has a deduction of an amount given by subsection (6)—

(a) for part of the expenditure incurred in acquiring the aircraft, if the aircraft is acquired other than under a finance lease; or

(b) for part of the value of the aircraft determined under section EW 32, if the aircraft is acquired under a finance lease.

Amount of deduction under subsection (5)

(6) The amount of the person's deduction under subsection (5) is—

(a) equal to the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition, based on market prices, if the aircraft engine, when acquired, has not been used significantly since being manufactured or having an aircraft engine overhaul; or

(b) equal to a fraction, calculated from the proportion of the scheduled overhaul period for the aircraft engine that is unexpired when the aircraft is acquired, of the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition based on market prices; or

(c) equal to a fraction, agreed with the Commissioner, of the expenditure incurred in acquiring the aircraft including the unpriced aircraft engine.

Exception: person making election under section EJ 26

(7) If a person has made an election under section EJ 26 (Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft),—

(a) the person is not allowed a deduction referred to in subsection (3) or (5); and

(b) each aircraft engine of the person is an unpriced aircraft engine for the purposes of this section.

Expenditure on piece fitted to aircraft in aircraft engine overhaul

(8) The amount of expenditure incurred by a person, in carrying out an aircraft engine overhaul, for a piece that is fitted as a replacement piece to the aircraft as part of the aircraft engine overhaul is—

(a) the adjusted tax value of the piece for the person before the piece is fitted, if the piece is an item of depreciable property before being fitted:

(b) the portion of the person's expenditure on the piece that is unexpired before the piece is fitted, otherwise.

Link with subpart DA

(9) This section overrides the capital limitation. The other general limitations still apply.

Defined in this Act: adjusted tax value, aircraft engine, aircraft engine overhaul, business, capital limitation, deduction, depreciable property, finance lease, general limitation, scheduled overhaul period, unpriced aircraft engine

Section DW 5: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 52(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

DW 6 Aircraft operators: payments and adjustments under finance leases

When this section applies

(1) This section applies when a person leasing under a finance lease an aircraft engine, or an aircraft including an unpriced aircraft engine, meets the requirements of section DW 5(1) for being allowed a deduction for expenditure incurred in performing an aircraft engine overhaul of the aircraft engine.

Payments during lease to lessor towards aircraft engine maintenance

(2) If, during the term of the lease, the person pays an amount under the lease to the lessor towards the cost of aircraft engine overhauls,—

(a) the person does not have a deduction for the payment; and

(b) a payment of a corresponding amount by the lessor to the person when the person incurs expenditure in performing an aircraft engine overhaul of the aircraft engine is not income of the person.

Deduction for surplus payments

(3) If, at the end of the lease, the total amount of the payments referred to in subsection (2)(a) exceed the total amount of the payments referred to in subsection (2)(b), the person has a deduction for the income year in which the lease ends equal to the amount of the excess.

Payments at end of lease by or to lessor for aircraft engine maintenance

(4) If the lease requires the person to pay to the lessor, or the lessor to pay to the person, at the end of the lease an amount that is calculated from the cost of an aircraft engine overhaul and the proportion of the scheduled overhaul period for the aircraft engine that is expired when the lease ends,—

(a) an amount that the person is required to pay is allowed as a deduction of the person; and

(b) an amount that the person is entitled to receive is income of the person under section CG 4(2) (Receipts for expenditure or loss from insurance, indemnity, or otherwise).

Relationship with section CG 4

(5) This section overrides section CG 4.

Defined in this Act: aircraft engine, aircraft engine overhaul, deduction, finance lease, lease, lessor, pay, scheduled overhaul period, unpriced aircraft engine

Section DW 6: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 52(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart DX—Other expenditure

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DX 1 Testamentary annuities

When this section applies

(1) This section applies when—

(a) property is subject to the payment of an annuity—

(i) because of a provision in a will; or

(ii) because of a court order under the Family Protection Act 1955; or

(iii) because of a deed of family arrangement; and

(b) the property, or property substituted for it, is transferred to a beneficiary; and

(c) the property transferred, or property that the beneficiary substitutes for it, is charged with the payment of the annuity or part of the annuity.

Deduction

(2) The owner of the property, or the substituted property, is allowed a deduction for an amount that they pay on account of the annuity.

Exclusion

(3) The owner is denied a deduction—

(a) if the owner is not a beneficiary but a person who has acquired the property subject to the condition that they assume the liability for the annuity, or a part of it:

(b) to the extent to which the annuity is payable under a court order or under a deed of family arrangement and represents consideration for the purchase of the property, or the substituted property, by the owner.

Amount of deduction

(4) The deduction is limited in an income year to the amount that would be the net income of the owner for the corresponding tax year if the owner's only income in the income year were from the property, or the substituted property.

Meaning of beneficiary

(5) In this section, **beneficiary**—

(a) means—

(i) a person to whom a testator has left the property in their will; or

(ii) a person to whom the testator has given a right to acquire the property in their will; and

(b) includes a person who is entitled to the property under—

(i) an order of a court under the Family Protection Act 1955; or

(ii) a deed of family arrangement.

Link with subpart DA

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

Defined in this Act: amount, arrangement, beneficiary, deduction, general limitation, general permission, income, income year, net income, pay, private limitation, supplement, tax year

Compare: 2004 No 35 s DX 1

Section DX 1(3)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DX 1(5)(a)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DX 2 Tax credits: conduit financing arrangements

[Repealed]

Section DX 2: repealed (with effect on 30 June 2009), on 6 October 2009, by section 110(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

DX 3 Tax credits: supplementary dividend holding companies

[Repealed]

Section DX 3: repealed, on 1 October 2012 (applying for the 2013–14 and later income years), by section 17(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Subpart DZ—Terminating provisions

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DZ 1 Commercial bills before 31 July 1986

Deduction

(1) A person is allowed a deduction if they acquire a commercial bill from another person, other than under a relationship agreement, and derive income under section CZ 6 (Commercial bills before 31 July 1986) on the redemption or disposal of the commercial bill.

Amount of deduction

(2) The amount of the deduction is the value of the commercial bill on the date on which the person acquired it.

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, commercial bill, deduction, general limitation, general permission, income, relationship agreement, supplement

Compare: 2004 No 35 s DZ 1

DZ 2 Life insurers acquiring property before 1 April 1988

When this section applies

(1) This section applies when—

(a) a life insurer started carrying on the business of providing life insurance on or before the last day of the 1988–89 income year; and

(b) on the last day of the 1987–88 income year the life insurer's Life Insurance Fund covered some or all of the following matters:

(i) superannuation policies; and

(ii) pre-1983 mortgage repayment insurance policies; and

(iii) annuities that had been granted; and

(c) the life insurer, as part of the business, acquired property before 1 April 1988; and

(d) the life insurer, as part of the business, disposes of the property; and

(e) either—

(i) the life insurer has not already been allowed a deduction for the property, whether under section DR 2 (Disposal of property) or any other provision; or

(ii) the life insurer has been allowed a deduction for the property, but only for an amount of depreciation loss or because of the application of the old financial arrangements rules or the financial arrangements rules; and

(f) section DR 2 does not apply to the disposal.

Deduction

(2) The life insurer is allowed a deduction for the amount quantified in section EZ 1 (Life insurers acquiring property before 1 April 1988).

Meaning of superannuation policy

(3) **Superannuation policy** means a life insurance policy—

(a) that—

(i) is vested in a superannuation fund that was or was treated as being a superannuation category 1 scheme on or before 17 December 1987, not including a scheme that was classified by the Govern-

ment Actuary as a personal pension superannuation scheme and that admitted new members after 17 December 1987; or

(ii) was effected for the purposes of any such superannuation fund; or

(iii) was accepted by any such superannuation fund for the purposes of the fund; and

(b) that has not ceased to be a policy for the purposes of the superannuation fund.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, business, capital limitation, deduction, depreciation loss, financial arrangements rules, general limitation, general permission, income year, life insurance, Life Insurance Fund, life insurance policy, life insurer, old financial arrangements rules, pay, property, superannuation category 1 scheme, superannuation fund, superannuation policy, superannuation scheme

Compare: 2004 No 35 s DZ 2

DZ 3 Petroleum mining: development expenditure from 1 October 1990 to 15 December 1991

Deduction

(1) A petroleum miner is allowed a deduction for petroleum mining development expenditure incurred by them on or after 1 October 1990 and before or on 15 December 1991. This subsection is overridden by subsection (2).

Relationship with section DZ 4

(2) The petroleum miner is denied a deduction for petroleum mining development expenditure as described in subsection (1) if it has been deducted under—

(a) section DZ 4; or

(b) sections 214D to 214M of the Income Tax Act 1976 as they were immediately before their repeal by section 15 of the Income Tax Amendment Act (No 5) 1992.

Timing of deduction

(3) The deduction is allocated under section EZ 3 (Petroleum development expenditure from 1 October 1990 to 15 December 1991).

Meaning of petroleum mining development expenditure

(4) In this section, **petroleum mining development expenditure** has the same meaning as in section 214D of the Income Tax Act 1976 immediately before its repeal by section 15 of the Income Tax Amendment Act (No 5) 1992.

Link with subpart DA

(5) This section supplements the general permission. The general limitations still apply.

Defined in this Act: deduction, general limitation, general permission, petroleum miner, petroleum mining development expenditure, supplement

Compare: 2004 No 35 s DZ 3

DZ 4 Expenditure on abandoned exploratory well before 16 December 1991

Deduction

(1) A petroleum miner is allowed a deduction for expenditure that they incur before 16 December 1991 in drilling, testing, completing, and abandoning an exploratory well if—

(a) the miner seals and abandons the well before commercial production from the well starts; and

(b) the expenditure has not been deducted in any earlier income year.

Sealing and abandoning well

(2) To seal and abandon an exploratory well, a petroleum miner must make a declaration under the Oaths and Declarations Act 1957 that they do not intend—

(a) to use the exploratory well in petroleum mining operations; or

(b) to apply for an existing privilege that is a mining licence under Part 1 of the Petroleum Act 1937 over the area containing the exploratory well.

Timing of deduction

(3) The deduction is allocated to the income year in which the well is sealed and abandoned.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, commercial production, deduction, existing privilege, exploratory well, general limitation, general permission, income year, petroleum miner, petroleum mining operations, seal and abandonment

Compare: 2004 No 35 s DZ 4

Section DZ 4(2)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 112(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DZ 5 Farm-out arrangements for petroleum mining before 16 December 1991

Deduction: excess expenditure incurred before 16 December 1991

(1) A transferee under a farm-out arrangement is allowed a deduction of excess expenditure incurred before 16 December 1991 in a farm-out arrangement entered into before 16 December 1991, and for which a deduction has not been allowed in any earlier income year. The deduction is allowed under section

DT 1 (Petroleum exploration expenditure) or DT 5 (Petroleum development expenditure).

Deduction: excess expenditure incurred on or after 16 December 1991

(2) A transferee under a farm-out arrangement is allowed a deduction of excess expenditure incurred on or after 16 December 1991 in a farm-out arrangement entered into before 16 December 1991 if the expenditure has the character of exploratory well expenditure, petroleum exploration expenditure, or petroleum development expenditure. The deduction is allowed under section DT 1 or DT 5 to DT 7 (which relate to petroleum development expenditure) and quantified and allocated under whichever of sections EJ 12 to EJ 16 (which relate to petroleum mining) applies.

Reduction of deductions

(3) A transferor under a farm-out arrangement entered into before 16 December 1991 must reduce, but is denied as a deduction, the deductions described in subsection (4) by the amount determined under subsection (5).

Deductions to which subsection (3) applies

(4) The deductions to which subsection (3) applies are deductions for expenditure incurred before, on, or after 16 December 1991 that—

(a) are not deductions of a kind referred to in subsection (5)(a) to (c); and

(b) are attributable to—

(i) the petroleum permit to which the farm-out arrangement relates; and

(ii) a licence-specific asset or permit-specific asset held for conducting petroleum mining operations under the petroleum permit.

Amount of reduction

(5) The amount of the reduction under subsection (3), in an income year, is the same amount as would have been determined under section 214I(2) and (3) of the Income Tax Act 1976 immediately before its repeal by section 15 of the Income Tax Amendment Act (No 5) 1992, as if references in section 214I(2) and (3) to deferred deductions were references to any deductions, deferred or not, attributable to the relevant permit or asset, except deductions for—

(a) residual expenditure; and

(b) expenditure incurred on or before the date on which the application for an existing privilege that is a prospecting licence under Part 1 of the Petroleum Act 1937 or a prospecting permit for petroleum was submitted for the relevant licence area; and

(c) expenditure that is neither petroleum exploration expenditure nor petroleum development expenditure.

Some definitions

(6) In subsections (2) to (5), **excess expenditure**, **farm-out arrangement**, **licence-specific assets**, **permit-specific asset**, **transferee**, and **transferor** have the same meanings as in section 214D of the Income Tax Act 1976 immediately before its repeal by section 15 of the Income Tax Amendment Act (No 5) 1992.

Link with subpart DA

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

Defined in this Act: amount, capital limitation, deduction, excess expenditure, existing privilege, exploratory well expenditure, farm-out arrangement, general limitation, general permission, income year, licence-specific assets, permit-specific asset, petroleum, petroleum development expenditure, petroleum exploration expenditure, petroleum mining operations, petroleum permit, prospecting permit, residual expenditure, supplement, transferee, transferor

Compare: 2004 No 35 s DZ 5

Section DZ 5(5): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 113(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DZ 5(5)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 113(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DZ 6 Partnership interests and disposal of part of asset before 16 December 1991

In sections DZ 3 to DZ 5, unless the context requires otherwise,—

(a) a partner is treated as having a share or interest in a petroleum permit or other property of a partnership to the extent of their income interest in the partnership:

(b) references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: dispose, income, petroleum permit

Compare: 2004 No 35 s DZ 6

DZ 7 Petroleum mining operations outside New Zealand before 16 December 1991

Sections DZ 3 to DZ 6 apply, with any necessary modifications, to a petroleum miner undertaking petroleum mining operations that are—

(a) outside New Zealand and undertaken through a branch or a controlled foreign company; and

(b) substantially the same as the petroleum mining activities governed by this Act.

Defined in this Act: controlled foreign company, New Zealand, petroleum miner, petroleum mining operations

Compare: 2004 No 35 s DZ 7

DZ 8 Acquiring patent rights before 1 April 1993

When this section applies

(1) This section applies when a person acquires patent rights before 1 April 1993 and uses them in deriving their income. In this section, if the person dies after incurring expenditure on acquiring the rights, references to the person include their personal representative, a trustee of their estate, and a beneficiary of their estate.

Deduction

(2) The person is allowed a deduction of the amount quantified in section EZ 7(2) (Acquiring patent rights before 1 April 1993).

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission, income, patent rights, supplement, trustee

Compare: 2004 No 35 s DZ 8

Section DZ 8 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DZ 8(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section DZ 8(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

DZ 9 Premium paid on land leased before 1 April 1993

When this section applies

(1) This section applies when a person (**person A**) leases land that they use in deriving their income and a grant or renewal of the lease occurs before 1 April 1993.

Deduction

(2) Person A is allowed a deduction of the amount quantified in section EZ 8(2) (Premium paid on land leased before 1 April 1993).

Link with subpart DA

(3) This section supplements the general permission. The general limitations still apply.

Defined in this Act: amount, deduction, general limitation, general permission, income, lease, premium, supplement

Compare: 2004 No 35 s DZ 9

DZ 10 General insurance with risk period straddling 1 July 1993

When this section applies

(1) This section applies when—

(a) a company carries on a business of providing general insurance or guarantees against loss, damage, or risk, immediately before and on 1 July 1993; and

(b) the company, as insurer, enters into an insurance contract for the general insurance in the course of carrying on the business outside New Zealand; and

(c) the contract covers a period of risk starting before 1 July 1993 and ending after 1 July 1993.

No deduction (with exception)

(2) The company is denied a deduction for an amount payable under the contract unless the event giving rise to the payment occurs on or after 1 July 1993.

Link with subpart DA

(3) This section overrides the general permission.

Defined in this Act: amount, business, company, deduction, general insurance, general permission, insurance contract, New Zealand, pay

Compare: 2004 No 35 s DZ 10

DZ 11 Film reimbursement scheme on or before 30 June 2001

Film reimbursement scheme

(1) Section DS 3 (Clawback of deductions for film reimbursement schemes) does not apply to a deduction for expenditure that relates to a film and is incurred by a person (**person A**) under a film reimbursement scheme if—

(a) the scheme is entered into on or before 30 June 2001; and

(b) the film has, under section EJ 6 (Certification of New Zealand films),—

(i) a final certificate that it is a New Zealand film; or

(ii) a provisional certificate, not obtained by the provision of materially incorrect information to the New Zealand Film Commission, that it is a New Zealand film; and

(c) the film had not been completed before 7 July 1999; and

(d) before 7 July 1999,—

(i) 1 or more contracts had been entered into for the supply of goods or services in New Zealand in relation to the film; and

(ii) at least $1,000,000 of expenditure had been incurred under the contract or contracts; and

(e) on or before 1 November 1999, a person who entered into a contract referred to in paragraph (d)(i) gave notice to the Commissioner that the requirements of paragraphs (c) and (d) were met; and

(f) the expenditure for which persons are allowed a deduction under section DS 1 (Acquiring film rights) or DS 2 (Film production expenditure) is no more than 140% of the physical cost of production of the film; and

(g) without limiting the application of section BG 1 (Tax avoidance), on the date the film reimbursement scheme is entered into, there is an expectation based on reasonable commercial assumptions that the income to be derived by person A as a result of the expenditure will be at least equal to the sum of—

(i) all expenditure incurred by person A under the scheme; and

(ii) a return on each amount of expenditure that is equivalent to the return on 5 year government stock measured on the date that the scheme is entered into; and

(h) if the expenditure is incurred on depreciable intangible property of a kind listed in schedule 14 (Depreciable intangible property), the expenditure is an amount paid to person B in the circumstances described in subsection (2).

Circumstances for purposes of subsection (1)(h)

(2) For the purposes of subsection (1)(h), the circumstances are that—

(a) the amount paid is income of person B; or

(b) at all times in the tax year in which the payment is made, person B—

(i) is resident in a country or territory specified in schedule 24, part A (International tax rules: grey list countries); and

(ii) is liable to income tax in that country or territory by reason of domicile, residence, place of incorporation, or place of management in that country or territory; and

(iii) has calculated its income that is liable to income tax in that country or territory without applying a feature of the taxation law of the country or territory specified in schedule 24, part B.

Some definitions

(3) In this section,—

government stock means stock issued under Part 6 of the Public Finance Act 1989

physical cost of production means the expenditure incurred in producing a film, whether incurred in New Zealand or elsewhere, other than expenditure incurred—

(a) in marketing or selling the film; and

(b) on depreciable intangible property of a kind listed in schedule 14.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: amount, Commissioner, completed, deduction, depreciable intangible property, film, film reimbursement scheme, general permission, government stock, income, income tax, New Zealand, notice, pay, physical cost of production, tax year, year

Compare: 2004 No 35 s DZ 11

DZ 12 Mineral mining: 1954–2005

[Repealed]

Section DZ 12: repealed, on 1 April 2014, by section 43 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

DZ 13 Enhancements to land unamortised at end of 2004–05 year

When this section applies

(1) This section applies when—

(a) a person is allowed a deduction under section DO 4(1) of the Income Tax Act 1994, of an amount set out in section DO 4(3)(a) or (c) of that Act, for expenditure incurred in carrying on a farming or agricultural business on land in New Zealand; and

(b) at the end of the 2004–05 income year, part of the expenditure (the **unamortised balance**) remains to be allowed as a deduction in later income years.

Deduction

(2) The person is allowed a deduction for the unamortised balance of expenditure in the income year in which the expenditure is of benefit to the business.

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, income year, supplement

Compare: 2004 No 35 s DZ 13

DZ 14 Deductions under specified leases

When this section applies

(1) This section applies for the purposes of sections FZ 2 and FZ 4 (which relate to specified leases).

Lessor

(2) In an income year in which a lessor leases a personal property lease asset to a lessee under a specified lease, the lessor is denied a deduction for an amount of depreciation loss for the asset.

Lessee

(3) A lessee under a specified lease is denied a deduction for expenditure incurred by them under the lease except to the extent to which the expenditure—

(a) would be allowed as a deduction to the lessee under section BD 2 (Deductions); and

(b) is no more than the sum of the amounts calculated under section FZ 3(2)(a) (Income of lessor under specified lease) for the initial period, if any, and each instalment period that ends in the income year.

Link with subpart DA

(4) This section overrides the general permission.

Defined in this Act: amount, deduction, depreciation loss, general permission, income year, initial period, instalment period, lessee, lessor, personal property lease asset, specified lease

Compare: 2004 No 35 ss FC 6(4), FC 8

DZ 15 Patent applications before 1 April 2005

When this section applies

(1) This section applies when—

(a) a patent is granted to a person in their 2005–06 income year or a later income year; and

(b) the patent is granted in relation to a patent application owned by the person; and

(c) the patent application, with a complete specification, was first lodged with the Intellectual Property Office of New Zealand or a similar office in another jurisdiction before 1 April 2005; and

(d) a deduction for expenditure on the patent application is denied under another provision.

Calculation of deduction

(2) The person is allowed, in the income year in which the patent is granted, a deduction for expenditure on the patent application in any income year, calculated using the formula—

$$(\text{months of ownership} \div 240) \times \text{cost}.$$

Definition of items in formula

(3) In the formula,—

(a) **months of ownership** is the number of whole calendar months for which the person owns the patent application:

(b) **cost** is the cost to the person of the patent application.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: capital limitation, deduction, general limitation, general permission, income year

Compare: 2004 No 35 s DZ 14

DZ 16 Geothermal wells between 31 March 2003 and 17 May 2006

When this section applies

(1) This section applies to a person's geothermal well when—

(a) the well's geothermal energy proving period ends between 31 March 2003 and 17 May 2006; and

(b) the well is—

(i) both started and completed between 31 March 2003 and 17 May 2006:

(ii) acquired between 31 March 2003 and 17 May 2006; and

(c) a deduction for expenditure on the well is denied under another provision.

Deduction

(2) In the income year in which the well's geothermal energy proving period ends, the person is allowed a deduction for expenditure incurred on the well.

Link with subpart DA

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

Defined in this Act: capital limitation, deduction, general limitation, general permission, geothermal energy proving period, geothermal well, income year, supplement

Compare: 2004 No 35 s DZ 15

DZ 17 Expenditure on improvements to aquacultural business before 1995–96 income year

When this section applies

(1) This section applies in an income year when a person incurs expenditure—

(a) before the 1995–96 income year in making an improvement for the purposes of an aquacultural business; and

(b) for which they would be allowed under section DO 12 (Improvements to aquacultural business) a deduction in the income year if the expenditure had been incurred in the 1995–96 income year or a later income year.

Deduction

(2) The person is allowed a deduction in the income year of an amount calculated using the formula—

125% × schedule percentage × diminished value.

Definition of items in formula

(3) In the formula,—

(a) **schedule percentage** is the percentage set out opposite the description of the improvement in schedule 20, parts B to F, column 2 (Expenditure on farming, horticultural, aquacultural, and forestry improvements):

(b) **diminished value** is the diminished value of the improvement.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, business, capital limitation, deduction, diminished value, general limitation, general permission, income year

Compare: 2004 No 35 s DZ 16

DZ 18 Expenditure on improvements to forestry land before 1995–96 income year

When this section applies

(1) This section applies in an income year when a person incurs expenditure—

(a) before the 1995–96 income year in making an improvement on land; and

(b) for which they would be allowed under section DP 3 (Improvements to forestry land) a deduction in the income year if the expenditure had been incurred in the 1995–96 income year or a later income year.

Deduction

(2) The person is allowed a deduction in the income year of an amount calculated using the formula—

125% × schedule percentage × diminished value.

Definition of items in formula

(3) In the formula,—

(a) **schedule percentage** is the percentage set out opposite the description of the improvement in schedule 20, part G, column 2 (Expenditure on farming, horticultural, aquacultural, and forestry improvements):

(b) **diminished value** is the diminished value of the improvement.

Link with subpart DA

(4) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: amount, capital limitation, deduction, diminished value, general limitation, general permission, income year, land

Compare: 2004 No 35 s DZ 17

DZ 19 Attributed CFC loss carried back under section EZ 32C

[Repealed]

Section DZ 19: repealed (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 28(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

DZ 20 Expenditure incurred while income-earning activity interrupted by Canterbury earthquake

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2024–25 income year when—

(a) the person has an income-earning activity in greater Christchurch (as defined in section 4 of the Canterbury Earthquake Recovery Act 2011) immediately before a Canterbury earthquake (as defined in that section); and

(b) the activity is interrupted for a period (the **period of interruption**) as a result of the Canterbury earthquake; and

(c) in the current year, during the period of interruption, the person incurs expenditure or loss (the **interruption expenditure**) in meeting an obligation relating to the income-earning activity; and

(d) the interruption expenditure does not meet the requirements of the general permission for the person and the income-earning activity but would do so but for the interruption; and

(e) the person resumes the income-earning activity in an income year (the **resumption year**) before the 2024–25 income year.

Deduction for interruption expenditure

(2) The person is allowed a deduction for the interruption expenditure.

Timing of deduction

(3) The deduction is allocated to the resumption year.

Link with subpart DA

(4) This section supplements the general permission; the general limitations still apply.

Defined in this Act: deduction, general limitation, general permission, income, income year, loss

Section DZ 20: replaced, on 1 April 2016 (applying for the 2016–17 and later income years), by section 44(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section DZ 20(1): amended (with effect on 1 April 2016), on 18 March 2019, by section 157 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section DZ 20(1)(e): amended (with effect on 1 April 2016), on 18 March 2019, by section 157 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

DZ 20B Expenditure incurred while income-earning activity interrupted by North Island flooding event

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when—

(a) the person has an income-earning activity in New Zealand immediately before a North Island flooding event; and

(b) the activity is interrupted for a period (the **period of interruption**) as a result of the North Island flooding event; and

(c) in the current year, during the period of interruption, the person incurs expenditure or loss (the **interruption expenditure**) in meeting an obligation relating to the income-earning activity; and

(d) the interruption expenditure does not meet the requirements of the general permission for the person and the income-earning activity but would do so but for the interruption; and

(e) the person resumes the income-earning activity in an income year (the **resumption year**) before the 2028–29 income year.

Deduction for interruption expenditure

(2) The person is allowed a deduction for the interruption expenditure.

Timing of deduction

(3) The deduction is allocated to the resumption year.

Link with subpart DA

(4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: deduction, general limitation, general permission, income year, loss, New Zealand, North Island flooding events, supplement

Section DZ 20B: inserted (with effect on 1 April 2022), on 28 March 2024, by section 52(1) (and see section 52(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

DZ 21 Transfer in 2013–14 income year of assets to which subpart DG applies

When this section applies

(1) This section applies when—

(a) a company has on 31 March 2013 an asset described in section DG 3 (Meaning of asset for this subpart); and

(b) the asset is transferred before the end of the company's 2013–14 income year to—

(i) 1 or more of the company's shareholders in proportion to their shareholding:

(ii) 1 or more of the shareholders of a shareholder in proportion to their shareholding; and

(c) the company chooses to apply this section.

Disposal by transferor

(2) For the purposes of section CG 1 (Amount of depreciation recovery income) and subpart EE (Depreciation),—

(a) the company is treated as disposing of the asset for an amount equal to the adjusted tax value of the asset on the day of the transfer; and

(b) the shareholder is treated as having—

(i) acquired the asset on the date on which the company acquired it for an amount equal to the amount the company paid to acquire it; and

(ii) used the asset for the purposes for which the company used it; and

(iii) used the depreciation method used by the company in relation to the asset; and

(iv) been allowed a deduction for an amount of depreciation loss that the company has been allowed since the company's acquisition of the asset.

Allocation to shareholders

(3) For the purposes of subsection (2), if more than 1 shareholder referred to in subsection (1)(b) acquires the asset, their share of the cost of the asset and the amount of depreciation loss is based on the proportion of their voting interests in the company.

Example

On 31 March 2013, Boat Co has a boat with an acquisition cost of $85,000. The boat meets the various requirements set out in subpart DG. All the shares in BoatCo are owned by Michelle. The boat has a market value of $75,000, and an adjusted tax value of $55,000. BoatCo transfers the boat to Michelle without payment (which is treated as a dividend of $75,000). For depreciation purposes, BoatCo is treated as disposing of the boat for $55,000, and Michelle is treated as acquiring it for $85,000, and having been allowed a deduction of $30,000 for depreciation loss in past income years.

Defined in this Act: adjusted tax value, amount, asset, company, deduction, depreciation loss, income year, pay, shareholder, voting interest

Section DZ 21: inserted (with effect on 1 April 2013), on 17 July 2013, by section 37 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section DZ 21 heading: replaced (with effect on 1 April 2013 and applying for the 2013–14 and later income years but not applying in relation to an asset when a shareholder who acquires the asset disposes of it before the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill), on 30 June 2014, by section 58(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21(2) heading: replaced (with effect on 1 April 2013 and applying for the 2013–14 and later income years but not applying in relation to an asset when a shareholder who acquires the asset disposes of it before the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill), on 30 June 2014, by section 58(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21(2): replaced (with effect on 1 April 2013 and applying for the 2013–14 and later income years but not applying in relation to an asset when a shareholder who acquires the asset disposes of it before the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill), on 30 June 2014, by section 58(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21(3) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years but not applying in relation to an asset when a shareholder who acquires the asset disposes of it before the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill), on 30 June 2014, by section 58(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21(3): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years but not applying in relation to an asset when a shareholder who acquires the asset disposes of it before the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill), on 30 June 2014, by section 58(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21 example: amended (with effect on 1 April 2013), on 30 June 2014, by section 59 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21 list of defined terms **deduction**: inserted (with effect on 1 April 2013), on 30 June 2014, by section 58(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21 list of defined terms **depreciation loss**: inserted (with effect on 1 April 2013), on 30 June 2014, by section 58(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21 list of defined terms **pay**: inserted (with effect on 1 April 2013), on 30 June 2014, by section 58(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section DZ 21 list of defined terms **voting interest**: inserted (with effect on 1 April 2013), on 30 June 2014, by section 58(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

DZ 22 Aircraft maintenance: aircraft engines acquired before 2017–18 income year

When this section applies

(1) This section applies when—

(a) a person, before the 2017–18 income year, acquires an aircraft engine or an aircraft including an unpriced aircraft engine; and

(b) the person is required to perform aircraft engine overhauls of the aircraft engine when operating the aircraft; and

(c) the adjusted tax value of the aircraft engine or aircraft is reduced at the beginning of the 2017–18 income year by an amount under section EZ 23BA (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased); and

(d) the person does not make an election under section EJ 26 (Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft) for the 2017–18 income year.

Deduction if aircraft engine overhaul since acquisition

(2) If the person has performed an aircraft engine overhaul of the aircraft engine before the beginning of the 2017–18 income year, the person has a deduction for the 2017–18 income year of an amount equal to the amount of the reduction referred to in subsection (1)(c).

Deduction in absence of aircraft engine overhaul since acquisition

(3) If the person has not performed an aircraft engine overhaul of the aircraft engine before the beginning of the 2017–18 income year, the person has a deduction,—

(a) for the 2017–18 income year, of an amount equal to the amount of the reduction referred to in subsection (1)(c), reduced by an amount that, as a proportion of the reduction, corresponds to the proportion of the scheduled overhaul period for the aircraft engine that is unexpired at the end of the 2017–18 income year:

(b) for an income year later than the 2017–18 income year, of an amount that, as a proportion of the reduction referred to in subsection (1)(c), corresponds to the proportion of the scheduled overhaul period of the aircraft engine that is included in the income year.

Defined in this Act: adjusted tax value, aircraft engine, aircraft engine overhaul, deduction, income year, scheduled overhaul period, unpriced aircraft engine

Section DZ 22: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 53(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

DZ 23 Aircraft maintenance: tax accounting provisions for expenditure incurred after 2016–17 income year

When this section applies

(1) This section applies when a person has at the beginning of the 2017–18 income year an amount (the **anticipated deduction**) of a tax accounting provision, for expenditure on aircraft maintenance, that is included as a deduction in the calculation of the person's taxable income for an earlier income year although the amount is not a deduction allowed by this Act for the earlier income year.

Expenditure on aircraft maintenance other than aircraft engine overhauls

(2) For the earliest income year, after the 2016–17 income year, in which the person incurs expenditure on the maintenance of an aircraft other than an aircraft engine overhaul, the person—

(a) is not allowed a deduction for the expenditure to the extent to which the expenditure in the income year is offset by an anticipated deduction for expenditure on such maintenance; and

(b) if the anticipated deduction for such expenditure exceeds the amount of the expenditure in the income year, derives income under section CZ 34 (Income arising from tax accounting provision for aircraft engine overhauls) equal to the amount of the excess.

Expenditure on aircraft engine overhauls

(3) For income years after the 2016–17 income year in which the person incurs expenditure on an aircraft engine overhaul, beginning with the earliest such income year,—

(a) the person is not allowed a deduction for the expenditure to the extent to which the expenditure in the income year is offset by an anticipated deduction for expenditure on an aircraft engine overhaul; and

(b) if the anticipated deduction exceeds the amount of the expenditure in the income year, the excess is carried forward as an anticipated deduction to the next income year in which the person incurs expenditure on an aircraft engine overhaul; and

(c) paragraphs (a) and (b) apply as required to income years until the amount of the anticipated deduction at the beginning of the 2017–18 income year is offset completely.

Defined in this Act: aircraft engine overhaul, deduction, income, income year, taxable income

Section DZ 23: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 53(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

DZ 24 Amounts denied before 1 April 2025: treatment upon disposal of certain residential property

Disposal subject to section CB 6A: denied amount included as cost

(1) An amount that has been denied as a deduction for property under section DH 8 (Deduction not allowed) before 1 April 2025 and that would have otherwise been allowed as a deduction is treated under section DB 23 (Cost of revenue account property) as a cost for the person of the relevant property in the income year of the disposal of the property if the amount derived from the disposal is income under section CB 6A (Disposal within 2 years: bright-line test for residential land).

Disposal not subject to section CB 6A: denied amount allocated under subpart EL

(2) An amount that has been denied as a deduction for property under section DH 8 before 1 April 2025 and that would have otherwise been allowed as a deduction is allowed as a deduction in the income year of the disposal of the relevant property, and is subject to allocation under subpart EL (Allocation of deductions for excess residential land expenditure), if the property is or was residential rental property for the purposes of subpart EL and the amount derived from the disposal of the property—

(a) is income under a section other than section CB 6A; and

(b) is not income under section CB 6A.

Defined in this Act: amount, deduction, income, income year, residential rental property

Section DZ 24: inserted, on 1 April 2025, by section 53 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Part E
Timing and quantifying rules

Subpart EA—Matching rules: revenue account property, prepayments, and deferred payments

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EA 1 Trading stock, livestock, and excepted financial arrangements

Property subject to matching rules

(1) The matching rules described in this section apply to each of the following kinds of property:

(a) trading stock valued under subpart EB (Valuation of trading stock (including dealer's livestock)):

(b) livestock valued under subpart EC (Valuation of livestock):

(c) excepted financial arrangements that are revenue account property valued under subpart ED (Valuation of excepted financial arrangements):

(d) a share supplier's share-lending right, if the original shares that relate to the right are excepted financial arrangements described in paragraph (c).

Application of section CH 1

(2) When a person has any of those kinds of property at the end of an income year, its value is income of the person in the income year under section CH 1 (Adjustment for closing values of trading stock, livestock, and excepted financial arrangements).

Application of section DB 49

(3) When a person has any of those kinds of property at the start of an income year, they are allowed a deduction for its value in the income year under section DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

Determination of values

(4) The values are determined under—

(a) section EB 3 (Valuation of trading stock); and

(b) section EC 2 (Valuation of livestock); and

(c) section ED 1 (Valuation of excepted financial arrangements).

Defined in this Act: deduction, excepted financial arrangement, income, income year, original share, pay, revenue account property, share-lending right, share supplier, trading stock

Compare: 2004 No 35 s EA 1

EA 2 Other revenue account property

When this section applies

(1) This section applies to revenue account property that is not—

(a) trading stock valued under subpart EB (Valuation of trading stock (including dealer's livestock)):

(b) livestock valued under subpart EC (Valuation of livestock):

(c) an excepted financial arrangement valued under subpart ED (Valuation of excepted financial arrangements):

(d) a film or a film right to which sections EJ 4 to EJ 8 (which relate to films) apply:

(e) property under a specified lease or a lease to which section EJ 10 (Personal property lease payments) applies:

(f) property that arises as a result of petroleum development expenditure or petroleum exploration expenditure to which sections DT 1, DT 5, and EJ 12 to EJ 20 (which relate to petroleum mining) apply:

(fb) property that arises as a result of mining development expenditure or mining exploration expenditure to which sections EJ 20B to EJ 20E (which relate to mineral mining) apply:

(fc) property fitted to an aircraft engine as part of an aircraft engine overhaul to which section DW 5 (Aircraft operators: aircraft engines and aircraft engine overhauls) applies:

(g) a financial arrangement valued under subpart EW (Financial arrangements rules).

Timing of deduction

(2) A deduction for the cost of revenue account property of a person is allocated to the earlier of—

(a) the income year in which the person disposes of the property; and

(b) the income year in which the property ceases to exist.

Defined in this Act: aircraft engine, aircraft engine overhaul, deduction, excepted financial arrangement, film, film right, financial arrangement, income year, lease, pay, petroleum development expenditure, petroleum exploration expenditure, revenue account property, specified lease, trading stock

Compare: 2004 No 35 s EA 2

Section EA 2(1)(e): replaced, on 29 March 2018 (with effect on 1 April 2008), by section 64(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EA 2(1)(f): amended, on 29 March 2018 (with effect on 1 April 2008), by section 64(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EA 2(1)(fb): inserted, on 1 April 2014, by section 45 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EA 2(1)(fc): inserted, on 1 April 2017, by section 54(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EA 2 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 54(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EA 2 list of defined terms **aircraft engine overhaul**: inserted, on 1 April 2017, by section 54(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EA 3 Prepayments

When this section applies

(1) This section applies when—

(a) a person has been allowed a deduction for expenditure under this Act or an earlier Act; and

(b) the expenditure was not incurred on the items described in subsection (2); and

(c) some or all of the expenditure is unexpired under subsections (4) to (7) at the end of the person's income year.

Exclusions

(2) This section does not apply to expenditure incurred on—

(a) revenue account property to which section EA 2 applies:

(b) trading stock valued under subpart EB (Valuation of trading stock (including dealer's livestock)):

(c) livestock valued under subpart EC (Valuation of livestock):

(d) an excepted financial arrangement valued under subpart ED (Valuation of excepted financial arrangements):

(db) a leasehold estate, or licence to use land, to which section EI 4B (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence) applies:

(e) a film or a film right to which sections EJ 4 to EJ 8 (which relate to films) apply:

(f) a specified lease or a lease to which section EJ 10 (Personal property lease payments) applies:

(g) property that arises as a result of petroleum development expenditure or petroleum exploration expenditure to which sections EJ 12 to EJ 20 (which relate to petroleum mining) apply:

(gb) property that arises as a result of mining development expenditure or mining exploration expenditure to which sections EJ 20B to EJ 20E (which relate to mineral mining) apply:

(h) a financial arrangement valued under subpart EW (Financial arrangements rules).

Unexpired portion

(3) The unexpired portion of a person's expenditure at the end of an income year—

(a) is income of the person in the income year under section CH 2 (Adjustment for prepayments); and

(b) is an amount for which the person is allowed a deduction in the following income year under section DB 50 (Adjustment for prepayments), if subsection (4B) does not apply.

Unexpired portion: expenditure on goods

(4) An amount of expenditure on goods is unexpired at the end of an income year if, by the end of the income year,—

(a) the person has not used up the goods in deriving income; and

(b) the goods are not destroyed or rendered useless for the purpose of deriving income.

Expenditure on goods used in aircraft engine overhaul

(4B) The unexpired portion of expenditure on pieces that are fitted to an aircraft engine as part of an aircraft engine overhaul is treated as being expenditure incurred in carrying out the aircraft engine overhaul for the purposes of sections DW 5 and DW 6 (which relate to the acquisition, overhaul, and leasing of aircraft engines).

Unexpired portion: expenditure on services

(5) An amount of expenditure on services is unexpired at the end of an income year if the services have not been performed by the end of the income year.

Unexpired portion: expenditure on choses in action

(6) An amount of expenditure on a chose in action is unexpired at the end of an income year if the amount relates to a period of enforceability of the chose in action falling after the income year.

Allowances reimbursing employees

(7) In the case of expenditure subject to sections CW 16B to CW 16F, CW 17, CW 17B, CW 17C, CW 17CB, CW 17CC, CW 17D, and CW 18 (which relate to expenditure, reimbursement, and allowances of employees), this section

applies on the basis that the relevant services were performed in the income year in which the employee's expenditure is expected to occur.

Commissioner's discretionary relief

(8) The Commissioner may excuse a person from complying with this section under section 91AAC of the Tax Administration Act 1994.

Defined in this Act: aircraft engine, aircraft engine overhaul, amount, Commissioner, deduction, employee, film, film right, goods, income, income year, land, leasehold estate, pay, revenue account property, services

Compare: 2004 No 35 s EA 3

Section EA 3(2)(db): inserted (with effect on 1 April 2013), on 17 July 2013, by section 38(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EA 3(2)(gb): inserted, on 1 April 2014, by section 46 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EA 3(3)(b): amended, on 1 April 2017, by section 55(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EA 3(4B) heading: inserted, on 1 April 2017, by section 55(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EA 3(4B): inserted, on 1 April 2017, by section 55(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EA 3(7): amended, on 1 April 2025, by section 45 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EA 3(7): amended, on 1 April 2015, by section 64 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EA 3(7): amended (with effect on 1 April 2008), on 6 October 2009, by section 111 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EA 3 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 55(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EA 3 list of defined terms **aircraft engine overhaul**: inserted, on 1 April 2017, by section 55(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EA 3 list of defined terms **land**: inserted (with effect on 1 April 2013), on 17 July 2013, by section 38(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EA 3 list of defined terms **leasehold estate**: inserted (with effect on 1 April 2013), on 17 July 2013, by section 38(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EA 4 Deferred payment of employment income

When this section applies

(1) This section applies when—

(a) a person is allowed a deduction in an income year for an amount of expenditure on employment income; and

(b) the person has not paid the amount at the end of—

(i) the 63rd day after the end of the income year; or

(ib) the income year, if they choose, in a return of income, to not use paragraph (i) or (ii); or

(ii) the period described in subsection (3), for employment income paid to a shareholder-employee.

Unpaid amount

(2) The unpaid amount is—

(a) income of the person in the income year under section CH 3 (Adjustment for deferred payment of employment income); and

(b) an amount for which the person is allowed a deduction in the following income year under section DB 51 (Adjustment for deferred payment of employment income).

Extension of payment period for shareholder-employee

(3) For employment income paid to a shareholder-employee, the 63 day period for payment in subsection (1)(b)(i) is extended until the last date by which the person could file a return of income for the income year if the time for filing were extended to its maximum under section 37(5) of the Tax Administration Act 1994.

Disposal of business: obligations transferred to non-associates

(4) For the purposes of this section, a person (the **seller**) who disposes of a business, or a part of a business, to another person (the **buyer**) is treated as paying, at the time of the disposal, an amount of employment income of an employee working in the business if—

(a) the seller and the buyer are not associated persons at the time of the disposal; and

(b) the seller has incurred the obligation to pay the amount in the course of their business, whether or not it remains a contingent obligation at the time of the disposal; and

(c) the employee becomes an employee of the buyer under the disposal arrangements; and

(d) the seller and the buyer agree in writing, under the disposal arrangements, that—

(i) the buyer assumes the obligation to pay an amount of employment income to the employee; and

(ii) the consideration payable by the buyer for the business, or the part of the business, reflects the buyer's assumption of the seller's provision for the obligation.

Disposal of business: obligations transferred to associates

(5) If subsection (4) would have applied but for the fact that the seller and the buyer are associated at the time of the disposal,—

(a) the amount of employment income is not treated as income of the seller in any income year following the disposal, despite subsection (2)(a) and section CH 3; and

(b) the seller is denied a deduction for the amount of employment income in any income year following the disposal, despite subsection (2)(b) and section DB 51; and

(c) the buyer may be allowed a deduction under section DC 10(3) (Disposal of business: transferred employment income obligations).

No disposal: obligations transferred to associates

(6) If section DC 11 (Transfers of employment income obligations to associates) applies,—

(a) the amount of employment income is not treated as income of the transferor (**person A**) in any income year following the disposal, despite subsection (2)(a) and section CH 3; and

(b) the transferor is denied a deduction for the amount of employment income in any income year following the disposal, despite subsection (2)(b) and section DB 51; and

(c) the transferee (**person B**) may be allowed a deduction under section DC 11.

Accounting treatment of transferred obligations

(7) For the purposes of this section, the buyer of a business, or a part of a business, who assumes at the time of the disposal an obligation to pay an amount of employment income—

(a) may account for the amount in a way that treats the relevant employee individually or treats the buyer's employees as a group; and

(b) must account for the amount in the same way in each relevant income year.

Defined in this Act: amount, arrangement, associated person, business, deduction, employee, employment income, income, income year, pay, return of income, shareholder-employee, time of the disposal

Compare: 2004 No 35 s EA 4

Section EA 4(1)(b)(ib): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 79(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section EA 4(4) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(4): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(4)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(4)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(4)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(4)(d): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(5) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(5): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(5)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(5)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(5)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(6) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(6)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(6)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4(7): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4 list of defined terms **time of the disposal**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EA 4 list of defined terms **time of the sale**: repealed (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EA 5 Income from disposal of original shares under share-lending arrangements

When this section applies

(1) This section applies when a person—

(a) is a share user under a share-lending arrangement; and

(b) derives an amount of income in an income year from the disposal of an original share under the share-lending arrangement to a person other than the share supplier or a person associated with the share supplier; and

(c) has a deduction in the following income year (the **later income year**) for expenditure incurred on acquiring an identical share.

Allocation of income

(2) The amount of income derived by the person may be allocated to the later income year.

Defined in this Act: amount, associated person, deduction, identical share, income, income year, original share, share-lending arrangement, share supplier, share user

Section EA 5: inserted, on 30 March 2025, by section 46(1) (and see section 46(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Subpart EB—Valuation of trading stock (including dealer's livestock)

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Low value trading stock

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Introductory provisions

EB 1 When this subpart applies

This subpart applies when a person who owns or carries on a business has trading stock for the purpose of selling or exchanging it in the ordinary course of the business.

Defined in this Act: business, trading stock

Compare: 2004 No 35 s EB 1

EB 2 Meaning of trading stock

Meaning

(1) **Trading stock** means property that a person who owns or carries on a business has for the purpose of selling or exchanging in the ordinary course of the business.

Inclusions

(2) **Trading stock** includes—

(a) work of the following kinds that would be trading stock under subsection (1) if it were completed:

(i) partly completed work:

(ii) work in progress:

(b) materials that the person has for use in producing trading stock:

(c) property on which the person has incurred expenditure, when the property would, if they had it, be trading stock under subsection (1) or paragraph (a) or (b):

(d) property leased under a hire purchase agreement when the property—

(i) is treated as having been acquired by the lessor under section FA 15 (Treatment when agreement ends: seller acquiring property); and

(ii) is an asset of a business that the lessor carries on.

Exclusions

(3) **Trading stock** does not include—

(a) land:

(b) depreciable property:

(c) a financial arrangement to which the financial arrangements rules or the old financial arrangements rules apply:

(d) an excepted financial arrangement that a life insurer has:

(e) an excepted financial arrangement held by a person if section CX 55 (Proceeds from disposal of investment shares) applies to the income of the person from a disposal of the excepted financial arrangement:

(f) livestock not used in a dealing business:

(g) consumable aids to be used in the process of producing trading stock:

(h) a spare part not held for sale or exchange:

(i) an emissions unit:

(j) a greenhouse gas unit that is not an emissions unit.

Defined in this Act: business, depreciable property, emissions unit, excepted financial arrangement, financial arrangement, greenhouse gas unit, hire purchase agreement, income, land, lessor, life insurer, trading stock

Compare: 2004 No 35 s EB 2

Section EB 2(3)(e): amended, on 1 April 2010, by section 112(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EB 2(3)(h): amended, on 26 September 2008, by section 72(1) of the Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85).

Section EB 2(3)(i): substituted (with effect on 1 January 2009), on 6 October 2009, by section 112(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EB 2(3)(j): replaced, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EB 2 list of defined terms **emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 112(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EB 2 list of defined terms **ETS unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 112(3)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EB 2 list of defined terms **greenhouse gas unit**: inserted, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EB 2 list of defined terms **non-Kyoto greenhouse gas unit**: repealed, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

EB 3 Valuation of trading stock

Valuation method

(1) A person who carries on a business must determine the value of their trading stock at the end of each income year by a method that is available under this subpart for them to use.

Use of value

(2) The value determined under subsection (1) is—

(a) the closing value of the trading stock for the income year for the purposes of section CH 1 (Adjustment for closing values of trading stock, livestock, and excepted financial arrangements); and

(b) the opening value of the trading stock for the next income year for the purposes of section DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

Excepted financial arrangements valued at cost

(3) Despite anything in this subpart, the value of any trading stock that is an excepted financial arrangement must be determined under subpart ED (Valuation of excepted financial arrangements).

Defined in this Act: business, excepted financial arrangement, income year, trading stock

Compare: 2004 No 35 s EB 3

EB 4 Trading stock valuation methods

Standard valuation

(1) The standard valuation methods for trading stock are—

(a) cost:

(b) discounted selling price:

(c) replacement price:

(d) market selling value.

Low-turnover valuation

(2) A person who is a low-turnover trader may value closing stock by a method described in section EB 14.

Low value trading stock

(3) In certain circumstances, a person may value closing stock under section EB 23.

Defined in this Act: closing stock, cost, low-turnover trader, trading stock

Compare: 2004 No 35 s EB 4

EB 5 Transfers of trading stock within wholly-owned groups

When this section applies

(1) This section applies in an income year to trading stock held by a company that is part of a wholly-owned group of companies, when—

(a) a group company (**company A**) originally acquires and holds the trading stock; and

(b) from the time it is acquired to the end of the income year, the trading stock is held within the group by a company or companies that are resident in New Zealand; and

(c) through transfers within the group, another group company (**company B**) holds the trading stock at the end of the income year; and

(d) company A and company B remain part of the group at the end of the income year; and

(e) either—

(i) the income years of company A and company B end on the same date; or

(ii) they end on different dates, and the Commissioner has approved both dates as corresponding to the end of a business cycle and as necessary to avoid material distortion of net income that would occur if the income years ended on the same date.

Choice of treatment

(2) Company B may choose to value the closing stock at the cost of the trading stock to company A.

When company stops being part of group

(3) If the companies stop being part of the same wholly-owned group, company B is treated as disposing of and reacquiring the trading stock for its market value at the time. If the market value of the trading stock cannot be determined separately from other property, its market value at the time company B acquired it is treated as its value.

Defined in this Act: business, closing stock, Commissioner, company, cost, income year, market value, net income, resident in New Zealand, trading stock, wholly-owned group of companies

Compare: 2004 No 35 s EB 5

Standard valuation

EB 6 Cost

Valuation at cost

(1) A person may determine the value of their closing stock at cost. If the person chooses this method, they must include and allocate costs under generally accepted accounting practice or as described in subsection (1B)(b).

Valuation at cost: agricultural produce

(1B) Despite subsection (1), a person who uses NZIAS 41 for their trading stock in their financial statements must—

(a) value their closing stock at cost; and

(b) include and allocate costs so that the value of their closing stock is not materially different from the value of the closing stock obtained by applying NZIAS 2, ignoring paragraph 20 of NZIAS 2.

Whether valuation correct

(2) For the purposes of subsection (1), the person has not complied with generally accepted accounting practice if the value of closing stock is materially different from the value obtained by applying, to the closing stock, NZIAS 2 or an equivalent standard issued in its place.

Definition

(3) In this section, **NZIAS 41** means New Zealand Equivalent to International Accounting Standard 41, in effect under the Financial Reporting Act 2013 as amended from time to time, or an equivalent standard issued in its place.

Defined in this Act: closing stock, cost, generally accepted accounting practice, NZIAS 2, NZIAS 41

Compare: 2004 No 35 s EB 6

Section EB 6(1): amended, on 1 April 2008, by section 349(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 6(1B) heading: inserted, on 1 April 2008, by section 349(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 6(1B): inserted, on 1 April 2008, by section 349(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 6(2): amended, on 1 April 2008, by section 349(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 6(3) heading: inserted, on 1 April 2008, by section 349(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 6(3): inserted, on 1 April 2008, by section 349(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 6(3): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EB 6 list of defined terms **NZIAS 2**: inserted, on 1 April 2008, by section 349(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 6 list of defined terms **NZIAS 41**: inserted, on 1 April 2008, by section 349(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EB 7 Cost allocation: cost-flow method

When this section applies: first case

(1) This section applies when a person who determines the value of their closing stock at cost has items of trading stock that are not separately identifiable.

Compulsory use of cost-flow method

(2) The person must use 1 of the cost-flow methods described in subsection (5) to identify the items of trading stock included in closing stock and to determine the cost of the items.

When this section applies: second case

(3) This section also applies when a person who determines the value of their closing stock at cost has items of trading stock that are separately identifiable.

Discretionary use of cost-flow method

(4) The person may use 1 of the cost-flow methods described in subsection (5) to determine the cost of the items of trading stock.

Cost-flow methods

(5) The cost-flow methods of allocating costs are—

(a) the first-in first-out cost method; and

(b) the weighted average cost method.

Consistent use

(6) A person who determines the value of their closing stock at cost must use the same cost-flow method of allocating costs as they use in their financial statements for the income year.

Defined in this Act: closing stock, cost, financial statements, income year, trading stock

Compare: 2004 No 35 s EB 7

EB 8 Cost allocation: budgeted method or standard cost method

When this section applies

(1) This section applies when a person—

(a) has a business of manufacturing or producing trading stock; and

(b) determines the value of their closing stock at cost; and

(c) allocates costs by—

(i) a budgeted method; or

(ii) a standard cost method; and

(d) is not a low-turnover trader to whom section EB 17(3) applies.

Apportionment of difference required

(2) If any difference arises between the estimated costs of production included in the financial statements of the business for the income year and the actual costs of production, the person must apportion the difference between the cost of trading stock sold or exchanged during the income year and the closing stock.

Defined in this Act: business, closing stock, cost, financial statements, income year, low-turnover trader, trading stock

Compare: 2004 No 35 s EB 8

Section EB 8(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EB 9 Discounted selling price

Valuation at discounted selling price

(1) A person may determine the value of their closing stock at its discounted selling price if they use discounted selling price for their trading stock in their financial statements.

Retailers

(2) If the person is a retailer, the discounted selling price for each department or category of goods is the total of the retail selling prices of the goods minus the normal gross profit margin for the department or category of goods. This subsection is overridden by subsection (4).

Normal gross profit margin for purposes of subsection (2)

(3) For the purposes of subsection (2), the person must—

(a) calculate the normal gross profit margin for the department or category of goods under NZIAS 2 or an equivalent standard issued in its place; and

(b) calculate the normal gross profit margin for each income year for each department or category of goods; and

(c) include all costs that sections EB 6 to EB 8 require to be included.

Retailers with turnover of $1,000,000 or less

(4) A trader who is a retailer whose turnover is $1,000,000 or less may determine the discounted selling price of all closing stock valued under this method in an income year by discounting the total of the retail selling prices of the stock by the average gross profit margin for all closing stock valued under this method in the income year.

Increase in specified sum

(5) The Governor-General may make an Order in Council increasing the sum specified in subsection (4).

Secondary legislation

(5B) An Order in Council under subsection (5) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Not retailers

(6) If the person is not a retailer, the discounted selling price for each category of goods is the total market selling value of the goods minus the normal gross profit margin for the category of goods.

Normal gross profit margin for purposes of subsection (6)

(7) For the purposes of subsection (6), the person must—

(a) calculate the normal gross profit margin for each income year for each category of goods; and

(b) include all costs that sections EB 6 to EB 8 require to be included.

Defined in this Act: closing stock, cost, financial statements, income year, NZIAS 2, trading stock, turnover

Compare: 2004 No 35 s EB 9

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EB 9(3)(a): amended, on 1 April 2008, by section 350(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 9(5B) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EB 9(5B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EB 9 list of defined terms **NZIAS 2**: inserted, on 1 April 2008, by section 350(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EB 10 Replacement price

Valuation at replacement price

(1) A person may determine the value of their closing stock at its replacement price if they use replacement price for their trading stock in their financial statements.

Establishing replacement price

(2) The replacement price—

(a) is—

(i) the market value of the trading stock on the last day of the income year; or

(ii) if there is no such market value, the last price that the person paid during the income year to acquire equivalent trading stock; and

(b) does not include an amount of input tax for the supply of the replacement trading stock to the person.

Defined in this Act: closing stock, financial statements, income year, input tax, trading stock

Compare: 2004 No 35 s EB 10

EB 11 Market selling value

Valuation at market selling value

(1) A person may determine the value of their closing stock at its market selling value if the market selling value is less than the cost of the stock.

Establishing market selling value

(2) The market selling value of closing stock is found by taking the amount that the person would normally expect to receive in the ordinary course of business from the sale of the trading stock and subtracting the following costs:

(a) the estimated costs of completion; and

(b) the expected costs of selling it.

Expected costs of selling

(3) For the purposes of subsection (2)(b), the expected costs of selling the stock are the costs that the person usually incurs for the following:

(a) transport:

(b) insurance:

(c) sales commissions:

(d) discounts to buyers.

Expected costs of selling: financial statements

(4) For the purposes of subsection (3), if the person prepares financial statements, the costs must have been taken into account in the statements in calculating net realisable value.

Substantiating market selling value

(5) If the person uses market selling value to value closing stock, they must be able to substantiate that value. If they cannot, they must use 1 of the following to value their closing stock:

(a) cost, as described in sections EB 6 to EB 8 or EB 15 to EB 18; or

(b) discounted selling price, as described in section EB 9 or EB 19; or

(c) replacement price, as described in section EB 10 or EB 20.

Defined in this Act: amount, business, closing stock, cost, financial statements, trading stock

Compare: 2004 No 35 s EB 11

EB 12 Valuing closing stock consistently

In determining the value of closing stock at cost, discounted selling price, or replacement price, a person must comply with the consistency and disclosure requirements of NZIAS 8 or an equivalent standard issued in its place.

Defined in this Act: closing stock, cost, NZIAS 8

Compare: 2004 No 35 s EB 12

Section EB 12: amended, on 1 April 2008, by section 351(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 12 list of defined terms **NZIAS 8**: inserted, on 1 April 2008, by section 351(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Low-turnover valuation

EB 13 Low-turnover valuation

Options

(1) A person who is a low-turnover trader may value closing stock—

(a) by a standard valuation method, as described in sections EB 6 to EB 12; or

(b) by a low-turnover valuation method, as described in sections EB 14 to EB 22; or

(c) as low value trading stock, in the circumstances described in section EB 23.

Meaning of low-turnover trader

(2) In this subpart, **low-turnover trader** means a person who carries on a business when, in an income year, the total of the turnover of the business and the turnover of associated persons, as defined in sections YB 2 and YB 3 (which contain definitions of associated persons), is no more than the greater of—

(a) $3,000,000; and

(b) the sum specified by the Governor-General by Order in Council.

Increase in specified sum

(3) The Governor-General may make an Order in Council increasing the sum specified in subsection (2)(a).

Secondary legislation

(4) An Order in Council under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: associated person, business, closing stock, income year, low-turnover trader, turnover

Compare: 2004 No 35 s EB 13

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EB 13(2): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 113(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EB 13(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EB 13(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EB 14 Low-turnover valuation methods

The low-turnover valuation methods are—

(a) cost for low-turnover traders; and

(b) discounted selling price for low-turnover traders; and

(c) replacement price for low-turnover traders; and

(d) market selling value for low-turnover traders.

Defined in this Act: cost, low-turnover trader

Compare: 2004 No 35 s EB 14

EB 15 Cost for low-turnover traders

A low-turnover trader may determine the value of their closing stock at cost. If the low-turnover trader chooses this method, they must include and allocate costs under—

(a) generally accepted accounting practice; or

(b) section EB 16; or

(c) section EB 17; or

(d) section EB 18.

Defined in this Act: closing stock, cost, generally accepted accounting practice, low-turnover trader

Compare: 2004 No 35 s EB 15

EB 16 Cost allocation: cost-flow method for low-turnover traders

Section EB 7(1) to (5) applies to a low-turnover trader.

Defined in this Act: cost, low-turnover trader

Compare: 2004 No 35 s EB 16

EB 17 Costs: manufactured or produced stock of low-turnover traders

When this section applies

(1) This section applies when a low-turnover trader—

(a) has a business of manufacturing or producing trading stock; and

(b) determines the value of their closing stock at cost.

Costs to be included

(2) In determining the value of their closing stock, the low-turnover trader must include the following costs of production:

(a) direct and indirect material costs:

(b) direct and indirect labour costs:

(c) utilities costs:

(d) costs of repairing and maintaining factory plant:

(e) costs of rent of factory plant:

(f) amounts of depreciation loss on factory plant:

(g) costs additional to those described in paragraphs (a) to (f), if—

(i) they are costs of production; and

(ii) the low-turnover trader includes them in the financial statements for the income year.

Apportionment of difference not required

(3) If the low-turnover trader allocates costs by a budgeted method or a standard cost method, and if any difference arises between the estimated costs of production included in the financial statements of the business for the income year and the actual costs of production, the low-turnover trader is not required to apportion the difference between the cost of trading stock sold or exchanged during the income year and the closing stock.

Defined in this Act: amount, business, closing stock, cost, depreciation loss, financial statements, income year, low-turnover trader, trading stock

Compare: 2004 No 35 s EB 17

Section EB 17(3): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EB 18 Costs: other stock of low-turnover traders

When this section applies

(1) This section applies when a low-turnover trader—

(a) acquires trading stock other than by manufacture or production; and

(b) determines the value of their closing stock at cost.

Costs to be included

(2) In determining the value of their closing stock, the low-turnover trader must include the following costs:

(a) the acquisition cost; and

(b) any direct transport and insurance costs that they incur in bringing the stock to the place and condition in which they have it.

Defined in this Act: closing stock, cost, low-turnover trader, trading stock

Compare: 2004 No 35 s EB 18

Section EB 18(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EB 19 Discounted selling price for low-turnover traders

Financial statements prepared

(1) A low-turnover trader who prepares financial statements may determine the value of their closing stock at its discounted selling price if they use discounted selling price for their trading stock in their financial statements.

Financial statements not prepared

(2) A low-turnover trader who does not prepare financial statements may determine the value of their closing stock at its discounted selling price.

Retailers with turnover of more than $1,000,000

(3) If the low-turnover trader is a retailer whose turnover is more than $1,000,000, the discounted selling price for each department or category of goods is the total of the retail selling prices of the goods minus the normal gross profit margin for the department or category of goods.

Normal gross profit margin for purposes of subsection (3)

(4) For the purposes of subsection (3), the low-turnover trader must—

(a) calculate the normal gross profit margin for the department or category of goods under NZIAS 2 or an equivalent standard issued in its place; and

(b) calculate the normal gross profit margin for each income year for each department or category of goods; and

(c) include all costs that sections EB 16 to EB 18 require to be included.

Not retailers

(5) If the low-turnover trader is not a retailer, the discounted selling price for each category of goods is the total market selling value of the goods minus the normal gross profit margin for the category of goods.

Normal gross profit margin for purposes of subsection (5)

(6) For the purposes of subsection (5), the low-turnover trader must—

(a) calculate the normal gross profit margin for each income year for each category of goods; and

(b) include all costs that sections EB 16 to EB 18 require to be included.

Defined in this Act: closing stock, cost, financial statements, income year, low-turnover trader, NZIAS 2, trading stock, turnover

Compare: 2004 No 35 s EB 19

Section EB 19(4)(a): amended, on 1 April 2008, by section 352(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 19 list of defined terms **NZIAS 2**: inserted, on 1 April 2008, by section 352(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EB 20 Replacement price for low-turnover traders

Financial statements prepared

(1) A low-turnover trader who prepares financial statements may determine the value of their closing stock at its replacement price if they use replacement price for their trading stock in their financial statements.

Financial statements not prepared

(2) A low-turnover trader who does not prepare financial statements may determine the value of their closing stock at its replacement price.

Establishing replacement price

(3) The replacement price is—

(a) the market value of the trading stock on the last day of the income year; or

(b) the last price that the low-turnover trader paid during the income year to acquire equivalent trading stock.

Defined in this Act: financial statements, income year, low-turnover trader, trading stock

Compare: 2004 No 35 s EB 20

EB 21 Market selling value for low-turnover traders

Valuation at market selling value

(1) A low-turnover trader may determine the value of their closing stock at its market selling value, whether that value is higher or lower than cost. However, if the value is higher than cost, the trader must be consistent from 1 income year to the next in their use of market selling value to determine the value of closing stock.

Establishing market selling value

(2) Section EB 11(2) to (4) applies to a low-turnover trader.

Defined in this Act: closing stock, cost, income year, low-turnover trader

Compare: 2004 No 35 s EB 21

EB 22 Valuing closing stock consistently for low-turnover traders

Traders complying with generally accepted accounting practice

(1) In determining the value of closing stock at cost, discounted selling price, or replacement price, a low-turnover trader who complies with generally accepted accounting practice must comply with the consistency and disclosure requirements of NZIAS 8 or an equivalent standard issued in its place.

Other traders

(2) A low-turnover trader who does not comply with generally accepted accounting practice must be consistent from 1 income year to the next in—

(a) their choice of valuing closing stock at cost, discounted selling price, or replacement price; and

(b) their use of market selling value, if it is greater than cost; and

(c) their use of a cost-flow method of allocating costs under section EB 7(1) to (5); and

(d) the extent to which they include indirect costs in the cost of trading stock that they manufacture or produce; and

(e) their method of calculating discounted selling price.

When changes allowed

(3) A low-turnover trader to whom subsection (2) applies may make changes in relation to the matters described in the subsection if—

(a) the change is justified by sound commercial reasons and for this purpose, the advancement, deferral, or reduction of an income tax liability is not a sound commercial reason; or

(b) the change is required by another provision in this subpart.

Records

(4) A low-turnover trader who makes a change as described in subsection (3) must keep sufficient details of the change, and the reasons for the change, under section 22 of the Tax Administration Act 1994.

Defined in this Act: closing stock, cost, generally accepted accounting practice, income tax liability, income year, low-turnover trader, NZIAS 8, trading stock

Compare: 2004 No 35 s EB 22

Section EB 22(1): amended, on 1 April 2008, by section 353(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EB 22 list of defined terms **NZIAS 8**: inserted, on 1 April 2008, by section 353(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Low value trading stock

EB 23 Valuing closing stock under $10,000

When this section applies

(1) This section applies when a person, including a low-turnover trader,—

(a) has a turnover of $1,300,000 or less in an income year; and

(b) reasonably estimates that the value of their closing stock for the income year is less than $10,000.

Closing value

(2) The person may use the opening value of their trading stock as the value of their closing stock for the income year.

Defined in this Act: closing stock, income year, low-turnover trader, trading stock, turnover

Compare: 2004 No 35 s EB 23

Section EB 23 heading: amended, on 1 April 2009, by section 5(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EB 23(1)(b): amended, on 1 April 2009, by section 5(2) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Disposal of business assets

[Repealed]

Heading: repealed, on 1 April 2024, by section 54 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EB 24 Apportionment on disposal of business assets that include trading stock

[Repealed]

Section EB 24: repealed, on 1 April 2024, by section 54 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Subpart EC—Valuation of livestock

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Introductory provisions

EC 1 Application of this subpart

When this subpart applies

(1) This subpart applies to the valuation of livestock when—

(a) a person who owns or carries on a farming business, other than a livestock dealing business, holds livestock for the purposes of farming that livestock in the ordinary course of carrying on the farming business:

(b) a person who owns livestock bails that livestock to another person under a bailment, lease, or other agreement.

Groups of livestock

(2) For the purposes of this subpart, livestock is divided into—

(a) specified livestock:

(b) non-specified livestock:

(c) high-priced livestock:

(d) bloodstock.

Defined in this Act: bloodstock, business, high-priced livestock, non-specified livestock, specified livestock

Compare: 2004 No 35 s EC 1

Section EC 1(1) heading: replaced (with effect on 1 April 2008), on 2 November 2012, by section 30(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EC 1(1): replaced (with effect on 1 April 2008), on 29 March 2025, by section 47(1) (and see section 47(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

EC 2 Valuation of livestock

Valuation method

(1) A person must determine the value of their livestock at the end of each income year by a method that is available under this subpart for them to use.

Use of value

(2) The value determined under subsection (1) is—

(a) the closing value of the livestock for the income year for the purposes of section CH 1 (Adjustment for closing values of trading stock, livestock, and excepted financial arrangements); and

(b) the opening value of the livestock for the next income year for the purposes of section DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

Defined in this Act: income year

Compare: 2004 No 35 s EC 2

EC 3 Livestock valuation methods

Specified livestock

(1) The value of specified livestock is determined under sections EC 6 to EC 27.

Non-specified livestock

(2) The value of non-specified livestock is determined under sections EC 28 to EC 31.

High-priced livestock

(3) The value of high-priced livestock is determined under sections EC 32 to EC 37.

Bloodstock

(4) The value of bloodstock is determined under sections EC 38 to EC 48.

Defined in this Act: bloodstock, high-priced livestock, non-specified livestock, specified livestock

Compare: 2004 No 35 s EC 3

EC 4 Transfers of livestock within wholly-owned groups

When this section applies

(1) This section applies in an income year to livestock held by a company that is part of a wholly-owned group of companies, when—

(a) a group company (**company A**) originally acquires and holds the livestock; and

(b) from the time it is acquired to the end of the income year, the livestock is held within the group by a company or companies that are resident in New Zealand; and

(c) through transfers within the group, another group company (**company B**) holds the livestock at the end of the income year; and

(d) company A and company B remain part of the group at the end of the income year; and

(e) either—

(i) the income years of company A and company B end on the same date; or

(ii) they end on different dates, and the Commissioner has approved both dates as corresponding to the end of a business cycle and as necessary to avoid material distortion of net income that would occur if the income years ended on the same date.

Choice of treatment

(2) Company B may choose to value the livestock at the cost of the livestock to company A.

When company stops being part of group

(3) If the companies stop being part of the same wholly-owned group, company B is treated as disposing of and reacquiring the livestock for its market value at the time. If the market value of the livestock cannot be determined separately from other property, its market value at the time company B acquired it is treated as its value.

Defined in this Act: business, Commissioner, company, income year, net income, resident in New Zealand, wholly-owned group of companies

Compare: 2004 No 35 s EC 5

EC 4B Compulsory use of herd scheme method for associated persons

When this section applies

(1) This section applies if, in an income year (the **current year**), a person (the **transferor**) disposes of livestock of a type for which they use the herd scheme (the **transfer**) to an associated person (the **transferee**), and the transfer is not in the ordinary course of business.

When this section does not apply

(2) This section does not apply to the transfer of livestock if,—

(a) the transferor and the transferee would not be associated if the transferee or an associate were not the descendants in relation to the transferor or an associate of the transferor; and

(b) the transfer is at market value and the transfer's consideration is wholly on arm's length commercial terms and conditions, ignoring terms and conditions relating to financing; and

(c) for the transferor and associates of the transferor, but excluding their descended associates,—

(i) all of their specified livestock in the income year of the transfer have been disposed of; and

(ii) they do not derive income from the disposal of specified livestock that are part of a farming business in the next 4 income years.

When this section does not apply: deceased treated as alive and transferor

(3) This section does not apply if it would not apply treating a transfer of livestock to or from the estate of a deceased or under a will of a deceased as a transfer made by the deceased immediately before their death to the relevant transferee. However, this subsection does not apply if the will of the deceased creates a life interest in the relevant livestock.

Compulsory use of herd scheme method

(4) Despite sections EC 7(2), EC 12(1), EC 22(1), and EC 25(1), the transferee is treated as choosing and giving a notice of election, with application beginning for the current year, to use the herd scheme for a type of livestock, if the formula in subsection (5) calculates zero or a positive amount for a class in the type of livestock.

Formula

(5) The formula, for the purposes of subsections (1) and (4), is—

hypothetical end herd scheme amount − minimum herd scheme amount.

Definition of items in formula

(6) In the formula,—

(a) **hypothetical end herd scheme amount** is the lesser of the following 2 amounts, or the first amount if they are the same:

(i) the number of animals in the current year that the person would have of a class (the **relevant class**), adding back animals in all transfers described in subsection (1) that this section would apply to:

(ii) the number of animals of the relevant class that the person valued under the herd scheme at the end of the year before the current year:

(b) **minimum herd scheme amount** is the number of animals of the relevant class that the person has in the current year.

Definitions

(7) In this section,—

(a) **descendant** means the son, daughter, or grandchild of the transferor or of an associate of the transferor:

(b) **descended associate** means—

(i) an associate (the **associate**) of the transferor that would not be associated if the associate or another associate were not descendants in relation to the transferor or another associate of the transferor:

(ii) an associate (the **associate**) of the transferor that carries on a farming business separately from the transferor, and would not be associated if the associate or another associate were not relatives in relation to the transferor or another associate of the transferor.

Defined in this Act: amount, associated, class, descendant, descended associate, herd scheme, income year, notice

Section EC 4B: inserted (with effect on 28 March 2012), on 17 July 2013, by section 39 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EC 4C Value and timing of transfers

When this section applies

(1) This section applies to a transfer (the **transfer**) of specified livestock that section EC 4B applies to.

Same tax year

(2) If the transfer occurs in the same tax year for both the transferor and transferee, then the transfer is treated as a disposal and acquisition at the value of the relevant livestock under the herd scheme at the end of the transferor's corresponding income year.

Different tax year

(3) If the transfer occurs in different tax years for the transferor and transferee, then subsection (4) or (5) applies.

Different tax year: transferee earlier

(4) If the transferee acquires the relevant livestock in a tax year earlier than the tax year in which the transferor disposes of it, then the transfer is treated as a disposal and acquisition at the value of the relevant livestock under the herd scheme at the beginning of the transferor's corresponding income year.

Different tax year: transferee later

(5) If the transferee acquires the relevant livestock in a tax year (the **later tax year**) later than the tax year in which the transferor disposes of it, then—

(a) the transfer is treated as a disposal and acquisition at the value of the relevant livestock under the herd scheme at the end of the transferor's corresponding income year:

(b) for the purposes of the transferee's opening value under section EC 16, the transferee is treated as owning and valuing the relevant livestock under the herd scheme on the last day of the transferee's income year corresponding to the tax year before the later tax year.

Defined in this Act: herd scheme, income year, specified livestock, tax year

Section EC 4C: inserted (with effect on 28 March 2012), on 17 July 2013, by section 39 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EC 5 Transfer of livestock because of self-assessed adverse event

When this section applies

(1) This section applies to livestock that is donated, or supplied for consideration with a value that is less than the market value of the livestock, to a recipient—

(a) for use in a farming or agricultural business that is affected by a self-assessed adverse event; and

(b) by a donor or supplier who is not associated with the recipient.

Treatment by donor or supplier

(2) The donor or supplier must treat the livestock as having, on the day of the transfer of the livestock,—

(a) no value, if the livestock is donated to the recipient:

(b) the value of the consideration provided by the recipient.

Treatment by recipient

(3) The recipient must treat the livestock as having, on the day of the transfer of the livestock,—

(a) no value, if the livestock is donated to the recipient:

(b) the value of the consideration provided by the recipient.

Defined in this Act: market value, self-assessed adverse event

Compare: 2004 No 35 s EC 5B

Valuation of specified livestock

EC 6 Application of sections EC 7 to EC 27

Sections EC 7 to EC 27 set out the rules for valuing specified livestock.

Defined in this Act: specified livestock

Compare: 2004 No 35 s EC 6

EC 7 Valuation methods

Methods

(1) The methods available for valuing specified livestock are—

(a) the herd scheme described in sections EC 14 to EC 21:

(b) the national standard cost scheme described in sections EC 22 to EC 24:

(c) 1 of the cost price, replacement price, or market value methods described in section EC 25:

(d) the method described in section EC 26.

Person chooses

(2) A person must choose which method to use, making their election by using the method chosen in their return of income for the income year.

Election continues

(3) When a person chooses a valuation method, that method continues to apply in the following income years unless they choose another method that is available to them.

Commissioner's determination

(4) If a person chooses a valuation method that is not available to them and they later make no effective election, the Commissioner must determine the method to be used. In doing so, the Commissioner must consult the person.

Restrictions on use of valuation methods

(5) Restrictions apply to the use of valuation methods, as described in sections EC 8 to EC 10.

Exception to subsection (2): express notice required in certain cases

(6) Subsection (2) does not apply to the extent to which an election requires a notice under section EC 11.

Defined in this Act: Commissioner, cost price, herd scheme, income year, national standard cost scheme, notice, return of income, specified livestock

Compare: 2004 No 35 s EC 7

Section EC 7(5) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 40(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 7(5): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 40(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 7(6) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 40(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 7(6) heading: amended, on 2 June 2016, by section 13 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EC 7(6): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 40(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 7 list of defined terms **notice**: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 40(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EC 8 Restrictions arising from use of herd scheme

First restriction

(1) A valuation method other than the herd scheme is not available to a person, in an income year after the 2011–12 income year, for a type of specified livestock if the person—

(a) gives a notice of election, with application beginning for or before the income year, to use the herd scheme for the type of specified livestock; and

(b) does not give before 18 August 2011 a later notice of election, with application beginning for or before the income year, to use another valuation method for the type of specified livestock.

First exception: election after 18 August 2011 for fattening business

(2) Despite subsection (1), a valuation method other than the herd scheme is available to a person in an income year after the 2011–12 income year, if—

(a) the person gives a notice of election as described in subsection (1)(a); and

(b) the person gives, on or after 18 August 2011, a later notice of election to use another valuation method for the relevant type of specified livestock (the **livestock**); and

(c) the later notice is given, with application beginning for the income year (the **starting income year**) in which all female breeding livestock cease being intended to be used for breeding purposes; and

(d) the livestock are used in a fattening farming business for and after the starting income year.

Second exception: increase in a class

(3) Despite subsection (1), a valuation method other than the herd scheme is available to a person in an income year, to the extent of a person's animals of a class, in an income year (the **current year**), that are in excess of the person's class closing animal balance.

A definition and a formula

(4) **Class closing animal balance** means the number of animals of a class calculated using the formula—

last year's class amount + associated class transfers.

Definition of items in formula

(5) In the formula,—

(a) **last year's class amount** is the animals of the relevant class that the person valued under the herd scheme at the end of the year before the current year:

(b) **associated class transfers** is the amount, if positive, calculated under section EC 4B(5), for the relevant class, that are transferred in the current year to the person to the extent to which section EC 4B(4) applies to the type of animals transferred.

Second restriction

(6) A person who values livestock of a particular type under the herd scheme must value all male breeding stock of that type under the herd scheme in an income year if, in the income year, they also value any livestock of that type under the national standard cost scheme or under the cost price method.

Defined in this Act: amount, class, class closing animal balance, cost price, herd scheme, income year, national standard cost scheme, notice

Section EC 8: replaced (with effect on 18 August 2011), on 17 July 2013, by section 41(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(3) heading: replaced (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(3): replaced (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(4) heading: replaced (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(4): replaced (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(5) heading: inserted (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(5): inserted (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(6) heading: inserted (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8(6): inserted (with effect on 28 March 2012), on 17 July 2013, by section 41(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8 list of defined terms **amount**: inserted (with effect on 28 March 2012), on 17 July 2013, by section 41(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8 list of defined terms **class closing animal balance**: inserted (with effect on 28 March 2012), on 17 July 2013, by section 41(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 8 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EC 9 Restrictions on use of national standard cost scheme

National standard cost scheme: first restriction on use of scheme

(1) The national standard cost scheme is not available to a person to value specified livestock in an income year if they value any specified livestock in the income year under the cost price method.

National standard cost scheme: second restriction on use of scheme

(2) The national standard cost scheme is not available to a person to value specified livestock if, in the income year before the income year in which their election under section EC 7(2) is to apply, they have valued specified livestock under the cost price method, and have not given at least 2 income years' notice in the way described in section EC 11 to the Commissioner of their election to value specified livestock under the national standard cost scheme.

National standard cost scheme: third restriction on use of scheme

(3) The national standard cost scheme is not available to a person to value a type of specified livestock in an income year if they have made specified livestock available to another person under a profit-sharing arrangement and, in the income year, the other person, or another person has also made livestock of the type available under the profit-sharing arrangement, values any livestock of the type under the cost price method.

National standard cost scheme: fourth restriction on use of scheme

(4) The national standard cost scheme is not available to a person to value specified livestock in an income year if—

(a) they have bailed the livestock to another person under a long-term bailment not made under a profit-sharing arrangement; or

(b) they have leased the livestock to another person under a long-term bailment not made under a profit-sharing arrangement.

National standard cost scheme: fifth restriction on use of scheme

(5) The national standard cost scheme is not available to a person to value specified livestock in an income year if a determination made under section EC 24 precludes the use of the national standard cost scheme for the livestock.

Defined in this Act: Commissioner, cost price, income year, lease, long-term bailment, national standard cost scheme, notice, profit-sharing arrangement, specified livestock, type

Compare: 2004 No 35 s EC 9

Section EC 9 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EC 10 Restrictions on use of cost price method

Cost price method: first restriction on use of method

(1) The cost price method is not available to a person to value specified livestock in an income year if the person values other specified livestock in the income year under the national standard cost scheme.

Cost price method: second restriction on use of method

(2) The cost price method is not available to a person to value specified livestock if, in the income year before the income year in which their election under section EC 7(2) is to apply, they have valued specified livestock under the national standard cost scheme and have not given 2 income years' notice in the way described in section EC 11 to the Commissioner of their election to value specified livestock under the cost price method.

Cost price method: third restriction on use of method

(3) The cost price method is not available to a person to value specified livestock in an income year if they have bailed or leased their specified livestock to another person, unless the livestock is bailed or leased under a profit-sharing arrangement.

Cost price method: fourth restriction on use of method

(4) The cost price method is not available to a person to value specified livestock in an income year if they have bailed or leased their specified livestock to another person—

(a) under a long-term bailment; or

(b) under a short-term bailment made between associated persons in which the consideration paid to the bailee is not a fair market value.

Cost price method: fifth restriction on use of method

(5) The cost price method is not available to a person to value a type of specified livestock in an income year if they have made specified livestock available to another person under a profit-sharing arrangement and, in the income year, the other person, or another person has also made livestock of the type available under the profit-sharing arrangement, values any livestock of the type under the national standard cost scheme.

Defined in this Act: associated person, Commissioner, cost price, income year, lease, long-term bailment, national standard cost scheme, notice, profit-sharing arrangement, short-term bailment, specified livestock, type

Compare: 2004 No 35 s EC 10

Section EC 10 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EC 11 Restrictions on making of elections

Forms of notice

(1) This section specifies the 2 forms of notice that a person must give to the Commissioner and when each must be used. When a person notifies the Commissioner of an election under this section, the election is irrevocable in the first income year in which it applies.

When notice in same year required

(2) For the elections described in this subsection, a person must give notice by the date of filing their return of income for the income year in which the election is first to apply. The elections are—

(a) an election to value livestock of a particular type under the herd scheme, as described in section EC 14; and

(b) an election to adopt a herd value ratio or the Chatham Islands adjustment to the herd value ratio for livestock of any type when the income year is the first income year in which the particular livestock is valued under the herd scheme, as described in sections EC 17 to EC 19; and

(c) a later election, described in section EC 8(2)(b) and (c), to value livestock of a particular type under a valuation method other than the herd scheme.

When 2 years' notice required

(3) For the elections described in this subsection, a person must give notice by the date of filing their return of income for an income year that is at least 2 income years before the income year in which the election is first to apply. The elections are—

(a) an election to stop valuing specified livestock of a particular type under the herd scheme, except when the person continues to value some livestock of that type under the herd scheme or when another valuation method is available, as described in section EC 14(2); and

(b) an election, after the herd scheme has been adopted, to adopt a herd value ratio or recalculated herd value ratio or the Chatham Islands adjustment for any livestock type, as described in sections EC 17 to EC 19; and

(c) an election to value specified livestock under the national standard cost scheme when the person has, in the income year before the application of the new election, valued the same livestock under the cost price method; and

(d) an election to value specified livestock under the cost price method when the person has, in the year before the application of the new election, valued the same livestock under the national standard cost scheme.

Information for notices of election

(4) A notice of election must state—

(a) the income year in which the election is first to apply; and

(b) the type, class, or other description of the applicable livestock; and

(c) the existing and proposed methods of valuing the applicable livestock; and

(d) for an election to use a herd value ratio or recalculated herd value ratio under section EC 17,—

(i) the value assessed under section EC 17(4) of an average animal of each applicable class of livestock; and

(ii) the date on which the valuation of each animal was made; and

(iii) the name and address of the valuer.

Defined in this Act: class, Commissioner, cost price, herd scheme, herd value ratio, income year, national standard cost scheme, notice, notify, return of income, specified livestock, type

Compare: 2004 No 35 s EC 11

Section EC 11(2)(b): amended (with effect on 18 August 2011), on 17 July 2013, by section 42 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 11(2)(c): inserted (with effect on 18 August 2011), on 17 July 2013, by section 42 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EC 12 Interests in livestock

Joint election of valuation method

(1) When specified livestock is owned jointly by 2 or more persons, the owners must choose a valuation method. For the election to be effective, it must be made jointly by all the owners.

Ineffective election

(2) If there is no effective election, specified livestock owned jointly is valued as follows:

(a) if the owners bail or lease the livestock to another person during the income year, under the market value method; or

(b) if the owners enter into a profit-sharing arrangement for the livestock, under the market value method; or

(c) in any other case, under the national standard cost scheme.

Profit-sharing arrangements

(3) If the method used in an income year to calculate the value of livestock under a profit-sharing arrangement is the national standard cost scheme or the cost price method, all the following are treated as the single owner of the livestock:

(a) the person who owns the livestock; and

(b) the person who has the use of the livestock; and

(c) any other person who has made livestock of the same type available to the person referred to in paragraph (b) under a profit-sharing arrangement.

Partnerships interests

(4) For the purpose of an election under this section, a person's interest in a partnership that owns livestock is treated separately from any other interest that the person has in livestock. Separate elections are required for the person's partnership interest and for their other livestock interests. The person is not required to choose the same valuation method in both cases.

Look-through company owners' interests

(5) For the purposes of an election under this section, a person's interest for a look-through company that owns livestock is treated separately from any other interest that the person has in livestock. Separate elections are required for the person's owner's interest and for their other livestock interests. The person is not required to choose the same valuation method in both cases.

Defined in this Act: cost price, income year, lease, look-through company, national standard cost scheme, owner's interests, profit-sharing arrangement, specified livestock, type

Compare: 2004 No 35 s EC 12

Section EC 12(5) heading: added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 46(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EC 12(5): added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 46(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EC 12 list of defined terms **look-through company**: inserted, on 1 April 2011, by section 46(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EC 12 list of defined terms **owner's interests**: inserted, on 1 April 2011, by section 46(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

EC 13 Changes in partnership interests

When this section applies

(1) This section applies when—

(a) a partnership owns specified livestock (the **old partnership**); and

(b) a new partnership is formed (the **new partnership**); and

(c) at the end of the income year in which the new partnership is formed, more than 50% of the property of the new partnership is owned by persons who, during that income year or in the previous income year,—

(i) owned all the property of the old partnership; and

(ii) derived income in either income year from specified livestock of the same type as that owned by the new partnership.

Valuation

(2) The value of specified livestock owned by the new partnership must be taken into account in the way the old partnership determines the value of livestock of the particular type at the end of the income year in which the new partnership is formed. If the old partnership has no specified livestock of the type on hand at the end of the income year, the value is taken into account as the old partnership would have determined it, had it owned specified livestock of that type.

Defined in this Act: income, income year, specified livestock, type

Compare: 2004 No 35 s EC 13

Herd scheme

EC 14 Herd scheme

Election to use herd scheme

(1) A person may choose to value specified livestock of any type and class under the herd scheme.

Election of other method

(2) A person who has chosen to value livestock of a particular type under the herd scheme may nevertheless value livestock of that type by another method, subject to the restrictions described in section EC 8.

Election to leave herd scheme

(3) A person who wishes to stop valuing livestock of a particular type under the herd scheme must give 2 income years' notice to the Commissioner in the way described in section EC 11. However, notice is not required if the person values livestock of that type by another method that is available for use in conjunction with the herd scheme.

Defined in this Act: class, Commissioner, herd scheme, income year, notice, specified livestock, type

Compare: 2004 No 35 s EC 14

EC 15 Determining national average market values

Determined by Commissioner

(1) The Commissioner must determine a **national average market value** for an income year for each class of specified livestock set out in schedule 17, column 2 (Types and classes of livestock).

Application to income year

(2) The value applies to the income year for which it is determined, whether the income year started before, on, or after the date on which the determination is made.

Secondary legislation

(3) A determination under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: class, Commissioner, income year, national average market value, specified livestock

Compare: 2004 No 35 s EC 15

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EC 15(3) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EC 15(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EC 16 Valuation under herd scheme

Closing value of herd livestock

(1) The closing value of herd livestock in an income year is either its herd value for the income year or, if a herd value ratio is adopted, its herd value multiplied by its herd value ratio.

Opening value of herd livestock

(2) The opening value of herd livestock in an income year is determined under subsection (3) if a person—

(a) has valued the livestock under the herd scheme in the previous income year; and

(b) has the livestock on hand at the start of the income year; and

(c) has not chosen to value the livestock by a different method for the income year.

Determining opening value

(3) The opening value of herd livestock in an income year is either its herd value for the income year or, if the person has adopted a herd value ratio, its herd value for the income year multiplied by its herd value ratio for the previous income year. This subsection overrides section DB 49(3) (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

Defined in this Act: herd livestock, herd scheme, herd value, herd value ratio, income year

Compare: 2004 No 35 s EC 16

Section EC 16(3): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 22(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

EC 17 Herd value ratio

Adoption of herd value ratio

(1) A herd value ratio is available for a person to use in determining the value of specified livestock in the herd scheme. A person may adopt a herd value ratio for herd livestock of a particular type by giving notice in the way described in section EC 11. A person may also adopt a recalculated ratio by giving notice in the same way.

Chatham Islands livestock

(2) Herd value ratios calculated under subsection (5) do not apply to livestock on the Chatham Islands. The Chatham Islands adjustment to the herd value ratio is dealt with in section EC 19.

When herd value ratio applies

(3) When a person adopts a herd value ratio for livestock of a particular type, the ratio applies in the income year specified in the notice and in later income years until—

(a) the income year in which it is superseded by a recalculation of the ratio; or

(b) the income year in which the person stops valuing, under an election, livestock of that type under the herd scheme; or

(c) the income year following 2 consecutive income years in which the person has not valued livestock of that type under the herd scheme.

Assessment of average value

(4) For the purpose of calculating a herd value ratio, a person must obtain from a recognised livestock valuer an assessment of the value of an average animal of that person in each applicable class of livestock. The value is determined as at the 30 April that is closest to the day on which the national average market values are set.

Calculation of herd value ratio

(5) The herd value ratio for livestock of a particular type is calculated by using the formula in subsection (6) and rounding the result of the calculation to the nearest of the following figures: 0.9, 1.0, 1.1, 1.2, 1.3.

Formula

(6) The formula is—

$$\Sigma(\text{average value} \times \text{number}) \div \Sigma(\text{herd value} \times \text{number}).$$

Definition of items in formula

(7) In the formula,—

(a) **Σ** is the total of the individual calculations for all applicable classes of livestock type valued under the herd scheme:

(b) **average value** is the average value of an animal in a class as described in subsection (4):

(c) **number** is the number of all livestock of that class on hand at the end of the income year, including livestock that are not in the herd scheme, but not including high-priced livestock:

(d) **herd value** is the herd value of livestock for a class.

Defined in this Act: class, herd livestock, herd scheme, herd value, herd value ratio, high-priced livestock, income year, livestock on the Chatham Islands, national average market value, notice, specified livestock, type

Compare: 2004 No 35 s EC 17

EC 18 Inaccurate herd value ratio

The Commissioner may require a person who is using an inaccurate herd value ratio for a type of livestock in an income year to recalculate the herd value ratio. If the recalculation differs from the existing ratio for the income year, the Commissioner may amend the assessment of income tax for the income year and any later income year and may substitute the recalculated herd value ratio for that previously applied by the person.

Defined in this Act: assessment, Commissioner, herd value ratio, income tax, income year, type

Compare: 2004 No 35 s EC 18

EC 19 Chatham Islands adjustment to herd value

Adjustment for herd livestock on Chatham Islands

(1) A person may adopt an adjustment for herd livestock on the Chatham Islands by giving notice in the way described in section EC 11.

When adjustment applies

(2) When a person adopts a Chatham Islands adjustment as a herd value ratio, it applies as a herd value ratio to a particular type of livestock on the Chatham Islands at the end of the income year specified in the notice and in later income years until—

(a) the income year in which the person stops valuing, under an election, livestock of that type in the herd scheme; or

(b) the income year following 2 consecutive income years in which the person has not valued livestock of that type on the Chatham Islands under the herd scheme.

Setting adjustment

(3) The Commissioner must set and may vary from time to time the level of Chatham Islands adjustment to the herd value ratio that applies in an income year.

Secondary legislation

(4) The instrument that sets or varies an adjustment under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: Commissioner, herd livestock, herd scheme, herd value, herd value ratio, income year, livestock on the Chatham Islands, notice, type

Compare: 2004 No 35 s EC 19

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EC 19(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EC 19(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EC 20 Herd livestock disposed of before values determined

When this section applies

(1) This section applies when, in an income year, a person—

(a) stops deriving income from the disposal of specified livestock; and

(b) disposes of specified livestock before the 1 November that precedes the determination of the national average market values for the income year; and

(c) *[Repealed]*

When this section does and does not apply

(1B) This section does not apply when, in an income year, a person's specified livestock is disposed of, and section EC 4B(4) applies to the transfer. However, if section EC 4C(4) applies to the transfer, then this section may apply.

Value of herd livestock

(2) The value of herd livestock that is disposed of is either the herd value of the livestock for the previous income year or, if the person has adopted a herd value ratio, the herd value multiplied by the herd value ratio applying in the previous income year.

Defined in this Act: Commissioner, herd livestock, herd value, herd value ratio, income, income year, national average market value, notice, specified livestock

Compare: 2004 No 35 s EC 20

Section EC 20(1)(a): amended (with effect on 1 April 2012 and applying for the 2012–13 and later income years), on 17 July 2013, by section 43(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 20(1)(b): amended (with effect on 1 April 2012 and applying for the 2012–13 and later income years), on 17 July 2013, by section 43(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 20(1)(c): repealed (with effect on 1 April 2012 and applying for the 2012–13 and later income years), on 17 July 2013, by section 43(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 20(1B) heading: inserted (with effect on 1 April 2012 and applying for the 2012–13 and later income years), on 17 July 2013, by section 43(4) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EC 20(1B): inserted (with effect on 1 April 2012 and applying for the 2012–13 and later income years), on 17 July 2013, by section 43(4) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EC 21 Herd livestock on death before values determined

[Repealed]

Section EC 21: repealed (with effect on 28 March 2012), on 17 July 2013, by section 44 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

National standard cost scheme

EC 22 National standard cost scheme

Election to use national standard cost scheme

(1) A person may choose to value specified livestock under the **national standard cost scheme**, subject to the restrictions described in section EC 9.

Closing value

(2) The closing value of the livestock is the cost of the livestock calculated under the determination made by the Commissioner under section EC 24.

Defined in this Act: Commissioner, national standard cost scheme, specified livestock

Compare: 2004 No 35 s EC 22

EC 23 Determining national standard costs

Determination of costs

(1) The Commissioner must determine national standard costs for each category of specified livestock in schedule 18 (Categories of livestock for which national

standard costs to be declared). The determination must take into account, as applicable,—

(a) the average breeding, rearing, and growing costs for animals in the category; and

(b) the average rearing and growing costs for animals in the category.

Application to income year

(2) The national standard costs apply to the income year for which they are determined, whether the income year started before, on, or after the date on which the determination is made.

Secondary legislation

(3) A determination under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: Commissioner, income year, specified livestock

Compare: 2004 No 35 s EC 23

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EC 23(3) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EC 23(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EC 24 Methods for determining costs using national standard cost scheme

Determination of methods for calculation of cost

(1) The Commissioner must determine the methods for calculating the cost of livestock listed in schedule 18, column 2 (Categories of livestock for which national standard costs to be declared).

Average cost

(2) For the purposes of subsection (1), the determination must establish a process for finding an average cost to be applied to all specified livestock valued under the national standard cost scheme. The process must take into account—

(a) the number of homebred livestock that a person has on hand at any time in an income year, applying to the number the relevant national standard costs determined under section EC 23:

(b) in addition to paragraph (a), the number in each category of livestock listed in schedule 18, column 2 that a person has on hand at any time in an income year, applying to the number the relevant national standard costs determined under section EC 23:

(c) the number of livestock acquired other than by way of being homebred, applying to the number the acquisition costs associated with the livestock.

Content of determination

(3) The matters that may be included in the determination are set out in section 91AAD of the Tax Administration Act 1994.

Secondary legislation

(4) A determination under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: Commissioner, income year, national standard cost scheme, specified livestock

Compare: 2004 No 35 s EC 24

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EC 24(2)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 24(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EC 24(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Other methods

EC 25 Cost price, replacement price, or market value

Election

(1) A person may choose to value specified livestock under the cost price method, subject to the restrictions described in section EC 10, or under the replacement price method, or under the market value method.

Changing to cost price method

(2) If a person chooses in an income year to change to the cost price method from another valuation method, the opening value of the affected livestock is the closing value of the livestock at the end of the previous income year determined under the method used in that previous income year.

Defined in this Act: cost price, income year, specified livestock

Compare: 2004 No 35 s EC 25

EC 26 Bailee's treatment of livestock

When this section applies

(1) This section applies when, under a bailment, lease, or other agreement,—

(a) a person (**person A**) has the use of specified livestock; and

(b) person A is required—

(i) to return the livestock to the person who made it available; or

(ii) to pay the person full compensation for it.

Closing livestock numbers

(2) Person A is treated as owning, and must take into account at the end of an income year, the total number for all classes calculated using the formula—

total livestock − bailed livestock.

Definition of items in formula

(3) In the formula,—

(a) **total livestock** is all the livestock that person A has on hand in a class at the end of the income year, including—

(i) the livestock that they own; and

(ii) the livestock that they have the use of under the bailment, lease, or other agreement:

(b) **bailed livestock** is all the livestock in a class that person A has been given the use of under a bailment, lease, or other agreement that remains in force at the end of the income year.

Result of applying formula

(4) If the result of applying the formula in subsection (2) is positive, person A is treated as the owner of any surplus livestock. If the result is negative, person A must adjust the total number described in subsection (2) by treating it as a negative number.

Defined in this Act: class, income year, lease, pay, specified livestock

Compare: 2004 No 35 s EC 26

Partnerships: cost price and national standard cost scheme

Heading: inserted (with effect on 1 April 2009), on 6 October 2009, by section 114(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EC 26B Entering partners' cost base

When this section applies

(1) This section applies when an entering partner has acquired specified livestock that includes female breeding livestock for which section HG 10 (Disposal of livestock) applies, and the partners use the cost price method or the national standard cost scheme.

Existing cost base

(2) For the specified livestock, the entering partner is treated as having the same existing cost base that the exiting partner would have had for the purposes of the cost price method or national standard cost scheme for an income year, if they had not disposed of the interests.

Addition to cost base

(3) For the purposes of determining the value of the specified livestock at the end of an income year for the purposes of section EC 2, the entering partner must add to the existing cost base, described in subsection (2), the amount for the income year (the **current year**) calculated using the following formula:

livestock cost base difference × current year count ÷ allowed years.

Definition of items in formula

(4) In the formula,—

(a) **livestock cost base difference** is the cost base that the entering partner would have for the specified livestock at the end of the income year in which the acquisition of the specified livestock occurred, ignoring subsection (2) reduced by the entering partner's existing cost base for the specified livestock at the end of that year, described in subsection (2). It must be a positive number:

(b) **current year count**,—

(i) is the allowed years reduced by the number of years between the current year and the income year in which the entering partner's acquisition of the specified livestock occurred, ignoring years in which the partners do not use the cost price method or national standard cost scheme (for example: **current year count** is **1**, if the allowed years is **4**, and the acquisition of the specified livestock occurred in the 2010–11 income year, and the current year is the 2013–14 income year, and the relevant method or scheme was used for all relevant income years):

(ii) may equal the allowed years (for example: the current year is the same year as the income year in which the entering partner's acquisition of the specified livestock occurred), but must not be a negative number:

(c) **allowed years** is—

(i) 4, if the partners acquire or dispose of any partnership interests that include any livestock after the entering partner's acquisition of the specified livestock and before the end of the income year in which that acquisition occurred; or

(ii) 5, if the partners do not acquire or dispose of any partnership interests that include any livestock after the entering partner's

acquisition of the specified livestock and before the end of the income year in which that acquisition occurred.

Defined in this Act: amount, cost price, dispose, entering partner, exiting partner, income year, national standard cost scheme, partner, partner's interest, specified livestock

Section EC 26B: inserted (with effect on 1 April 2009), on 6 October 2009, by section 114(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EC 26B list of defined terms **entering partner**: inserted, on 30 March 2017, by section 56 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EC 26B list of defined terms **exiting partner**: inserted, on 30 March 2017, by section 56 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Definitions

EC 27 Some definitions

In this subpart,—

long-term bailment is a bailment or lease under which, at the time a person delivers livestock, the person does not expect to have the same livestock delivered back to them

short-term bailment is a bailment or lease under which,—

(a) at the time a person delivers livestock, the person expects to have the same livestock delivered back to them; and

(b) the bailee or lessee did not provide consideration to the person for the delivery of the livestock; and

(c) the term of the bailment or lease ends on or before the end of the income year following the income year in which the arrangement is made.

Defined in this Act: arrangement, income year, lease, long-term bailment, short-term bailment

Compare: 2004 No 35 s EC 27

Valuation of non-specified livestock

EC 28 Application of sections EC 29 to EC 31

Sections EC 29 to EC 31 set out the rules for valuing non-specified livestock.

Defined in this Act: non-specified livestock

Compare: 2004 No 35 s EC 28

EC 29 Determining standard values

Determined by Commissioner

(1) The Commissioner may determine a **standard value** for an income year for a type or category of non-specified livestock.

Application to income year

(2) A standard value applies to the income year for which it is determined, whether the income year started before, on, or after the date on which the standard value is determined.

Secondary legislation

(3) A determination under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: Commissioner, income year, non-specified livestock, standard value, type

Compare: 2004 No 35 s EC 29

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EC 29(3) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EC 29(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EC 30 Closing value methods

A person may choose 1 of the following methods to value non-specified livestock on hand at the end of an income year:

(a) its cost price:

(b) its replacement price:

(c) its market value:

(d) if the Commissioner agrees, its standard value.

Defined in this Act: Commissioner, cost price, income year, non-specified livestock, standard value

Compare: 2004 No 35 s EC 30

EC 31 Enhanced production

When this section applies

(1) This section applies when a person who derives income from non-specified livestock—

(a) enhances production in an income year by—

(i) starting, or restarting, to derive income from non-specified livestock; or

(ii) bringing land into production, or substantially increased production, for the purpose of deriving income from non-specified livestock; or

(iii) acquiring additional land for the purpose of deriving income from non-specified livestock; and

(b) as a result, in an income year or over the following 3 income years, acquires more non-specified livestock that—

(i) is not replacement livestock; and

(ii) is not homebred livestock; and

(iii) is valued at its standard value.

Closing value

(2) The closing value of the livestock acquired is,—

(a) for the income year in which the livestock was acquired, its standard value plus two-thirds of the difference between the cost price of the livestock and the standard value:

(b) for the following income year, its standard value plus one-third of the difference between the cost price of the livestock and the standard value:

(c) for other income years, its standard value.

Defined in this Act: cost price, income, income year, non-specified livestock, standard value

Compare: 2004 No 35 s EC 31

Section EC 31(1)(b): replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 114(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 31(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 114(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 31(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 114(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Valuation of high-priced livestock

EC 32 Application of sections EC 33 to EC 37

Sections EC 33 to EC 37

(1) Sections EC 33 to EC 37 set out the rules for valuing high-priced livestock.

Person chooses valuation method

(2) A person may choose to use either the straight-line method or the diminishing value method to value high-priced livestock.

Diminishing value method

(3) If the person chooses to use the diminishing value method, they must give notice to the Commissioner that they are using the method at the time of filing their return of income for the first income year in which the value of the

high-priced livestock is determined under section EC 34. The person cannot revoke their election to use the diminishing value method for the livestock.

Defined in this Act: Commissioner, high-priced livestock, income year, notice, return of income

Compare: 2004 No 35 s EC 32

EC 33 Determining depreciation percentages

Determined by Commissioner

(1) The Commissioner must determine a **depreciation percentage** for an income year for each type, class, or category of high-priced livestock.

Purpose

(2) The percentage represents the average percentage decline in the value of livestock of the type, class, or category.

Factors

(3) The Commissioner must take into account—

(a) the average cost of livestock of the type, class, or category; and

(b) the estimated useful life of the livestock; and

(c) the average estimated residual market value of the livestock.

Secondary legislation

(4) A determination under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: class, Commissioner, depreciation percentage, estimated residual market value, estimated useful life, high-priced livestock, income year, type

Compare: 2004 No 35 s EC 33

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EC 33(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EC 33(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EC 34 General rule

Value in income year of acquisition and later income years

(1) The closing value of high-priced livestock at the end of the income year in which it is acquired is its cost price minus the reduction applying in the income year. In a later income year, the value is its opening value minus the reduction applying in the income year until the value reaches or falls below the national average market value for the class to which the livestock belongs.

Straight-line method

(2) When a person has chosen to use the straight-line method, the reduction is calculated using the formula—

cost price × depreciation percentage.

Diminishing value method

(3) When a person has chosen to use the diminishing value method, the reduction is calculated as follows:

(a) in the first income year in which the election applies, the cost price multiplied by the diminishing value equivalent of the depreciation percentage for the income year:

(b) in later income years, the opening value of the livestock multiplied by the diminishing value equivalent of the depreciation percentage for the income year.

Meaning of diminishing value equivalent

(4) In this section, **diminishing value equivalent**, for a depreciation percentage, means the diminishing value depreciation rate in schedule 12, column 1 (Old banded rates of depreciation) to which the amount in column 2 equal to the depreciation percentage is the straight-line equivalent. Two qualifications are—

(a) if no amount in column 2 is equal to the depreciation percentage, the amount closest to it is taken; and

(b) if 2 amounts in column 2 are equidistant from the depreciation percentage, the depreciation percentage is rounded down.

Exclusions

(5) This section does not apply in the cases described in sections EC 35 and EC 36.

Defined in this Act: amount, class, cost price, depreciation percentage, diminishing value equivalent, high-priced livestock, income year, national average market value

Compare: 2004 No 35 s EC 34

Section EC 34(1) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 34(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EC 35 Livestock reaching national average market value and livestock no longer used for breeding

Livestock at or less than national average market value

(1) This section applies to a person's high-priced livestock whose value at the end of an income year is equal to or less than the national average market value for the class to which the livestock belongs.

Livestock no longer used for breeding

(2) This section also applies to high-priced livestock that, in an income year, a person—

(a) does not expect to use for breeding for that or any later income year; and

(b) does not intend to dispose of to any other person to use for breeding.

Closing value

(3) The closing value of the high-priced livestock at the end of the income year is determined as follows:

(a) when the person values any specified livestock of that type under the herd scheme for the income year, the value of the animal under the herd scheme; and

(b) when the person values all specified livestock of that type that is older than 1 year under the national standard cost scheme or the cost price method, the national average market value for the income year of livestock of the class to which the animal belongs; and

(c) when the person values all specified livestock of that type that is older than 1 year under the market value method or the replacement price method, the market value or replacement price of the animal at the end of the income year.

Valuation in later income years

(4) In later income years, the animal that was high-priced livestock is treated as the person's specified livestock and is valued under the valuation method the person chooses for specified livestock of the type to which the animal belongs.

Entry into herd scheme in later income years

(5) This subsection applies if, in a later income year (**year A**), the person values any specified livestock of the same type as the animal under the herd scheme and, in the next year, values the animal under the herd scheme. The animal is treated as if it were valued under the herd scheme at the end of year A.

Defined in this Act: class, cost price, herd scheme, high-priced livestock, income year, national average market value, national standard cost scheme, specified livestock, type, year

Compare: 2004 No 35 s EC 35

EC 36 Immature livestock and recently acquired livestock

Immature livestock

(1) This section applies to high-priced livestock that is less than 1 year old at the end of the income year in which it is acquired.

Recently acquired livestock

(2) This section also applies to high-priced livestock that is acquired within 6 months of the end of an income year and, during that time,—

(a) is not used for insemination, in the case of male livestock; and

(b) is not used for the collection of semen; and

(c) does not give birth; and

(d) does not have ova removed.

Closing value

(3) The closing value of the high-priced livestock at the end of the income year is its cost price.

Defined in this Act: cost price, high-priced livestock, income year, year

Compare: 2004 No 35 s EC 36

Section EC 36 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 36(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 36(2) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 36(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EC 37 Bailment

In section EC 26, references to specified livestock include high-priced livestock.

Defined in this Act: high-priced livestock, specified livestock

Compare: 2004 No 35 s EC 37

Valuation of bloodstock

EC 38 Application of sections EC 39 to EC 48

Sections EC 39 to EC 48 set out the rules for valuing bloodstock.

Defined in this Act: bloodstock

Compare: 2004 No 35 s EC 38

EC 39 First income year in breeding business

Bloodstock to which this section applies

(1) This section applies to bloodstock that is 2 years of age or older at the end of the first income year in which a person—

(a) uses the bloodstock for breeding in their breeding business; or

(b) forms the intention of using the bloodstock for breeding in their breeding business; or

(c) acquires the bloodstock, with the intention of using it for breeding in their breeding business.

Special group of broodmares to which this section applies

(2) This section also applies to a broodmare that is 2 years of age or older at the end of a person's first income year after 1 April 2001 in which the person—

(a) first uses the broodmare for breeding in their breeding business; or

(b) first forms the intention of using the broodmare for breeding in their breeding business; or

(c) acquires the broodmare, with the intention of using it for breeding in their breeding business.

Prospective breeders' bloodstock to which this section applies

(2B) This section also applies to stud-founding bloodstock at the end of the prospective bloodstock breeder's first income year in which the stud-founding bloodstock is 2 years of age.

Closing value

(3) The closing value of the bloodstock at the end of the first income year is its cost price minus the reduction applying in that income year.

Determination of reduction

(4) The reduction that applies is determined under section EC 41, EC 42, EZ 5, or EZ 6 (which relate to bloodstock).

Defined in this Act: bloodstock, broodmare, business, cost price, income year, prospective bloodstock breeder, stud-founding bloodstock, year

Compare: 2004 No 35 s EC 39

Section EC 39(1)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 39(2)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 39(2B) heading: inserted (with effect on 1 January 2019), on 18 March 2019, by section 158(1) (and see section 158(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EC 39(2B): inserted (with effect on 1 January 2019), on 18 March 2019, by section 158(1) (and see section 158(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EC 39 list of defined terms **prospective bloodstock breeder**: inserted (with effect on 1 January 2019), on 18 March 2019, by section 158(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EC 39 list of defined terms **stud-founding bloodstock**: inserted (with effect on 1 January 2019), on 18 March 2019, by section 158(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EC 39B Stud-founding bloodstock and related terms

Meaning of stud-founding bloodstock

(1) **Stud-founding bloodstock** means high-priced bloodstock that a prospective bloodstock breeder owns if—

(a) the prospective bloodstock breeder acquires the high-priced bloodstock before it is 2 years of age; and

(b) within 4 months after the day on which the prospective bloodstock breeder acquires the high-priced bloodstock—

(i) the prospective bloodstock breeder notifies the Commissioner of their intention to use the high-priced bloodstock for breeding bloodstock for profit; and

(ii) information as the Commissioner requires is provided to the Commissioner; and

(c) the high-priced bloodstock is registered in the New Zealand Stud Book or in the New Zealand Harness Racing Stud Book.

Meaning of high-priced bloodstock

(2) **High-priced bloodstock** means bloodstock that—

(a) is sold, when a yearling, at a premier yearling sale for an amount greater than the relevant national minimum price threshold for the calendar year in which the sale occurs; and

(b) is expected, when sold at the premier yearling sale, to be capable of being used for breeding when it reaches maturity.

Meaning of prospective bloodstock breeder

(3) A **prospective bloodstock breeder** means a person who acquires bloodstock—

(a) when they do not have an existing bloodstock breeding business; and

(b) with the intention of—

(i) having the bloodstock first raced in New Zealand; and

(ii) using the bloodstock for breeding bloodstock in New Zealand for profit.

Meaning of premier yearling sale

(4) A **premier yearling sale** means a sale of bloodstock yearlings that is listed in schedule 18B (Premier yearling sales).

Meaning of national minimum price threshold

(5) **National minimum price threshold**, for a class of bloodstock and for a calendar year, means the national minimum price threshold set under section EC 39C or by section EZ 6B (National minimum price threshold for 2019 calendar year), as applicable, for bloodstock of the class for the calendar year.

Defined in this Act: bloodstock, business, Commissioner, high-priced bloodstock, national minimum price threshold, New Zealand, premier yearling sale, prospective bloodstock breeder, stud-founding bloodstock

Section EC 39B: inserted (with effect on 1 January 2019), on 18 March 2019, by section 159(1) (and see section 159(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EC 39B(5): replaced, on 1 January 2020, by section 160 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EC 39C Setting and publication of national minimum price threshold

Setting of national minimum price threshold

(1) The Commissioner must set a national minimum price threshold for each class of bloodstock set out in schedule 18C, column 2 (Breeds and classes of bloodstock). The national minimum price threshold for a calendar year (the **threshold year**) must be set at the amount given by,—

(a) for each class of the standardbred breed of horses,—

(i) for each of the 3 calendar years immediately preceding the threshold year, calculating the value at the 97th percentile of sale prices for that class at the premier yearling sales in the calendar year; and

(ii) dividing the sum of the 3 percentile values calculated in subparagraph (i) by 3; and

(iii) rounding the amount calculated in subparagraph (ii) to the nearest multiple of $1,000, with the amount being rounded up if it ends in $500:

(b) for each class of the thoroughbred breed of horses,—

(i) for each of the 3 calendar years immediately preceding the threshold year, calculating the value at the 95th percentile of sale prices for that class at the premier yearling sales in the calendar year; and

(ii) dividing the sum of the 3 percentile values calculated in subparagraph (i) by 3; and

(iii) rounding the amount calculated in subparagraph (ii) to the nearest multiple of $1,000, with the amount being rounded up if it ends in $500.

When national minimum price threshold must be set and published

(2) The Commissioner must set and publish the national minimum price threshold that applies for a calendar year before the first premier yearling sale in that calendar year is held.

Consequence of late setting and publication of national minimum price threshold

(3) This subsection applies when the Commissioner does not set and publish the national minimum price threshold that applies for a calendar year before the first premier yearling sale in that calendar year is held. For sales of bloodstock

yearlings at the premier yearling sales that occur before the Commissioner has set and published the national minimum price threshold that applies for that calendar year, the national minimum price threshold for each class of bloodstock set out in schedule 18C, column 2 that has most recently been set under section EC 39C or by section EZ 6B (National minimum price threshold for 2019 calendar year) is, for the purposes of section EC 39B(2), treated as being the national minimum price threshold for the calendar year in which the sale occurs.

Defined in this Act: bloodstock, Commissioner, national minimum price threshold, premier yearling sale

Section EC 39C: inserted, on 1 January 2020, by section 161(1) (and see section 161(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EC 40 Later income years in breeding business

What this section applies to

(1) This section applies to the income years that follow the first income year described in section EC 39.

Closing value

(2) The closing value of the bloodstock is its opening value minus the reduction applying in that income year.

Closing value not previously taken into account

(3) If the person has not taken the closing value of the bloodstock into account in the previous income year, the closing value is the cost price of the bloodstock minus the reduction applying in the income year in which the person makes the calculation.

Determination of reduction

(4) The reduction that applies is determined under section EC 41, EC 42, EZ 5, or EZ 6 (which relate to bloodstock).

Defined in this Act: bloodstock, cost price, income year

Compare: 2004 No 35 s EC 40

EC 41 Reduction: bloodstock not previously used for breeding in New Zealand other than as shuttle stallions

Bloodstock to which this section applies

(1) This section applies to bloodstock that—

(a) was not used for breeding in New Zealand before 16 December 1991; and

(b) before a person (**person A**) acquired it, was not used for breeding in New Zealand by any other person.

Further bloodstock to which this section applies

(1B) This section also applies to bloodstock that, before person A acquired it, was used by another person for breeding in New Zealand if—

(a) the other person transferred the bloodstock to person A under a relationship agreement to which section FB 18 (Bloodstock) applies:

(b) the other person was a company in the same wholly-owned group as person A at the time person A acquired the bloodstock from the other person:

(c) the bloodstock is a stallion that, for each year in which the stallion was used for breeding in New Zealand before being acquired by person A, was—

(i) owned by a non-resident; and

(ii) removed from New Zealand after the breeding season; and

(iii) not subject to a reduction under this section.

Stallion

(2) For the purposes of sections EC 39 and EC 40, the reduction applying to the value of a stallion is 50% of the cost price of the stallion unless person A chooses to value the stallion by the reducing value method.

Stallion valued by reducing value method

(3) When person A chooses to value the stallion by the reducing value method, the reduction applying to the value of the stallion is 75% of its cost price in the first income year and 75% of its opening value in each later income year. Person A must give notice to the Commissioner of their election in their return of income for the first income year.

Broodmare when first used on or after 1 April 2001

(4) For the purposes of sections EC 39 and EC 40, the reduction applying to the value of a broodmare to which section EC 39(2) applies is calculated using the formula—

$$1.25 \times \text{cost price of broodmare} \div (9 - \text{age of broodmare}).$$

Definition of item in formula

(5) In the formula, **age of broodmare** is—

(a) 8 years of age; or

(b) the actual age in years, if the broodmare is 7 years of age or less at the end of the income year.

Relationship with section EZ 5

(6) This section is overridden by section EZ 5 (Reduction: bloodstock not previously used for breeding in New Zealand: pre-1 August 2006).

Defined in this Act: bloodstock, broodmare, Commissioner, company, cost price, income year, New Zealand, notice, relationship agreement, return of income, stallion, wholly-owned group, year

Compare: 2004 No 35 s EC 41

Section EC 41 heading: amended, on 1 April 2008, by section 354(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EC 41(1)(b): substituted, on 1 April 2008, by section 354(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EC 41(1B) heading: inserted, on 1 April 2008, by section 354(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EC 41(1B): inserted, on 1 April 2008, by section 354(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EC 41(1B)(a): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 115(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 41 list of defined terms **matrimonial agreement**: repealed (with effect on 1 April 2008), on 24 February 2016, by section 115(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 41 list of defined terms **relationship agreement**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 115(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EC 42 Reduction: bloodstock previously used for breeding in New Zealand

Stallion

(1) For the purposes of sections EC 39 and EC 40, the reduction applying to the value of a stallion to which section EC 41 does not apply is 20% of its cost price.

Broodmare when first used on or after 1 April 2001

(2) For the purposes of sections EC 39 and EC 40, the reduction applying to the value of a broodmare to which section EC 39(2) applies and section EC 41 does not apply is calculated using the formula—

$$\text{cost price of broodmare} \div (9 - \text{age of broodmare}).$$

Definition of item in formula

(3) In the formula, **age of broodmare** is—

(a) 8 years of age; or

(b) the actual age in years, for a broodmare that is 7 years of age or less at the end of the income year.

Relationship with section EZ 6

(4) This section is overridden by section EZ 6 (Reduction: broodmare previously used for breeding in New Zealand: pre-1 August 2006).

Defined in this Act: bloodstock, broodmare, cost price, income year, stallion, year

Compare: 2004 No 35 s EC 42

EC 43 Accident, birth deformity, or infertility

When this section applies

(1) This section applies when a person has bloodstock on hand at the end of an income year whose market value is, because of accident, birth deformity, or infertility, less than 50% of what its market value would have been if the accident, birth deformity, or infertility had not occurred.

Value

(2) The person may value the bloodstock at its market value.

Later income years

(3) If the person applies subsection (2), the closing value of the bloodstock in later income years is its market value in the applicable income year.

Defined in this Act: bloodstock, income year

Compare: 2004 No 35 s EC 43

EC 44 Other bloodstock

If sections EC 39 to EC 43 do not apply, the closing value of the bloodstock is its cost price.

Defined in this Act: bloodstock, cost price

Compare: 2004 No 35 s EC 44

EC 45 Residual value of bloodstock

If the closing value of any bloodstock would be less than $1 in the absence of this section, the closing value is $1.

Defined in this Act: bloodstock

Compare: 2004 No 35 s EC 45

EC 46 Use of bloodstock for racing

General treatment

(1) If in an income year a bloodstock owner uses bloodstock for racing, and they are in the business of breeding bloodstock for sale or exchange, the use of the bloodstock for racing is treated as use in the course of the business.

Bloodstock not used in business

(2) If bloodstock used in an income year for racing is not actually used in the course of a business of breeding bloodstock for sale or exchange, the blood-

stock owner may apply to the Commissioner to have the use of the bloodstock treated other than under subsection (1).

Non-breeding bloodstock

(3) If a bloodstock owner expects that bloodstock will not be able to be used for future breeding, the use in an income year of the bloodstock for racing is not treated as use in the course of a business of breeding bloodstock for sale or exchange. However, if the bloodstock owner uses the bloodstock in the course of their business of breeding bloodstock for sale or exchange, they may apply to the Commissioner to have the use of the bloodstock treated as use in the course of the business.

Application to Commissioner

(4) The application must be made with the supporting information that the Commissioner requires within 1 month after the day on which the bloodstock is first prepared for racing by the bloodstock owner or the day on which it is first raced by the bloodstock owner, whichever is earlier.

Defined in this Act: apply, bloodstock, business, Commissioner, income year

Compare: 2004 No 35 s EC 46

Section EC 46(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 46(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 46(3): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 46(4): amended, on 2 June 2016, by section 14(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EC 46 list of defined terms **apply**: inserted, on 2 June 2016, by section 14(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EC 47 Change of use of bloodstock in course of business

Use outside business

(1) If a bloodstock owner who is in the business of breeding bloodstock for sale or exchange starts to use bloodstock other than in the course of the business, they are treated as having disposed of the bloodstock. The disposal is treated as having occurred at market value on the day on which they changed the use of the bloodstock.

Use in business

(2) If a bloodstock owner who is in the business of breeding bloodstock for sale or exchange has been using bloodstock for other purposes, and they start to use the bloodstock in the course of the business, the bloodstock is treated as having been acquired by the bloodstock owner. The acquisition is treated as having

occurred at market value on the day on which the bloodstock owner changed the use of the bloodstock.

Defined in this Act: bloodstock, business

Compare: 2004 No 35 s EC 47

Section EC 47(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 47(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EC 47B Removal of high-priced bloodstock from New Zealand after earlier deductions

When this section applies

(1) This section applies when—

(a) high-priced bloodstock is removed from New Zealand before being—

(i) first raced in New Zealand:

(ii) used for breeding in New Zealand; and

(b) a person who is a prospective bloodstock breeder has been allowed a deduction in relation to the high-priced bloodstock.

Treatment as disposal

(2) The person is treated as having disposed of the high-priced bloodstock.

Defined in this Act: deduction, high-priced bloodstock, New Zealand, prospective bloodstock breeder

Section EC 47B: inserted (with effect on 1 January 2019), on 18 March 2019, by section 162(1) (and see section 162(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EC 47C When prospective breeders treated as being in breeding business

Prospective breeders treated as being in breeding business

(1) A prospective bloodstock breeder is treated as having, and carrying on, a bloodstock breeding business on and from the day on which the prospective bloodstock breeder acquires stud-founding bloodstock until the earliest of the following days:

(a) the day on which the prospective bloodstock breeder commences a bloodstock breeding business using the stud-founding bloodstock:

(b) the day on which the prospective bloodstock breeder is treated as having disposed of the stud-founding bloodstock under section EC 47(1):

(c) the day on which the prospective bloodstock breeder is treated as having disposed of the stud-founding bloodstock under section EC 47B:

(d) the day on which the prospective bloodstock breeder is treated as having disposed of the stud-founding bloodstock under section EC 47D:

(e) the day on which the prospective bloodstock breeder commences a bloodstock breeding business using bloodstock that are not stud-founding bloodstock, if the Commissioner has approved an application under section EC 47E for the stud-founding bloodstock to be treated as being used in the course of the business.

Other bloodstock not part of breeding business

(2) Despite subsection (1), if the prospective bloodstock breeder owns bloodstock that are not stud-founding bloodstock during the period of time described in that subsection, those bloodstock are not treated as part of the prospective bloodstock breeder's bloodstock breeding business.

Defined in this Act: bloodstock, business, Commissioner, prospective bloodstock breeder, stud-founding bloodstock

Section EC 47C: inserted (with effect on 1 January 2019), on 18 March 2019, by section 162(1) (and see section 162(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EC 47D Change of prospective bloodstock breeders' expectation or intention after earlier deductions

When this section applies

(1) This section applies when—

(a) a person owns high-priced bloodstock that they acquired as a prospective bloodstock breeder; and

(b) the person has been allowed a deduction in relation to the high-priced bloodstock; and

(c) the person has not used the high-priced bloodstock for breeding bloodstock in New Zealand for profit; and

(d) the person—

(i) no longer expects that the high-priced bloodstock will be able to be used for future breeding:

(ii) no longer intends to use the high-priced bloodstock for breeding bloodstock in New Zealand for profit.

Treatment as disposal at market value

(2) The person is treated as having disposed of the high-priced bloodstock. The disposal is treated as having occurred at the high-priced bloodstock's market value on the day on which the person's expectation or intention first changed.

Defined in this Act: deduction, high-priced bloodstock, prospective bloodstock breeder

Section EC 47D: inserted (with effect on 1 January 2019), on 18 March 2019, by section 162(1) (and see section 162(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EC 47E Prospective breeders commencing actual breeding businesses

When this section applies

(1) This section applies when, ignoring section EC 47C, a bloodstock owner commences a bloodstock breeding business using bloodstock that are not stud-founding bloodstock.

Stud-founding bloodstock subsumed into breeding business

(2) If the bloodstock owner owns stud-founding bloodstock they acquired as a prospective bloodstock breeder, they may apply to the Commissioner to have the stud-founding bloodstock treated as being used in the course of the business.

Application to Commissioner

(3) The application must be made with the supporting information that the Commissioner requires within 1 month after the day on which the business commenced.

Effect of application being approved

(4) If the Commissioner approves the application, sections CG 8B (Recoveries after deductions for high-priced bloodstock removed from New Zealand), CG 8C (Recoveries after deductions for high-priced bloodstock disposed of to non-residents), and EC 47B to EC 47D are, from the date on which the business commenced, treated as not applying in relation to the bloodstock owner and the stud-founding bloodstock.

Defined in this Act: apply, bloodstock, business, Commissioner, prospective bloodstock breeder, stud-founding bloodstock

Section EC 47E: inserted (with effect on 1 January 2019), on 18 March 2019, by section 162(1) (and see section 162(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EC 48 Replacement breeding stock

When this section applies

(1) This section applies when—

(a) a bloodstock owner—

(i) disposes of bloodstock (the **breeding stock**) that they had previously used for breeding in the course of a business of breeding bloodstock for sale or exchange; and

(ii) acquires replacement bloodstock (the **replacement breeding stock**) within the time limits set out in subsections (6) and (7); or

(b) a bloodstock owner—

(i) receives a payment of insurance, indemnity, or compensation for the loss or death of, or permanent injury to, breeding stock that they had previously used for breeding in the course of a business

of breeding bloodstock for sale or exchange or that they had acquired for use in the business; and

(ii) acquires replacement breeding stock within the time limits set out in subsections (6) and (7).

Amount determined

(2) The bloodstock owner may apply to the Commissioner to determine the amount that the bloodstock owner has applied in acquiring replacement breeding stock.

Maximum amount

(3) The amount must not be more than the net gain calculated using the formula—

gross proceeds − value of breeding stock.

Definition of items in formula

(4) In the formula,—

(a) **gross proceeds** is—

(i) the amount of the proceeds of disposing of the breeding stock; or

(ii) the amount paid by way of insurance, indemnity, or compensation for the breeding stock:

(b) **value of breeding stock** is the closing value of the breeding stock in the income year before the breeding stock was disposed of or was lost or died or was permanently injured.

Reduction in income

(5) The bloodstock owner may reduce their income by the amount determined under subsection (2). If they reduce their income in this way, they must also reduce the cost of the replacement breeding stock by the same amount.

Time limit

(6) Replacement breeding stock must be acquired within 6 months after the end of the income year in which the amount determined under subsection (2) would otherwise be income or, if the Commissioner approves in a case or in a class of cases, a longer period.

Delay in replacing breeding stock

(7) In the case of lost, dead, or permanently injured breeding stock, the Commissioner may extend the time limit under subsection (6). However, valid commercial reasons must exist for the delay in replacing the breeding stock and the replacement breeding stock must have been acquired before the end of the second income year following the income year in which the loss, death, or permanent injury occurred.

Application to Commissioner

(8) An application under subsection (2) must be made within the relevant time limits described in subsections (6) and (7). The application must relate only to replacement breeding stock acquired before the application is made.

Defined in this Act: amount, apply, bloodstock, business, Commissioner, income, income year, pay

Compare: 2004 No 35 s EC 48

Section EC 48(1)(a)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 48(1)(a)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 48(1)(b)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 48(1)(b)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 48(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 48(8): amended, on 2 June 2016, by section 15(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EC 48(8): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EC 48 list of defined terms **apply**: inserted, on 2 June 2016, by section 15(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Subpart ED—Valuation of excepted financial arrangements

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ED 1 Valuation of excepted financial arrangements

Valuation methods for excepted financial arrangements

(1) A person who has revenue account property that is an excepted financial arrangement must determine the value of the arrangement at the end of each income year at cost.

Valuation method for right to acquire share under share-lending arrangement

(2) Despite subsection (1), a share supplier's share-lending right has the value at the end of each income year that is equal to the amount described in subsection (4).

Valuation method for share acquired by share supplier under share-lending arrangement

(3) Despite subsection (1), the original share or an identical share acquired by a share supplier from a share user under a share-lending arrangement has the value at the end of each income year that is equal to the amount described in subsection (4).

Amount

(4) For subsections (2) and (3), the amount is the value of the original share at cost, determined by applying this section to the share immediately before the share supplier's disposal of the share under the relevant share-lending arrangement.

Valuation when disposal of shares acquired under taxable bonus issue

(4B) Despite subsection (1), a share that a person acquires under a taxable bonus issue is valued immediately before the person disposes of the share at an amount equal to the amount of the dividend derived by the person from the issue of the share, not including the amount of imputation credits attached to the dividend by the issuer of the share and withholding tax withheld by the issuer of the share.

Cost-flow methods

(5) The person must use 1 of the following cost-flow methods to allocate costs:

(a) the first-in first-out cost method; or

(b) the weighted average cost method.

Certain emissions units not pooled with other types of emissions unit

(5B) No emissions unit described in 1 of the following paragraphs may be pooled for the purposes of subsection (5) with an emissions unit described in another of the paragraphs:

(a) pre-1990 forest land emissions units relating to pre-1990 forest land, if the holder of the units would derive income, other than exempt income and excluded income, from a disposal of the land without timber:

(b) post-1989 forest land emissions units:

(bb) forest sink emissions units:

(c) replacement forest land emissions units:

(cb) fishing quota emissions units, if the holder of the units would derive income, other than exempt income and excluded income, from a disposal of the individual transferable quota to which the units relate:

(d) pre-1990 forest land emissions units relating to pre-1990 forest land, if the holder of the units would derive no income other than exempt income and excluded income from a disposal of the land without timber:

(db) fishing quota emissions units, if the holder of the units would derive no income, other than exempt income and excluded income, from a disposal of the individual transferable quota to which the units relate:

(e) emissions units issued for no consideration—

(i) to which section ED 1B applies; and

(ii) that have not been assigned a cost under section ED 1B(3)(a).

Exceptions: types of emissions units pooled with other types

(5C) Despite subsection (5B), for the purposes of subsection (5),—

(a) emissions units described in paragraphs (a) to (cb) may be pooled together:

(b) emissions units described in paragraphs (d) and (db) may be pooled together.

Persons complying with generally accepted accounting practice

(6) A person who complies with generally accepted accounting practice must comply with the consistency and disclosure requirements of NZIAS 8 or an equivalent standard issued in its place.

Other persons

(7) A person who does not comply with generally accepted accounting practice—

(a) must be consistent from 1 income year to the next in their choice of 1 of the cost-flow methods described in subsection (5); and

(b) may change their cost-flow method if—

(i) the change is justified by sound commercial reasons and for this purpose, the advancement, deferral, or reduction of an income tax liability is not a sound commercial reason; or

(ii) the change is required by another provision in this subpart; and

(c) must keep sufficient details of any such change, and the reasons for it, under section 22 of the Tax Administration Act 1994.

Valuation of emissions units issued for zero price

(7B) Despite subsection (1),—

(a) an emissions unit transferred under Part 4, subpart 2, of the Climate Change Response Act 2002 in an income year for no payment of a price, and to which section ED 1B does not apply, has a value of zero for the period beginning with the transfer and ending before the end of the income year:

(ab) a forest land emissions unit transferred under section 64 of the Climate Change Response Act 2002 in an income year for no payment of a price, and to which section ED 1B does not apply, has a value of zero for the period beginning with the transfer and ending before the end of the income year:

(b) a forest land emissions unit has a value of zero at the end of each income year:

(c) a replacement forest land emissions unit has a value of zero at the end of each income year:

(cb) a fishing quota emissions unit has a value at the end of each income year of—

(i) the market value of the unit at the end of the income year, if the holder of the unit would derive income, other than exempt income and excluded income, from a disposal of the individual transferable quota to which the units relate; or

(ii) zero, if subparagraph (i) does not apply:

(d) an emissions unit to which section ED 1B applies has the value at the end of each income year that is given by that section.

Worthless arrangements

(8) If an excepted financial arrangement has no present or likely future market value and has been written off as worthless, its closing value is zero.

Closing value for replacement ETS unit

[Repealed]

(8B) *[Repealed]*

Use of value

(9) The value determined under this section is—

(a) the closing value of the excepted financial arrangement for the purposes of section CH 1 (Adjustment for closing values of trading stock, livestock, and excepted financial arrangements); and

(b) the opening value of the excepted financial arrangement for the next income year for the purposes of section DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

Defined in this Act: emissions unit, excepted financial arrangement, excluded income, exempt income, fishing quota emissions unit, forest land emissions unit, forest sink emissions unit, generally accepted accounting practice, identical share, income tax liability, income year, NZIAS 8, original

share, pay, post-1989 forest land emissions unit, pre-1990 forest land, pre-1990 forest land emissions unit, replacement forest land emissions unit, revenue account property, share-lending arrangement, share-lending right, share supplier, share user

Compare: 2004 No 35 s ED 1

Section ED 1(4B) heading: inserted, on 30 March 2017 (applying for shares received under taxable bonus issues made on or after this date), by section 57(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section ED 1(4B): inserted, on 30 March 2017 (applying for shares received under taxable bonus issues made on or after this date), by section 57(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section ED 1(5B) heading: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1(5B): inserted (with effect on 1 January 2009), on 6 October 2009, pursuant to section 115(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1(5B)(bb): inserted (with effect on 1 January 2009), on 7 September 2010, by section 28(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section ED 1(5B)(cb): inserted (with effect on 1 July 2010), on 7 September 2010, by section 28(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section ED 1(5B)(db): inserted (with effect on 1 July 2010), on 7 September 2010, by section 28(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section ED 1(5C) heading: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1(5C): substituted (with effect on 1 July 2010), on 7 September 2010, by section 28(4) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section ED 1(6): amended, on 1 April 2008, by section 355(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ED 1(7B) heading: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1(7B): inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1(7B)(a): substituted (with effect on 1 July 2010), on 21 December 2010, by section 47(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section ED 1(7B)(a): amended (with effect on 1 July 2010), on 2 November 2012, by section 31 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1(7B)(ab): inserted (with effect on 1 July 2010), on 29 March 2025, by section 48 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section ED 1(7B)(cb): inserted (with effect on 1 July 2010), on 21 December 2010, by section 47(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section ED 1(8B) heading: repealed (with effect on 1 January 2009), on 6 October 2009, pursuant to section 115(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1(8B): repealed (with effect on 1 January 2009), on 6 October 2009, by section 115(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **excluded income**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **exempt income**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **fishing quota emissions unit**: inserted (with effect on 1 July 2010), on 7 September 2010, by section 28(5)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section ED 1 list of defined terms **forest land emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **forest sink emissions unit**: inserted (with effect on 1 January 2009), on 7 September 2010, by section 28(5)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section ED 1 list of defined terms **NZIAS 8**: amended, on 1 April 2008, by section 355(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ED 1 list of defined terms **pay**: inserted (with effect on 1 July 2010), on 21 December 2010, by section 47(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section ED 1 list of defined terms **post-1989 forest land emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **pre-1990 forest land**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **pre-1990 forest land emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **replacement ETS unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ED 1 list of defined terms **replacement forest land emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 115(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

ED 1B Valuation of emissions units issued for zero price

What this section applies to

(1) This section applies to emissions units held by a person in an income year that—

(a) are transferred to the person at a price of zero—

(i) under sections 80 to 86F of the Climate Change Response Act 2002:

(ii) under section 64 of the Climate Change Response Act 2002 for a removal activity listed in Schedule 4, Part 2 of that Act:

(iii) by a public authority under a supplementary agreement to a negotiated greenhouse agreement:

(iv) by a public authority as a rebate, under a negotiated greenhouse agreement, for an indirect emissions charge; and

(b) have been held continuously by the person from the time of the transfer; and

(c) have not been valued under either of subsections (4)(a) and (8)(a) before the income year; and

(d) *[Repealed]*

(e) *[Repealed]*

(f) *[Repealed]*

Value of units transferred to person if no earlier emissions unit shortfall year

(2) If an emissions unit is transferred to the person in the income year and there is no earlier income year that is an emissions unit shortfall year for the person under subsections (9) and (10), the emissions unit is assigned a value of zero at the time of the transfer.

Value of units transferred to person in income year after emissions unit shortfall year

(3) If an earlier income year is an emissions unit shortfall year for the person immediately before an emissions unit (the **transferred unit**) is transferred to the person in the income year, the value of the transferred unit at the time of the transfer is given by the application of the paragraphs in subsection (4) in alphabetical order to transferred units until all the transferred units are assigned a value.

Valuation method at transfer for transferred units

(4) If emissions units are transferred to the person in an income year when there is a unit shortfall under subsections (9) and (10) for an earlier emissions unit shortfall year,—

(a) for each emissions unit shortfall year in date order, transferred units, up to the number corresponding to the unit shortfall relating to the emissions unit shortfall year, are each assigned a value equal to the market value of an emissions unit at the end of the emissions unit shortfall year:

(b) transferred units are each assigned a value equal to zero.

Value of units with zero value immediately before end of income year

(5) If the value of an emissions unit (the **revalued unit**) held by the person immediately before the end of the income year is zero, the value of the revalued unit at the end of the year is given by the application of the paragraphs in

subsection (8) in alphabetical order to revalued units until all the revalued units are assigned a value.

Limit on application of subsection (8)(a)

(6) The maximum number of units valued under subsection (8)(a) for the income year is the greater of zero and the number calculated using the formula—

unit entitlement − disposals at zero value.

Definition of items in formula

(7) In the formula,—

(a) **unit entitlement** is the total for the income year of amounts, each of which the person would have for the period of overlap between a calendar year ending 31 December and the income year if the period of overlap were treated as a year, of—

(i) final allocation entitlement under section 83 of the Climate Change Response Act 2002:

(ii) allocation entitlement under section 85 of that Act:

(iii) allocation entitlement under section 64 of the Climate Change Response Act 2002 for a removal activity listed in Schedule 4, Part 2 of that Act:

(iv) emissions units corresponding to the actual emissions amount under a supplementary agreement to a negotiated greenhouse agreement:

(v) emissions units corresponding to a rebate, under a negotiated greenhouse agreement, for an indirect emissions charge:

(b) **disposals at zero value** is the number of emissions units disposed of by the person in the income year that had a value of zero at the disposal.

Valuation method at end of income year for revalued units

(8) If the person holds revalued units immediately before the end of the income year, the units are each assigned a value—

(a) equal to the market value of an emissions unit at the end of the income year:

(b) equal to zero.

Emissions unit shortfall year

(9) If the number of units assigned a market value for an income year under subsection (8)(a) is less than the maximum number given by subsection (6) for the income year, at the end of the income year—

(a) the income year is an **emissions unit shortfall year** and has 2 numbers (the **unit shortfall** and the **unit shortfall value**) associated with it:

(b) the unit shortfall relating to the emissions unit shortfall year is the difference between the maximum number given by subsection (6) for the

income year and the number of zero value units assigned a market value under subsection (8)(a) for the income year:

(c) the unit shortfall value relating to the emissions unit shortfall year is the unit shortfall multiplied by the market value of an emissions unit at the end of the income year.

Reductions in unit shortfall and unit shortfall value

(10) When an emissions unit held by a person is assigned a value under subsection (4)(a) in relation to a year that is an emissions unit shortfall year for the person,—

(a) the unit shortfall relating to that year is reduced by the number of emissions units assigned a value in relation to that year:

(b) the unit shortfall value relating to that year is reduced by an amount equal to the number of emissions units assigned a value in relation to that year multiplied by the value assigned to each of those emissions units:

(c) the year ceases to be an emissions unit shortfall year, if the unit shortfall relating to the year is reduced to zero.

Unit shortfall values treated as values of additional emissions units for purposes of adjustments

(11) For the purposes of sections CH 1 and DB 49 (which relate to adjustments for values of excepted financial arrangements), the person is treated as holding at the end of the income year additional emissions units with a value equal to the total of the unit shortfall values relating to emissions unit shortfall years for the person.

Defined in this Act: amount, emissions unit, emissions unit shortfall year, fishing quota emissions units, forest land emissions units, income year, public authority, replacement forest land emissions units, year

Section ED 1B: substituted (with effect on 1 July 2010), on 21 December 2010, by section 48 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section ED 1B(1)(a)(i): replaced (with effect on 1 July 2010), on 2 November 2012, by section 32(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(1)(a)(ii): replaced (with effect on 1 July 2010), on 2 November 2012, by section 32(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(1)(a)(iii): inserted (with effect on 1 July 2010), on 2 November 2012, by section 32(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(1)(a)(iv): inserted (with effect on 1 July 2010), on 2 November 2012, by section 32(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(1)(d): repealed (with effect on 1 July 2010), on 2 November 2012, by section 32(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(1)(e): repealed (with effect on 1 July 2010), on 2 November 2012, by section 32(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(1)(f): repealed (with effect on 1 July 2010), on 2 November 2012, by section 32(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(7)(a)(iii): replaced (with effect on 1 July 2010), on 2 November 2012, by section 32(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(7)(a)(iv): inserted (with effect on 1 July 2010), on 2 November 2012, by section 32(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 1B(7)(a)(v): inserted (with effect on 1 July 2010), on 2 November 2012, by section 32(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

ED 2 Transfers of certain excepted financial arrangements within wholly-owned groups

When this section applies

(1) This section applies when—

(a) a company that is part of a wholly-owned group of companies (**company A**) transfers to another company in the same group (**company B**) an excepted financial arrangement that is revenue account property of company A; and

(b) the transfer of the excepted financial arrangement is not made under a share-lending arrangement; and

(c) both companies are resident in New Zealand on the date of the transfer; and

(d) the market value of the excepted financial arrangement on the date of the transfer is less than its cost to company A.

Transfer at cost

(2) The consideration for the transfer is treated as being equal to the cost of the excepted financial arrangement to company A.

Company stops being part of group

(3) If company B stops being part of the wholly-owned group, the company is treated as disposing of and reacquiring the excepted financial arrangement at its market value at the time the company stops being part of the group.

Not dividend

(4) A transfer of an excepted financial arrangement to which this section applies does not give rise to a dividend.

Defined in this Act: company, dividend, excepted financial arrangement, resident in New Zealand, revenue account property, wholly-owned group of companies

Compare: 2004 No 35 s ED 2

ED 2B Transfers to shareholders by ASX-listed Australian company of shares in subsidiary

When this section applies

(1) This section applies when—

(a) a company (the **splitting company**) is an ASX-listed Australian company under subsection (8); and

(b) shares in a company (the **subsidiary**) that is a member of the same group of companies as the splitting company (the **group**), are issued or transferred (the **share transfer**) to—

(i) shareholders of the splitting company or of a company that is a member of the group:

(ii) a member of the group; and

(c) the subsidiary is a member of the group immediately before the share transfer; and

(d) the share transfer is not a payment of assessable income or exempt income under the Income Tax Assessment Act 1936 (Aust).

(2) *[Repealed]*

Cost of shares in splitting company after transfer

(3) The cost for a shareholder of the shares in the splitting company that are held by the shareholder after the share transfer is the amount calculated using the formula—

cost before transfer × value after transfer ÷ (value acquired shares + value after transfer).

Cost of shares in new company

(4) The cost for a shareholder of the shares acquired in the share transfer is the amount calculated using the formula—

cost before transfer × value acquired shares ÷ (value acquired shares + value after transfer).

Definition of items in formulas

(5) In the formulas in subsections (3) and (4),—

(a) **cost before transfer** is the cost for the shareholder, immediately before the share transfer, of the shares in the splitting company held by the shareholder immediately after the share transfer:

(b) **value after transfer** is the market value of the shares in the splitting company held by the shareholder immediately after the share transfer:

(c) **value acquired shares** is the market value of the shares in the subsidiary held by the shareholder immediately after the share transfer.

Available subscribed capital amounts

(6) Immediately after the share transfer, the available subscribed capital,—

(a) for each share held in the subsidiary, is—

(i) the amount given by section CD 43 (Available subscribed capital (ASC) amount) for the share; or

(ii) zero, if it is impractical to recognise an amount of available subscribed capital for the shares held in the subsidiary:

(b) for the shares held in the splitting company, equals the amount of the available subscribed capital for the shares in the splitting company held immediately before the share transfer, reduced by the total amount given by paragraph (a) for the shares held in the subsidiary immediately after the share transfer.

Not dividend

(7) The transfer of the shares in the subsidiary to the shareholders in the splitting company is not a dividend.

Meaning of ASX-listed Australian company

(8) **ASX-listed Australian company** means a company that—

(a) is resident in Australia; and

(b) is treated as resident in no tax jurisdiction other than Australia under each agreement that—

(i) is between Australia and another tax jurisdiction; and

(ii) would be a double tax agreement if negotiated between New Zealand and the other tax jurisdiction; and

(c) is included on the official list of ASX Limited, a market licensee under Chapter 7 of the Corporations Act 2001 (Aust); and

(d) is not an entity described in schedule 25, part B (Foreign investment funds); and

(e) is required under the Income Tax Assessment Act 1997 (Aust) and Income Tax Assessment Act 1936 (Aust) to maintain a franking account.

Defined in this Act: amount, ASX-listed Australian company, available subscribed capital, company, dividend, double tax agreement, group of companies, market value, resident in Australia, share, shareholder

Section ED 2B: inserted, on 29 March 2018 (with effect on 1 April 2016 and applying for the 2016–17 and later income years), by section 65(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section ED 2B(1)(b): replaced (with effect on 1 April 2016), on 18 March 2019, by section 163(1) (and see section 163(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section ED 2B(1)(c): replaced (with effect on 1 April 2016), on 18 March 2019, by section 163(1) (and see section 163(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section ED 2B(2): repealed (with effect on 1 April 2016), on 18 March 2019, by section 163(2) (and see section 163(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section ED 2B(8)(c): replaced, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 65(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section ED 2B list of defined terms **group of companies**: inserted (with effect on 1 April 2016), on 18 March 2019, by section 163(3) (and see section 163(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

ED 3 Part-year tax calculations for transfers: general insurance OCR

When this section applies

(1) This section applies when a person (the **transferor**) transfers general insurance contracts to another person (the **transferee**) in an income year and sections CR 4 and DW 4 (which relate to outstanding claims reserves) apply to either or both of the transferor and transferee.

Transfer from non-resident

(1B) If sections CR 4 and DW 4 apply to the transferee and not to the transferor, the transferee—

(a) does the calculations that the transferor would be required to perform under this section if sections CR 4 and DW 4 applied to the transferor; and

(b) uses the results of the calculations in the way required under this section for a transferee.

Part-year calculations for transfers

(2) A transferor to whom sections CR 4 and DW 4 apply does a part-year calculation immediately before the transfer, as described in subsection (3), for the transferred general insurance contracts, but only for their part-year ending on the day the transfer occurs. A transferee to whom sections CR 4 and DW 4 apply also does a part-year calculation for the transferred contracts, as described in subsection (3), but only for their part-year starting on the day the transfer occurs. The transferee's relevant opening outstanding claims reserve amounts equal the transferor's relevant closing outstanding claims reserve amounts immediately before the transfer, but if the reinsurance associated with transferred policies is not assigned by the transferor to the transferee, the transferee's reserve amounts are calculated without subtracting relevant reinsurance amounts.

Part-year calculations for transfers: description

(3) For calculating their income tax liability for the tax year that corresponds to the income year, the transferor and transferee treat references, in sections CR 4 and DW 4 and in the rules for life insurers, to an income year or a tax year as if they are references to 2 separate tax years and corresponding income years (the **part-years**) within that tax year.

Part-year calculations for transfers: effect

(4) Transferor's and transferee's part-year calculations may give rise to income and deductions for the income year, but they do not create any part-year tax return obligations.

Defined in this Act: amount, deduction, general insurance, IFRS 4, income, income tax liability, income year, insurer, outstanding claims reserve, pay, tax year

Section ED 3: inserted (with effect on 7 September 2010), on 2 November 2012, by section 33(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section ED 3(1): replaced, on 1 April 2014, by section 47(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section ED 3(1B) heading: inserted, on 1 April 2014, by section 47(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section ED 3(1B): inserted, on 1 April 2014, by section 47(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section ED 3(2): amended, on 1 April 2014, by section 47(3)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section ED 3(2): amended, on 1 April 2014, by section 47(3)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section ED 3(3): amended (with effect on 2 November 2012), on 30 March 2021, by section 34 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

ED 4 Valuation of certain excepted financial arrangements denominated in foreign currency

Who this section applies to

(1) This section applies to a person who, in an income year (the **current year**),—

(a) has an excepted financial arrangement, of a type (the **arrangement type**) described in section EW 5(21) to (25) (What is an excepted financial arrangement?), denominated in a foreign currency; and

(b) has an amount of foreign currency payable or receivable under the excepted financial arrangement (a **foreign currency payment**) at the end of the current year.

Person may choose valuation timing used for financial statements

(2) The person may choose to value a foreign currency payment at the close of trading spot exchange rate applicable at the end of the current year, if the person, in preparing financial statements, determines values at the end of the income year for amounts of foreign currency payable or receivable by the person.

Consistent valuation timing for excepted financial arrangement

(3) If foreign currency payments under a person's excepted financial arrangement are valued under subsection (2) for an income year, the amounts of foreign currency payable or receivable under all of the person's excepted financial arrangements of the arrangement type are valued in the same way for the income year and later income years.

Defined in this Act: amount, close of trading spot exchange rate, excepted financial arrangement, financial arrangement, income year

Section ED 4: inserted (with effect on 27 September 2012 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement, relying on an election made under section EW 8 before its amendment by the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013, in a return of income received by the Commissioner before that date or under a determination or binding ruling

made by the Commissioner before that date), on 17 July 2013, by section 45(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Subpart EE—Depreciation

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Introductory provision

EE 1 What this subpart does

Quantifying amounts of depreciation loss and depreciation recovery income

(1) This subpart—

(a) quantifies the amount of depreciation loss for which a person is allowed a deduction if the provisions of Part D (Deductions) are met; and

(b) quantifies the amount of depreciation recovery income that is income under Part C (Income).

When amount of depreciation loss arises

(2) A person has an amount of **depreciation loss** for an item for an income year if—

(a) the person owns an item of property, as described in sections EE 2 to EE 5; and

(b) the item is depreciable property, as described in sections EE 6 to EE 8; and

(c) the item is used, or is available for use, by the person in the income year; and

(d) the amount of depreciation loss is calculated for the person, the item, and the income year under sections EE 9 to EE 11.

When amount of depreciation recovery income arises

(3) A person has an amount of **depreciation recovery income** for an item for an income year if—

(a) the person owns an item of property, as described in sections EE 2 to EE 5; and

(b) the item is depreciable property, as described in sections EE 6 to EE 8; and

(c) the item is disposed of or an event of a kind described in section EE 47 or EE 52 occurs; and

(d) the amount of depreciation recovery income is calculated for the person, the item, and the income year under any of sections EE 22(5), EE 38(5), EE 48(1), EE 49(2), EE 51(3), EE 52(3), EZ 23B, and EZ 23BB (which relate to property, and interests in property, acquired after depreciable property was affected by the Canterbury earthquakes).

Amounts of loss incurred and income derived

(4) To avoid doubt,—

(a) an amount of depreciation loss is treated as being incurred in the income year for which it is calculated; and

(b) an amount of depreciation recovery income is treated as being derived in the income year for which it is calculated.

Allocation of deduction for depreciation loss

(5) A person who in an income year uses an item for research or development or for market development that gives rise to a deduction allocated under section EJ 22 (Deductions for market development: product of research, development), and as a result has an amount of depreciation loss for the item for the income year, may choose to allocate all or part of the deduction for the depreciation loss—

(a) to an income year after the income year for which the person has the depreciation loss; and

(b) in the way required by section EJ 23 (Allocation of deductions for research, development, and resulting market development).

Partial income-producing use

(6) Subpart DE (Motor vehicle expenditure) and section EE 50 contain rules for calculating the amount of deduction available for depreciation loss in circumstances in which an item of property is only partly used or available for use in a way that satisfies the general permission.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, development, dispose, general permission, income, income year, own, property, research

Compare: 2004 No 35 s EE 1

Section EE 1(3)(c): amended, on 30 March 2017, by section 58 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 1(3)(d): amended (with effect on 4 September 2010), on 27 February 2014, by section 48 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EE 1(3)(d): amended (with effect on 4 September 2010), on 29 August 2011, by section 23 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Meaning of own

EE 2 Nature of ownership of item

Kinds of ownership

(1) **Own**, for the ownership of depreciable property,—

(a) means legal or equitable ownership; and

(b) includes ownership of the kinds described in sections EE 3 to EE 5.

Shared ownership

(2) When more than 1 person owns an item of depreciable property, **own** means the interest that the person has in the item.

Defined in this Act: depreciable property, own

Compare: 2004 No 35 s EE 2

EE 3 Ownership of goods subject to reservation of title

When this section applies

(1) This section applies when—

(a) a person (the **buyer**) enters into an unconditional contract to buy an item of depreciable property; and

(b) the contract is not a hire purchase agreement and the item is not a hire purchase asset that is the subject of a hire purchase agreement; and

(c) the contract is subject to Part 3, subparts 1 to 6 of the Contract and Commercial Law Act 2017; and

(d) title to the item does not pass until the purchase price is paid in full; and

(e) the buyer takes possession of the item before title to it passes.

Buyer treated as owner

(2) The buyer is treated as owning, and the seller is treated as not owning, the item from the later of the following times:

(a) the time at which the buyer enters into the contract; and

(b) the time at which the buyer takes possession of the item.

Buyer ceases to be treated as owner

(3) Subsection (2) ceases to apply when 1 of the following occurs:

(a) title to the item passes to the buyer; or

(b) the seller repossesses the item.

Defined in this Act: depreciable property, hire purchase agreement, hire purchase asset, own

Compare: 2004 No 35 s EE 3

Section EE 3(1)(c): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

EE 4 Ownership of lessee's improvements: lessee

When this section applies

(1) This section applies when—

(a) a lessee of land incurs expenditure during the period during which the land is leased to the lessee in erecting a fixture on the land or making an improvement to the land; and

(b) the lessor owns the fixture or improvement.

Ownership of fixture or improvement

(2) The following apply to the ownership of the fixture or improvement:

(a) in the period during which the land is leased to the lessee,—

(i) the lessee is treated as owning the fixture or improvement; and

(ii) the lessor is treated as not owning the fixture or improvement; and

(iii) a person to whom the lessor disposes of the land during the period is treated as not owning the fixture or improvement; and

(b) after the period during which the land is leased to the lessee,—

(i) the lessor is treated as not owning the fixture or improvement, unless the lessor incurs a cost relating to it at the end of the period; and

(ii) a person to whom the lessor disposes of the land during the period is treated as not owning the fixture or improvement.

Defined in this Act: improvement, lessee, lessor, own

Compare: 2004 No 35 s EE 4

EE 5 Ownership of lessee's improvements: other person

When this section applies: first case

(1) This section applies when—

(a) a lessee of land incurs expenditure during the term of the lease in erecting a fixture on the land or making an improvement to the land; and

(b) the lessee has been allowed a deduction for an amount of depreciation loss for the fixture or improvement; and

(c) the lessee disposes of their interest in the lease to another person; and

(d) the other person pays the lessee for the fixture or improvement.

When this section applies: second case

(2) This section also applies when—

(a) a lessee of land has been allowed a deduction for an amount of depreciation loss for a fixture on the land, or an improvement to the land, that a previous lessee erected or made; and

(b) the lessee disposes of their interest in the lease to another person; and

(c) the other person pays the lessee for the fixture or improvement.

Other person treated as owner

(3) The other person is treated as owning the fixture or improvement from the time at which they pay the lessee for it.

Defined in this Act: amount, deduction, depreciation loss, dispose, improvement, lease, lessee, own, pay, term of the lease

Compare: 2004 No 35 s EE 5

Meaning of depreciable property

EE 6 What is depreciable property?

Description

(1) **Depreciable property** is property that, in normal circumstances, might reasonably be expected to decline in value while it is used or available for use—

(a) in deriving assessable income; or

(b) in carrying on a business for the purpose of deriving assessable income; or

(c) in deriving exempt income, and it is used in performing research and development activities.

Subsections (2) to (4) expand on this subsection.

Property: tangible

(2) An item of tangible property is depreciable property if—

(a) it is described by subsection (1); and

(b) it is not described by section EE 7.

Property: utilities distribution assets

(2B) For the purposes of this subpart, utilities distribution assets are separate items of property.

Property: intangible

(3) An item of intangible property is depreciable property if—

(a) it is within the definition of **depreciable intangible property**; and

(b) it is described by subsection (1); and

(c) it is not described by section EE 7.

Property: geothermal wells

(4) For the purposes of this subpart, a person who owns a geothermal well is, for the geothermal energy proving period, treated as acquiring the well as property that declines in value and is to be available for use in carrying on a business for the purpose of deriving assessable income.

Defined in this Act: acquire, assessable income, business, depreciable intangible property, depreciable property, geothermal energy proving period, geothermal well, property, research and development activity, utilities distribution asset

Compare: 2004 No 35 s EE 6

Section EE 6(1)(b): amended, on 1 April 2019, by section 6(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section EE 6(1)(c): inserted, on 1 April 2019, by section 6(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section EE 6(2B) heading: inserted (with effect on 1 April 2008), on 31 March 2023, by section 50(1) (and see section 50(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EE 6(2B): inserted (with effect on 1 April 2008), on 31 March 2023, by section 50(1) (and see section 50(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EE 6 list of defined terms **research and development activities**: repealed (with effect on 1 April 2019), on 30 March 2022, by section 78 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 6 list of defined terms **research and development activity**: inserted (with effect on 1 April 2019), on 30 March 2022, by section 78 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 6 list of defined terms **utilities distribution asset**: inserted (with effect on 1 April 2008), on 31 March 2023, by section 50(2) (and see section 50(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

EE 7 What is not depreciable property?

The following property is not **depreciable property**:

(a) land other than depreciable intangible property, although buildings, fixtures, and the improvements listed in schedule 13 (Depreciable land improvements) are depreciable property if they are described by section EE 6(1):

(ab) a lease of land with a perpetual right of renewal:

(b) trading stock:

(c) livestock to which subpart EC (Valuation of livestock) applies:

(d) financial arrangements:

(e) excepted financial arrangements other than depreciable intangible property:

(f) property that will not decline in value, as far as its owner is concerned, because, when they dispose of it, they have a right to be compensated for any decline in its value:

(fb) property that is a piece of an item of depreciable property that is an aircraft or an aircraft engine, if the expenditure on the piece is treated under section DW 5(8) (Aircraft operators: aircraft engines and aircraft engine overhauls) as being expenditure incurred in carrying out an aircraft engine overhaul:

(fc) a utilities distribution network, to the extent to which it is treated as an item of property separate from the relevant utilities distribution assets:

(g) property that its owner chooses, under section EE 8, to treat as not depreciable:

(h) property that its owner chooses, under section EE 38, to deal with under that section:

(i) property for whose cost a person other than the property's owner is allowed a deduction:

(j) property for whose cost a person is allowed a deduction under a provision of this Act outside this subpart or under a provision of an earlier Act.

Defined in this Act: aircraft engine, aircraft engine overhaul, building, deduction, depreciable intangible property, depreciable property, dispose, excepted financial arrangement, financial arrangement, land, own, property, trading stock, utilities distribution asset, utilities distribution network

Compare: 2004 No 35 s EE 7

Section EE 7(a): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 46(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EE 7(ab): inserted, on 1 April 2015, by section 65(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EE 7(c): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 65(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EE 7(e): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 46(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EE 7(fb): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 59(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 7(fc): inserted (with effect on 1 April 2008), on 31 March 2023, by section 51(1) (and see section 51(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EE 7(j): amended, on 29 March 2018 (with effect on 1 April 2014), by section 66 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EE 7 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 59(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 7 list of defined terms **aircraft engine overhaul**: inserted, on 1 April 2017, by section 59(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 7 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 7 list of defined terms **depreciable intangible property**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 46(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EE 7 list of defined terms **land**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 46(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EE 7 list of defined terms **utilities distribution asset**: inserted (with effect on 1 April 2008), on 31 March 2023, by section 51(2) (and see section 51(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EE 7 list of defined terms **utilities distribution network**: inserted (with effect on 1 April 2008), on 31 March 2023, by section 51(2) (and see section 51(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

EE 8 Election that property not be depreciable

Item acquired

(1) A person may choose that an item of property they acquire not be depreciable property even though, in the absence of the election, it would be depreciable property.

Item changing use

(2) A person may choose that an item of property they own ceases to be depreciable property if—

(a) the use of the item changes; and

(b) before the use changes, the person was denied a deduction for an amount of depreciation loss for the item; and

(c) after the use changes, in the absence of the election, the person would have been allowed a deduction for an amount of depreciation loss for the item.

Retrospective election

(3) A person who has deducted none of the amounts of depreciation loss for which they were allowed a deduction for an item of property, in the income year in

which they acquired it and in each later year, may retrospectively choose that the item not be depreciable property.

How elections made

(4) An election under this section is made as follows:

(a) a person makes an election under subsection (1) by giving the Commissioner notice of it in their return of income for the income year in which they acquire the item; and

(b) a person makes an election under subsection (2) by giving the Commissioner notice of it in their return of income for the income year in which the item's use changes; and

(c) a person makes an election under subsection (3) by giving the Commissioner notice of it in their return of income for any income year after they acquire the item, including an income year after they dispose of the item.

Effect of election

(5) An election under this section has effect for the person for—

(a) the income year for which they make the election; and

(b) all later income years until—

(i) the item is disposed of, although this reference to disposal does not include the disposal of an item of intangible property as part of an arrangement to replace it with an item of the same kind; or

(ii) an event described in section EE 47 occurs involving the item.

Retrospective effect of election

(6) An election made under subsection (3) also has retrospective effect for the person for—

(a) the income year in which they acquire the property; and

(b) all intervening income years until the year in which they make the election.

Defined in this Act: acquire, amount, Commissioner, deduction, depreciable property, depreciation loss, dispose, income year, notice, property, return of income

Compare: 2004 No 35 s EE 8

How amounts of depreciation loss and depreciation recovery income are calculated

EE 9 Description of elements of calculation

Depreciation methods

(1) Sections EE 12 to EE 24 deal with the methods of calculating an amount of depreciation loss. The methods are—

(a) the straight-line method, which is dealt with in sections EE 13 to EE 19; and

(b) the diminishing value method, which is also dealt with in sections EE 13 to EE 19; and

(c) the pool method, which is dealt with in sections EE 20 to EE 24.

Depreciation rates

(2) Sections EE 26 to EE 36 deal with the rates of depreciation. The rates are—

(a) the economic rate, which is dealt with in section EE 26; and

(b) the annual rate, which is dealt with in sections EE 31, EE 33, and EE 34; and

(c) a special rate or a provisional rate, both of which are dealt with in sections EE 35 and EE 36.

Improvements, low value items, and items no longer used

(3) Sections EE 37 to EE 39 deal with the cases of—

(a) an improvement made to an item of depreciable property; and

(b) an item of depreciable property that is of low value; and

(c) an item of depreciable property that is no longer used.

Transfers

(4) Sections EE 40 to EE 43 deal with the transfer of items of depreciable property in certain amalgamations and between associated persons.

Disposals and similar events

(5) Sections EE 44 to EE 52 deal with disposals of property and events that involve property and are similar to disposal.

Interpretation provisions

(6) Sections EE 54 to EE 67 deal with the following interpretation matters:

(a) section EE 54 deals with the effect of goods and services tax (GST) on cost; and

(b) sections EE 55 to EE 60 deal with the meaning of **adjusted tax value**; and

(c) sections EE 61 to EE 67 contain definitions.

Relationship with sections EZ 9 to EZ 28

(7) Sections EZ 9 to EZ 28 (which relate to depreciation) deal with items acquired in periods before 24 September 1997.

Defined in this Act: adjusted tax value, amount, annual rate, associated person, depreciable property, depreciation loss, depreciation method, diminishing value method, dispose, economic rate, GST, improvement, pool method, property, provisional rate, special rate, straight-line method

Compare: 2004 No 35 s EE 9

EE 10 Calculation rule: item temporarily not available

An item of depreciable property is treated as being available for use while subject temporarily to repair or inspection, if it was used or available for use immediately before going for repair or inspection.

Defined in this Act: depreciable property

Compare: 2004 No 35 s EE 10

EE 11 Calculation rule: income year in which item disposed of

Generally no amount of depreciation loss

(1) A person does not have an amount of depreciation loss for an item of depreciable property for the income year in which they dispose of it.

Exclusion: building or petroleum-related depreciable property

(2) A person has an amount of depreciation loss for an item of depreciable property for the income year in which they dispose of it, if it is—

(a) a building; or

(b) an item of petroleum-related depreciable property.

Exclusion: empty pool

(3) A person has the amount of depreciation loss calculated under section EE 22(4)(a) for an income year for a disposal to which the subsection applies.

Exclusion: consideration less than adjusted tax value

(4) A person has the amount of depreciation loss calculated under section EE 48(2) for a disposal or event to which the subsection applies.

Exclusion: item partly used for business

(5) A person has the amount of depreciation loss calculated under section EE 50(6) for a disposal or event to which the subsection applies.

Exclusion: recent acquisition of item partly used for business

(6) A person has the amount of depreciation loss calculated under section EE 50(9) for a disposal or event to which the subsection applies.

Defined in this Act: building, adjusted tax value, amount, business, depreciable property, depreciation loss, dispose, income year, petroleum-related depreciable property

Compare: 2004 No 35 s EE 11

Section EE 11 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Methods

EE 12 Depreciation methods

Meaning of depreciation method

(1) **Depreciation method** means—

(a) a method that a person may use to calculate an amount of depreciation loss:

(b) a rate determined by the Commissioner under section 91AAF or 91AAG of the Tax Administration Act 1994:

(c) a maximum pooling value determined by the Commissioner under section 91AAL of that Act.

Methods described

(2) The depreciation methods are—

(a) the diminishing value method, which—

(i) may be used for any item of depreciable property except one referred to in subparagraph (ii) or (iii); and

(ii) must not be used for an item of fixed life intangible property; and

(iii) must not be used for an item of property in the circumstances described in section EZ 9 (Pool method for items accounted for by globo method for 1992–93 income year):

(b) the straight-line method, which—

(i) may be used for any item of depreciable property; and

(ii) must be used for an item of fixed life intangible property:

(c) the pool method, which—

(i) may be used for any item of poolable property except one referred to in subparagraph (ii); and

(ii) must not be used for an item of fixed life intangible property; and

(iii) must be used for an item of property in the circumstances described in section EZ 9.

Person chooses

(3) A person chooses which of the depreciation methods they will use for each item of depreciable property they own.

How person chooses

(4) The person chooses the method by using the chosen method for the item in their return of income for the income year for which they make the election.

Diminishing value or straight-line method fixed for income year

(5) If the person chooses the diminishing value method or the straight-line method, they must use the method for the item and the income year and must not change the election for the income year.

Pool method fixed for income year and later income years

(6) If the person chooses the pool method, they must use the method for the item and the income year and must not change the election for—

(a) the income year; or

(b) a later income year in which the item is still poolable property that they own.

Defined in this Act: amount, depreciable property, depreciation loss, depreciation method, diminishing value method, fixed life intangible property, income year, own, pool method, poolable property, property, return of income, straight-line method

Compare: 2004 No 35 s EE 12

Amount of depreciation loss under diminishing value method or straight-line method

EE 13 Application of sections EE 14 to EE 19

Sections EE 14 to EE 19 apply to the calculation of the amount of depreciation loss that a person using the diminishing value method or the straight-line method has.

Defined in this Act: amount, depreciation loss, diminishing value method, straight-line method

Compare: 2004 No 35 s EE 13

EE 14 Diminishing value or straight-line method: calculating amount of depreciation loss

Most depreciable property

(1) The amount of depreciation loss that the person has for an income year for an item of depreciable property is the lesser of the amounts dealt with in sections EE 15 and EE 16.

Exclusion: petroleum-related depreciable property

(2) The amount of depreciation loss that the person has for an income year for an item of petroleum-related depreciable property is the lesser of the amounts dealt with in sections EE 15 and EE 17.

Defined in this Act: amount, depreciable property, depreciation loss, income year, petroleum-related depreciable property

Compare: 2004 No 35 s EE 14

EE 15 Amount of adjusted tax value

For the purposes of the comparison of amounts required by section EE 14(1) and (2), the amount dealt with in this section is the item's adjusted tax value at the end of the income year before the deduction of an amount of depreciation loss for the item for the income year.

Defined in this Act: adjusted tax value, amount, deduction, depreciation loss, income year

Compare: 2004 No 35 s EE 15

EE 16 Amount resulting from standard calculation

Amount

(1) For the purposes of the comparison of amounts required by section EE 14(1), the amount dealt with in this section is calculated using the formula—

annual rate × value or cost × months ÷ 12.

Definition of items in formula

(2) The items in the formula are defined in subsections (3) to (5).

Annual rate

(3) **Annual rate** is the annual rate that, in the income year, applies to the item of depreciable property under the depreciation method that the person uses for the item. It is expressed as a decimal.

Value or cost

(4) **Value or cost** is,—

(a) when the person uses the diminishing value method, the item's adjusted tax value at the end of the income year before the deduction of an amount of depreciation loss for the item for the income year:

(b) when the person uses the straight-line method,—

(i) for a patent, design registration, or plant variety rights in relation to which the person has been allowed a deduction for an amount of depreciation loss for the relevant application, the item's adjusted tax value at the start of the month in which the person acquires it:

(ib) for a design registration to which subparagraph (i) does not apply, for a design registration application, or for industrial artistic copyright, its cost to the person, but excluding expenditure that the person incurred before 7 November 2013 or for which they are allowed a deduction under a provision of this Act outside this subpart:

(ii) for other items, its cost to the person excluding expenditure for which the person is allowed a deduction under a provision of this Act outside this subpart:

(c) for the purposes of paragraph (b), variations to **cost** are in sections EE 18 to EE 19.

Months: income year of normal length or shorter

(5) **Months**, for a person whose income year contains 365 days or fewer, or 366 days or fewer in a leap year, is the lesser of the following:

(a) 12; and

(b) the number of whole or part calendar months in the income year in which—

(i) the person owns the item; and

(ii) the person uses the item or has it available for use for any purpose.

Months: income year of longer than normal length

(6) **Months**, for a person whose income year contains more than 365 days, or more than 366 days in a leap year, is the number of whole or part months in the income year in which—

(a) the person owns the item; and

(b) the person uses the item or has it available for use for any purpose.

Months: applications

(7) For the purposes of subsections (5) and (6), for a patent application and a design registration application, **months** refers to whole calendar months and whole months, as applicable.

Defined in this Act: adjusted tax value, amount, annual rate, deduction, depreciable property, depreciation loss, depreciation method, design registration, design registration application, diminishing value method, income year, industrial artistic copyright, own, plant variety rights, straight-line method

Compare: 2004 No 35 s EE 16

Section EE 16(4)(b)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 116(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 16(4)(b)(ib): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 116(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 16(4)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 116(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 16(7) heading: amended (with effect on 1 April 2015), on 24 February 2016, by section 116(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 16(7): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 116(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 16 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 116(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 16 list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 116(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 16 list of defined terms **industrial artistic copyright**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 116(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 17 Amount resulting from petroleum-related depreciable property calculation

Amount

(1) For the purposes of the comparison of amounts required by section EE 14(2), the amount dealt with in this section is calculated using the formula—

annual rate × value or cost × days ÷ 365.

Definition of items in formula

(2) The items in the formula are defined in subsections (3) to (5).

Annual rate

(3) **Annual rate** is the annual rate that, in the income year, applies to the item of depreciable property under the depreciation method that the person uses for the item. It is expressed as a decimal.

Value or cost

(4) **Value or cost** is,—

(a) when the person uses the diminishing value method, the item's adjusted tax value at the end of the income year before the deduction of an amount of depreciation loss for the item for the income year:

(b) when the person uses the straight-line method, the item's cost to the person; a variation to **cost** is in section EE 18.

Days

(5) **Days** is the number of whole or part days in the income year on which—

(a) the person owns the item; and

(b) the person uses the item or has it available for use for any purpose.

Defined in this Act: adjusted tax value, amount, annual rate, deduction, depreciable property, depreciation loss, depreciation method, diminishing value method, income year, own, straight-line method

Compare: 2004 No 35 s EE 17

EE 18 Cost: change from diminishing value to straight-line method

When this section applies

(1) This section applies when a person changes from the diminishing value method to the straight-line method for an item of property for an income year.

How straight-line method applies

(2) For the purposes of the formulas in sections EE 16 and EE 17, the item's cost is treated as being the item's adjusted tax value at the end of the income year before the deduction of an amount of depreciation loss for the item for the income year.

Defined in this Act: adjusted tax value, amount, deduction, depreciation loss, diminishing value method, income year, property, straight-line method

Compare: 2004 No 35 s EE 18

EE 18B Cost: some depreciable intangible property

For the purposes of section EE 16 and this subpart, the cost to a person for an item of depreciable intangible property or a plant variety rights application (the **amortising item**) includes an amount of expenditure incurred by the person for an item of intangible property (the **underlying item**) if—

(a) the underlying item gives rise to, supports, or is an item in which the person holds, the amortising item; and

(b) the amount of expenditure is incurred by the person on or after 7 November 2013, if the amortising item is 1 of—

(i) a patent or a patent application with a complete specification lodged on or after 1 April 2005:

(ii) plant variety rights:

(iii) a plant variety rights application:

(iv) a design registration:

(v) a design registration application:

(vi) industrial artistic copyright; and

(c) the person is denied a deduction for the expenditure under a provision outside this subpart.

Defined in this Act: deduction, depreciable intangible property, design registration, design registration application, industrial artistic copyright, plant variety rights

Section EE 18B: inserted (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 117(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 18B: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 118(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 18B(b): replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 118(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 18B list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 118(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 18B list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 118(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 18B list of defined terms **industrial artistic copyright**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 118(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 19 Cost: fixed life intangible property

When this section applies

(1) This section applies when—

(a) a person owns an item of fixed life intangible property; and

(b) the person incurs additional costs in an income year for the item; and

(c) the person is denied a deduction for the additional costs other than a deduction for an amount of depreciation loss.

When this section does not apply

(1B) This section does not apply for additional costs incurred before 7 November 2013 for—

(a) a design registration:

(b) a design registration application:

(c) industrial artistic copyright.

Additional costs for fixed life intangible property

(2) For the purposes of the formula in section EE 16, the item's cost at the start of the income year is treated as being the total of—

(a) the item's adjusted tax value at the start of the income year; and

(b) the additional costs the person incurs.

Defined in this Act: adjusted tax value, amount, deduction, depreciation loss, design registration, design registration application, fixed life intangible property, income year, industrial artistic copyright, own

Compare: 2004 No 35 s EE 19

Section EE 19(1B) heading: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 119(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 19(1B): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 119(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 19 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 119(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 19 list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 119(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 19 list of defined terms **industrial artistic copyright**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 119(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Amount of depreciation loss under pool method

EE 20 Application of sections EE 21 to EE 24

Sections EE 21 to EE 24 apply to the calculation of the amount of depreciation loss that a person using the pool method has.

Defined in this Act: amount, depreciation loss, pool method

Compare: 2004 No 35 s EE 20

EE 21 Pool method: calculating amount of depreciation loss

Amount of depreciation loss subtracted from pool's value

(1) The amount of depreciation loss that a person has for an income year for a pool of depreciable property is—

(a) first, calculated under subsection (2); and

(b) second, subtracted from the pool's adjusted tax value at the end of the income year.

Amount

(2) The amount of depreciation loss is calculated using the formula—

rate × ((starting adjusted tax value + ending adjusted tax value) ÷ 2) × months ÷ 12.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) to (8).

Rate

(4) **Rate** is the diminishing value rate. It is 1 of the following:

(a) if the same rate applies to all items depreciated in the pool in the income year, that rate; or

(b) if different rates apply to items depreciated in the pool in the income year,—

(i) the lower of the rates, if there are 2 items in the pool; or

(ii) the lowest of the rates, if there are 3 or more items in the pool.

Starting adjusted tax value

(5) **Starting adjusted tax value** is—

(a) the pool's adjusted tax value at the start of the income year, increased as applicable by the amount referred to in section EE 22(2)(b); or

(b) zero, if the pool did not exist at the start of the income year.

Ending adjusted tax value

(6) **Ending adjusted tax value** is the pool's adjusted tax value at the end of the income year before the deduction of an amount of depreciation loss for the pool for the income year. The value is, as applicable,—

(a) increased by the amounts referred to in section EE 22(1) and (2)(a):

(b) decreased by the amount referred to in section EE 22(3).

Months

(7) **Months**, for a person, is the number of whole or part months in their income year, and the number may be more or less than 12.

Months: income year of longer than normal length

[Repealed]

(8) *[Repealed]*

Defined in this Act: adjusted tax value, amount, deduction, depreciable property, depreciation loss, diminishing value rate, income year, own, pool

Compare: 2004 No 35 s EE 21

Section EE 21(5) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 21(5): substituted (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 21(6) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 21(6): substituted (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 21(7) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 21(7): substituted (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 21(8) heading: repealed (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 21(8): repealed (with effect on 1 April 2008), on 6 October 2009, by section 117(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EE 22 Cases affecting pool

Acquired item included

(1) If a person chooses in an income year to include in a pool an item of poolable property that they acquire in the income year, the pool's adjusted tax value is increased by the item's cost.

Separately depreciated item included

(2) If a person chooses in an income year to include in a pool an item of poolable property that they depreciated separately in the previous income year,—

(a) the pool's adjusted tax value is increased by the item's adjusted tax value on the date it is included in the pool; and

(b) the item's adjusted tax value at the end of the previous income year is included in **starting adjusted tax value** in section EE 21(5).

Insurance or compensation for damage to item

(2B) If a person in an income year derives an amount of insurance, indemnity, or compensation (the **compensation amount**) for damage to an item included in a pool at the end of the income year and the compensation amount exceeds the expenditure or loss that the person incurs because of the damage, the excess is subtracted from the adjusted tax value of the pool.

Item disposed of

(3) If a person disposes of an item included in a pool, and derives an amount of consideration from the disposal, or derives an amount of insurance, indemnity, or compensation to which subsection (2B) does not apply for damage to the item occurring before the disposal, any excess of the amount derived over

the expenditure or loss incurred in deriving the amount is subtracted from the adjusted tax value of the pool in which the item was included on the date of the disposal.

All items disposed of

(4) If, on the last day of an income year, the adjusted tax value of a person's pool is positive but the person has disposed of all items that were in the pool,—

(a) the amount of depreciation loss that the person has for the pool for the income year is the pool's adjusted tax value; and

(b) on the first day of the following income year, the pool's adjusted tax value is zero.

Negative adjusted tax value

(5) If, on the last day of an income year, the adjusted tax value of a person's pool is negative,—

(a) the amount by which the adjusted tax value is negative is an amount of depreciation recovery income of the person derived in the income year; and

(b) on the first day of the following income year the pool's adjusted tax value is zero.

Relationship with section EZ 10

(6) Section EZ 10 (Pool items accounted for by globo method for 1992–93 income year) limits the amount of income arising under subsection (5)(a) in the circumstances described in the section.

Defined in this Act: acquire, adjusted tax value, amount, depreciation loss, depreciation recovery income, dispose, income, income year, pool, poolable property

Compare: 2004 No 35 s EE 22

Section EE 22(2B) heading: inserted (with effect on 4 September 2010), on 2 November 2012, by section 35(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EE 22(2B): inserted (with effect on 4 September 2010), on 2 November 2012, by section 35(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EE 22(3): amended (with effect on 4 September 2010), on 2 November 2012, by section 35(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

EE 23 Combined pools

Combining pools allowed

(1) A person using the pool method may at any time combine any number of pools to form a single pool.

Consequences

(2) When a person combines pools,—

(a) the new pool's adjusted tax value is the same as the sum of the adjusted tax values of the constituent pools; and

(b) the adjusted tax value of each of the constituent pools at the end of the income year in which the pools are combined is zero; and

(c) each of the constituent pools ceases to exist.

Defined in this Act: adjusted tax value, income year, pool, pool method

Compare: 2004 No 35 s EE 23

EE 24 Property ceasing to qualify for pool

If a person starts using an item of property included in a pool in such a way as to cause the item to cease to meet the requirements of section EE 66(4), they must account for it as if, on the day they first used it in that way,—

(a) they disposed of it for its market value; and

(b) they immediately reacquired it for its market value.

Defined in this Act: acquire, dispose, pool, property

Compare: 2004 No 35 s EE 24

EE 25 Depreciation loss for plant variety rights application granted in 2005–06 or later income year

When this section applies

(1) This section applies when—

(a) plant variety rights are granted to a person in their 2005–06 income year or a later income year; and

(b) the rights are granted in relation to a plant variety rights application owned by the person; and

(c) a deduction for expenditure is denied under another provision.

Calculation of deduction

(2) For the income year in which the plant variety rights are granted, the person is allowed a deduction for expenditure on the plant variety rights application of an amount calculated using the formula—

cost × months of ownership ÷ depreciation months.

Definition of items in formula

(3) In the formula,—

(a) **cost** is the cost to the person of the plant variety rights application, including an amount incurred for the purpose of lodging an earlier application and giving rise under section CG 7B (Disposals or applications after earlier deductions) to a corresponding amount of income relating to the plant variety rights application:

(b) **months of ownership** is the number of whole calendar months for which the person owns the plant variety rights application:

(c) **depreciation months** is the total of the number of months of ownership under paragraph (b) and the number of months in the term for which

the plant variety rights are granted in relation to the plant variety rights application.

Defined in this Act: amount, deduction, income year, plant variety rights

Compare: 2004 No 35 s EE 24B

Section EE 25(3)(a): replaced (with effect on 1 April 2014), on 30 June 2014 (applying for 2014–15 and later income years), by section 66(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EE 25 list of defined terms **depreciation**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Depreciation rates

EE 26 Setting of economic depreciation rate

Relevant provisions

(1) The economic depreciation rate that applies to a kind of item of depreciable property is set under—

(a) section EE 27, for items that—

(i) are not buildings, fixed life intangible property, excluded depreciable property, or property for which an economic rate is set under section EE 29 or EE 30; and

(ii) are acquired on or after 1 April 2005:

(b) section EE 28, for items that are buildings and—

(i) are acquired on or after 19 May 2005; and

(ii) do not have an economic depreciation rate set under section EZ 23 (Economic rate for plant or equipment acquired before 1 April 2005 and buildings acquired before 19 May 2005):

(c) section EE 29, for certain aircraft and motor vehicles acquired on or after 1 April 2005:

(d) section EE 30, for items that—

(i) have an estimated residual market value greater than 13.5% of cost:

(ii) would, in the absence of section EE 30, have an economic depreciation rate set under section EE 27 or EE 28:

(e) section EZ 23 for items that—

(i) are not buildings, fixed life intangible property, or excluded depreciable property and are acquired before 1 April 2005:

(ii) are buildings acquired before 19 May 2005:

(iii) are buildings acquired on or after 19 May 2005, as relationship property or from a company in the same wholly-owned group of companies, from a person who applied to the item an economic

depreciation rate set under section EZ 23 or a corresponding provision.

No rate for fixed life intangible property or excluded depreciable property

(2) An economic depreciation rate must not be set for a kind of item of depreciable property that is fixed life intangible property or excluded depreciable property.

Overriding effect of election under section EE 32

(3) Subsection (1)(a), (c), and (d) are overridden by section EE 32.

Defined in this Act: building, depreciable property, economic rate, estimated residual market value, excluded depreciable property, fixed life intangible property

Compare: 2004 No 35 s EE 25

Section EE 26 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

EE 27 Economic rate for certain depreciable property

What this section is about

(1) This section is about setting the economic depreciation rate that applies to a kind of item of depreciable property.

Exclusion

(2) This section does not apply to buildings, fixed life intangible property, excluded depreciable property, or property for which an economic rate is set under section EE 29 or EE 30.

Rate set by Commissioner

(3) The Commissioner sets the rate from time to time by—

(a) following the procedure set out in this section; and

(b) issuing a determination under section 91AAF of the Tax Administration Act 1994.

Procedure for setting economic rate

(4) To set the diminishing value rate for a kind of item of depreciable property, the Commissioner—

(a) obtains a figure by applying the formula in subsection (5) to items of that kind; and

(b) rounds the figure up or down to the nearest rate specified in schedule 11, column 1 (New banded rates of depreciation); and

(c) sets the same rate for some or all of the kinds of items of depreciable property that are similar to one another, if the Commissioner thinks it is appropriate to do so having regard to—

(i) the rate calculated for each kind; and

(ii) the reduction in compliance costs that is likely to be achieved.

Formula

(5) The formula is—

2 ÷ estimated useful life.

Definition of item in formula

(6) In the formula, **estimated useful life** is the estimated useful life of the item expressed in years.

Defined in this Act: building, Commissioner, depreciable property, diminishing value rate, economic rate, estimated useful life, excluded depreciable property, fixed life intangible property

Compare: 2004 No 35 s EE 25B

Section EE 27 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

EE 28 Economic rate for buildings

What this section is about

(1) This section is about setting the economic depreciation rate that applies to a kind of item of depreciable property that is a building and for which an economic rate is not set under section EE 30 or EZ 23 (Economic rate for plant or equipment acquired before 1 April 2005 and buildings acquired before 19 May 2005).

Rate set by Commissioner

(2) The Commissioner sets the rate from time to time by—

(a) following the procedure set out in this section; and

(b) issuing a determination under section 91AAF of the Tax Administration Act 1994.

Procedure for setting economic rate

(3) To set the straight-line rate for a kind of item of depreciable property, the Commissioner—

(a) gets a figure by applying the formula in subsection (4) to items of that kind; and

(b) rounds the figure up or down to the nearest rate specified in schedule 11, column 4 (New banded rates of depreciation); and

(c) sets the same rate for some or all of the kinds of buildings that are similar to one another, if the Commissioner thinks it is appropriate to do so having regard to—

(i) the rate calculated for each kind; and

(ii) the reduction in compliance costs that is likely to be achieved.

Formula

(4) The formula is—

1 ÷ estimated useful life.

Definition of item in formula

(5) In the formula, **estimated useful life** is the estimated useful life of the item expressed in years.

Contracts existing at 19 May 2005

(6) Despite subsection (1), a person who before 19 May 2005 enters into a binding contract for the acquisition or construction of a building must apply to the building the economic rate for the kind of the building determined under section EZ 23.

Defined in this Act: building, Commissioner, depreciable property, diminishing value rate, economic rate, estimated useful life, excluded depreciable property, fixed life intangible property

Compare: 2004 No 35 s EE 25C

Section EE 28(6): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 28 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

EE 29 Economic rate for certain aircraft and motor vehicles

What this section does

(1) This section gives the economic depreciation rate for certain aircraft and motor vehicles.

Rate for certain aircraft

(2) The economic rate for an aircraft is a diminishing value rate of 10% or a straight-line rate of 7% if the aircraft—

(a) is self-propelled; and

(b) has fixed wings; and

(c) is not an international aircraft; and

(d) is not used for top-dressing or spraying; and

(e) is not a helicopter.

Rate for certain motor vehicles

(3) The economic rate for a motor vehicle that is designed exclusively or mainly to carry persons and has seats for no more than 12 persons is a diminishing value rate of 30% or a straight-line rate of 21% if the motor vehicle—

(a) is not available for hire:

(b) is available for hire for a hire period of more than 1 month:

(c) is a small passenger service vehicle:

(d) is a minibus.

Defined in this Act: diminishing value rate, economic rate, international aircraft, minibus, small passenger service vehicle, straight-line rate

Compare: 2004 No 35 s EE 25D

Section EE 29(3)(c): amended, on 1 October 2017, by section 110(3) of the Land Transport Amendment Act 2017 (2017 No 34).

EE 30 Economic rate for plant, equipment, or building, with high residual value

What this section is about

(1) This section is about setting the economic depreciation rate that applies to items of a kind of depreciable property if—

(a) the kind of depreciable property is not fixed life intangible property, or excluded depreciable property, for which an economic rate cannot be set; and

(b) the estimated residual market value for the item is more than 13.5% of cost; and

(c) the items are—

(i) plant or equipment acquired on or after 1 April 2005:

(ii) buildings acquired on or after 19 May 2005.

Rate set by Commissioner

(2) The Commissioner sets the rate from time to time by—

(a) following the procedure set out in this section; and

(b) issuing a determination under section 91AAF of the Tax Administration Act 1994.

Procedure for setting economic rate

(3) To set the diminishing value rate for a kind of item of depreciable property, the Commissioner—

(a) obtains a figure by applying the formula in subsection (4) to items of that kind; and

(b) rounds the figure up or down to the nearest rate specified in schedule 11, column 1 (New banded rates of depreciation); and

(c) sets the same rate for some or all of the kinds of items of depreciable property that are similar to one another, if the Commissioner thinks it is appropriate to do so having regard to—

(i) the rate calculated for each kind; and

(ii) the reduction in compliance costs that is likely to be achieved.

Formula

(4) The formula is—

$$1 - ((\text{residual value} \div \text{cost})^{(1 \div \text{estimated useful life})}).$$

Definition of items in formula

(5) In the formula,—

(a) **residual value** is the greater of—

(i) estimated residual market value, which is defined in section EE 67:

(ii) 13.5% of cost:

(b) **cost** is the cost of items of the kind to which the formula is applied:

(c) **estimated useful life** is defined in section EE 63.

Defined in this Act: building, Commissioner, depreciable property, diminishing value rate, economic rate, estimated residual market value, estimated useful life, excluded depreciable property, fixed life intangible property

Compare: 2004 No 35 s EE 25E

Section EE 30(1)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 118 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 30(3)(b): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 30(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EE 30 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

EE 31 Annual rate for item acquired in person's 1995–96 or later income year

What this section is about

(1) This section is about the annual rate that applies to an item of depreciable property that a person acquires, other than under section FL 2(2) or FL 3(2) (which relate to the treatment of emigrating companies and their shareholders), in their 1995–96 income year or a later income year (not including fixed life intangible property or excluded depreciable property, for which rates are set in sections EE 33 and EZ 15 (Annual rate for excluded depreciable property: 1992–93 tax year)). Subsection (2) applies to specify the annual rate for the item if the requirements in subsection (2A) are met, and subsection (3) applies to specify the annual rate for the item if subsections (2A) and (2) do not apply and the requirements in subsection (3A) are met.

Requirements for subsection (2) rate

(2A) This subsection applies, and the rate is 1 of the rates given by subsection (2), if the person—

(a) acquires the item on or before 20 May 2010; or

(b) decides to acquire or construct the item, meets the administrative requirements in subsection (4), and—

(i) enters into a binding contract for the acquisition or construction of the item on or before 20 May 2010:

(ii) after deciding to acquire or construct the item, incurs expenditure in relation to its acquisition or construction on or before 20 May 2010.

Rate for item acquired on or before 20 May 2010

(2) If subsection (2A) applies, the rate is 1 of the following:

(a) the item's economic rate, special rate, or provisional rate, for an item not described in paragraph (b), (c), or (d):

(b) the item's economic rate, special rate, or provisional rate, multiplied by 1.2, for an item that—

(i) has not been used or held for use in New Zealand as an item of depreciable property before the date on which the person acquires it; and

(ii) is not a building; and

(iii) is not a used imported car; and

(iv) is not an international aircraft:

(c) a diminishing value rate of 15% or a straight-line rate of 10%, for an international aircraft:

(d) 0% for a building that has an economic rate or provisional rate of more than 0% due to an estimated useful life of 50 years or more.

Requirements for subsection (3) rate

(3A) This subsection applies, and the rate is 1 of the rates given by subsection (3), if subsections (2A) and (2) do not apply and the person—

(a) acquires the item after 20 May 2010; or

(b) decides to acquire or construct the item, and—

(i) enters into a binding contract for the acquisition or construction of the item after 20 May 2010:

(ii) incurs expenditure in relation to the item's acquisition or construction after 20 May 2010.

Rate for item acquired after 20 May 2010

(3) If subsection (3A) applies, the rate is 1 of the following:

(a) the item's economic rate, special rate, or provisional rate, for an item not described in paragraph (b) or (c):

(b) a diminishing value rate of 15% or a straight-line rate of 10% for an international aircraft:

(c) 0%, for a building that has an economic rate or provisional rate of more than 0% due to an estimated useful life of 50 years or more.

Administrative requirements

(4) For the purposes of subsection (2A)(b), a person must—

(a) have available for the Commissioner documents dated on or before 20 May 2010 that evidence that the person had, on or before 20 May 2010, decided to acquire or construct the relevant item:

(b) send to the Commissioner a statutory declaration that the person had, on or before 20 May 2010, decided to acquire or construct the relevant item.

Defined in this Act: acquire, annual rate, building, Commissioner, depreciable property, diminishing value rate, economic rate, estimated useful life, excluded depreciable property, fixed life intangible property, income year, international aircraft, New Zealand, straight-line rate

Compare: 2004 No 35 s EE 26

Section EE 31(1): amended (with effect on 30 August 2022), on 31 March 2023, by section 52 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EE 31(1): amended (with effect on 20 May 2010), on 21 December 2010, by section 49(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(1): amended (with effect on 20 May 2010), on 28 May 2010, by section 77(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(2A) heading: inserted (with effect on 20 May 2010), on 21 December 2010, by section 49(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(2A): inserted (with effect on 20 May 2010), on 21 December 2010, by section 49(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(2A)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31(2A)(b)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31(2A)(b)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31(2) heading: substituted (with effect on 20 May 2010), on 28 May 2010, by section 77(2)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(2): amended (with effect on 20 May 2010), on 21 December 2010, by section 49(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(2): amended (with effect on 20 May 2010), on 28 May 2010, by section 77(2)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(2)(a): amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 77(4)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(2)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 119(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 31(2)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 119(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 31(2)(c): amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 77(4)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(2)(d): added, on 1 April 2011 (applying for the 2011–12 and later income years), by section 77(4)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(2)(d): amended, on 1 April 2024, by section 55(1) (and see section 55(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 31(3A) heading: inserted (with effect on 20 May 2010), on 21 December 2010, by section 49(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(3A): inserted (with effect on 20 May 2010), on 21 December 2010, by section 49(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(3A)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31(3A)(b)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31(3A)(b)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31(3) heading: added (with effect on 20 May 2010), on 28 May 2010, by section 77(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(3): amended (with effect on 20 May 2010), on 21 December 2010, by section 49(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(3): added (with effect on 20 May 2010), on 28 May 2010, by section 77(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(3)(a): amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 77(4)(c) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(3)(b): amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 77(4)(d) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(3)(c): added, on 1 April 2011 (applying for the 2011–12 and later income years), by section 77(4)(d) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31(3)(c): amended, on 1 April 2024, by section 55(2) (and see section 55(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 31(4) heading: added (with effect on 20 May 2010), on 21 December 2010, by section 49(6) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(4): added (with effect on 20 May 2010), on 21 December 2010, by section 49(6) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31(4)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31(4)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 31 list of defined terms **building**: inserted, on 1 April 2024, by section 55(3) (and see section 55(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 31 list of defined terms **building**: repealed, on 1 April 2020, by section 5(3)(a) (and see section 5(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 31 list of defined terms **Commissioner**: inserted (with effect on 20 May 2010), on 21 December 2010, by section 49(7) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 31 list of defined terms **estimated useful life**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 77(5) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 31 list of defined terms **residential building**: repealed, on 1 April 2024, by section 55(3) (and see section 55(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EE 32 Election in relation to certain depreciable property acquired on or after 1 April 2005

When this section applies

(1) This section applies when a person acquired an item of depreciable property that is not a building—

(a) on or after 1 April 2005; and

(b) before the commencement of the person's income year corresponding to the 2006–07 tax year.

Election to use economic depreciation rate determined under section EZ 23

(2) The person may choose to calculate the depreciation loss for the item of depreciable property for income years corresponding to the 2005–06 tax year and later tax years in accordance with the economic rate determined for the kind of item under section EZ 23 (Economic rate for plant or equipment acquired before 1 April 2005 and buildings acquired before 19 May 2005).

Election to be made in return of income

(3) The person must make an election under subsection (2) in the person's return of income for the 2005–06 tax year.

Defined in this Act: building, depreciable property, depreciation loss, economic rate, income year, return of income, tax year

Compare: 2004 No 35 s EE 26B

Section EE 32(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 120(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 32 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 32 list of defined terms **economic depreciation rate**: repealed (with effect on 1 April 2008), on 24 February 2016, by section 120(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 32 list of defined terms **economic rate**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 120(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 33 Annual rate for fixed life intangible property

What this section is about

(1) This section is about the annual rate that applies to an item of fixed life intangible property, not including—

(a) an item of excluded depreciable property for which a rate is set in section EZ 15 (Annual rate for excluded depreciable property: 1992–93 tax year):

(ab) a design registration for which a rate is set in section EE 34B:

(b) a patent for which a rate is set in section EE 34.

Rate

(2) The rate is the rate calculated using the formula—

1 ÷ legal life.

Definition of item in formula

(3) In the formula, **legal life** is,—

(a) if section EE 18B or EE 19 apply, the item's remaining legal life from the start of the income year in which the relevant costs are recognised under the section:

(b) if sections EE 18B and EE 19 do not apply, the item's remaining legal life from the time at which a person acquires it.

How rate expressed

(4) The rate given by the formula is expressed as a decimal and rounded to 2 decimal places, with numbers at the midpoint or greater being rounded up and other numbers being rounded down.

Defined in this Act: acquire, annual rate, design registration, excluded depreciable property, fixed life intangible property, income year, legal life

Compare: 2004 No 35 s EE 27

Section EE 33(1)(ab): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 121(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 33(3)(a): replaced (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 121(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 33(3)(b): amended (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 121(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 33 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 121(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 34 Annual rate for patent granted in 2005–06 or later income year

When this section applies

(1) This section applies to an item that is a patent when the patent is acquired by a person in their 2005–06 income year or a later income year.

Rate

(2) The rate is the rate calculated using the formula—

1 ÷ legal life.

Definition of item in formula

(3) In the formula, **legal life** is set out in whichever of subsections (4) to (7) applies to the patent.

Fixed life intangible property

(4) If the patent is an item of fixed life intangible property to which section EE 18B or EE 19 applies, **legal life** is the patent's remaining legal life from the start of the income year in which the relevant costs are recognised under the section.

No depreciation loss for patent application

(5) If sections EE 18B and EE 19 do not apply to the patent and the person has been denied a deduction for an amount of depreciation loss for the patent application, **legal life** is the patent's remaining legal life from the time at which the person acquires the patent.

Depreciation loss for patent application

(6) If sections EE 18B and EE 19 do not apply to the patent, and have not applied to the patent application while the person has owned it, and the person has been allowed a deduction for an amount of depreciation loss for the patent application, **legal life** is the remaining legal life of the patent application from the start of the income year in which the person acquires the patent application.

When section EE 18B or EE 19 applied to patent application

(7) If sections EE 18B and EE 19 do not apply to the patent, but have applied to the patent application while the person has owned it, and the person has been allowed a deduction for an amount of depreciation loss for the patent application, **legal life** is the remaining legal life of the patent application from the start of the income year in which the person acquires the patent.

How rate expressed

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

Defined in this Act: acquire, amount, deduction, depreciation loss, income year, legal life

Compare: 2004 No 35 s EE 27B

Section EE 34(4): replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 122(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 34(5): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 122(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 34(6): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 122(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 34(7) heading: amended (with effect on 1 April 2015), on 24 February 2016, by section 122(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 34(7): amended, on 29 March 2018 (with effect on 1 April 2015), by section 67 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EE 34(7): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 122(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 34B Annual rate for design registrations

When this section applies

(1) This section applies to an item that is a design registration (the **design**).

Rate

(2) The rate is the rate calculated using the formula—

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

Definition of item in formula

(3) In the formula, **legal life** is set out in whichever of subsections (4) to (7) applies to the design.

When section EE 18B or EE 19 applies to design

(4) If the design is an item to which section EE 18B or EE 19 applies, **legal life** is the design's remaining legal life from the start of the income year in which the relevant costs are recognised under the section.

When no depreciation loss for design application

(5) If sections EE 18B and EE 19 do not apply to the design and the person has been denied a deduction for an amount of depreciation loss for the design's design registration application (the **design application**), **legal life** is the design's remaining legal life from the first time a cost is recognised for the design under this subpart.

When depreciation loss for design application

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

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

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

How rate expressed

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

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

Section EE 34B: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 123(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 35 Special rate or provisional rate

Rate set for item of depreciable property

(1) A special rate or a provisional rate is set for an item of depreciable property under sections 91AAG to 91AAJ of the Tax Administration Act 1994.

No special rate for excluded depreciable property, special excluded depreciable property, or building

(2) A special rate may not be set for an item of excluded depreciable property, an item of special excluded depreciable property, or a building.

No provisional rate for fixed life intangible property or excluded depreciable property

(3) A provisional rate may not be set for an item of fixed life intangible property or an item of excluded depreciable property.

Exception

(4) Section FA 11B(7) (Adjustments for certain operating leases) overrides this section.

Defined in this Act: building, depreciable property, excluded depreciable property, fixed life intangible property, provisional rate, special excluded depreciable property, special rate

Compare: 2004 No 35 s EE 28

Section EE 35(2) heading: replaced, on 1 April 2024, by section 56(1) (and see section 56(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 35(2): replaced, on 1 April 2024, by section 56(1) (and see section 56(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 35(4) heading: inserted, on 1 April 2008, by section 356 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EE 35(4): inserted, on 1 April 2008, by section 356 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EE 35 list of defined terms **building**: inserted, on 1 April 2024, by section 56(2)(b) (and see section 56(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 35 list of defined terms **building**: repealed, on 1 April 2020, by section 6(3)(a) (and see section 6(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 35 list of defined terms **residential building**: repealed, on 1 April 2024, by section 56(2)(a) (and see section 56(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 35 list of defined terms **special excluded depreciable property**: inserted, on 1 April 2024, by section 56(2)(b) (and see section 56(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 35 list of defined terms **special excluded depreciable property**: repealed, on 1 April 2020, by section 6(3)(a) (and see section 6(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

EE 36 Using economic rate or provisional rate instead of special rate

Allowed to use economic or provisional rate

(1) A person may depreciate an item to which a special rate applies by applying, instead, the economic rate applicable to the item or a provisional rate applicable to the item. This subsection is overridden by subsection (2).

Not allowed to use economic or provisional rate

(2) The person must not depreciate the item by applying the economic rate or the provisional rate, if—

(a) a special rate applies to the item; and

(b) the special rate is higher than the economic rate; and

(c) the person applies the special rate to the item for an income year; and

(d) in a later income year, the item's market value declines at a rate equal to or greater than the special rate; and

(e) it is a reasonable conclusion from all the circumstances of the case that the person's purpose, or 1 of the person's purposes, in wanting to change from the special rate to the economic rate or the provisional rate for the later income year is to enable the person to defer the deduction that the person is allowed for the amount of depreciation loss for the item's decline in value.

Defined in this Act: amount, deduction, depreciation loss, economic rate, income year, provisional rate, special rate

Compare: 2004 No 35 s EE 29

Improvements, items of low value, or items no longer used

EE 37 Improvements

When this section applies

(1) This section applies when a person makes an improvement to an item of depreciable property.

Income year in which improvement made

(2) In the income year in which the person makes the improvement, the provisions of this subpart apply to the improvement, as if it were a separate item of depreciable property, in the period that—

(a) starts at the start of the month in which the person first uses the improvement or has it available for use; and

(b) ends at the end of the income year.

Following income years

(3) For income years following the income year in which the person makes the improvement,—

(a) a person who uses the diminishing value method or the straight-line method for the item that was improved may choose to apply subsection (4) or (5) unless the item is a grandparented structure, in which case the person must continue to treat the improvement as a separate item of depreciable property:

(ab) *[Repealed]*

(b) a person who uses the pool method for the item that was improved must apply subsections (6) and (7).

Improvement compulsorily treated as separate item

[Repealed]

(3B) *[Repealed]*

Improvement treated as separate item

(4) For the purposes of subsection (3)(a), a person may choose to treat the improvement as a separate item of depreciable property.

Improvement treated as part of item

(5) For the purposes of subsection (3)(a), a person may choose to treat the improvement as part of the item of depreciable property that was improved. They must do 1 of the following for the first income year, after the income year in which they made the improvement, in which they use the improvement or have it available for use:

(a) if they use the diminishing value method for the item, add the improvement's adjusted tax value at the start of the income year to the item's adjusted tax value at the start of the income year:

(b) if they use the straight-line method for the item,—

(i) add the improvement's adjusted tax value at the start of the income year to the item's adjusted tax value at the start of the income year; and

(ii) add the improvement's cost to the item's cost.

Pool method

(6) For the purposes of subsection (3)(b), a person who uses the pool method for the item that was improved must treat the improvement as a separate item of depreciable property. If its cost is equal to or less than its maximum pooling value, they must include it in a pool in the first income year, after the income year in which they made the improvement, in which they use the improvement or have it available for use.

Adjustment of pool's value

(7) When an improvement is included in a pool under subsection (6),—

(a) the pool's adjusted tax value is increased by the improvement's adjusted tax value on the date it is included in the pool; and

(b) the improvement's adjusted tax value at the end of the previous income year is included in **starting adjusted tax value** in section EE 21(5).

Defined in this Act: adjusted tax value, building, depreciable property, diminishing value method, grandparented structure, improvement, income year, maximum pooling value, pool, pool method, straight-line method

Compare: 2004 No 35 s EE 30

Section EE 37(3)(a): replaced, on 1 April 2020, by section 7(1) (and see section 7(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 37(3)(a): amended (with effect on 1 April 2020), on 28 March 2024, by section 57(1) (and see section 57(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 37(3)(ab): repealed, on 1 April 2020, by section 7(1) (and see section 7(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 37(3B) heading: repealed, on 1 April 2020, pursuant to section 7(2) (and see section 7(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 37(3B): repealed, on 1 April 2020, by section 7(2) (and see section 7(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 37 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 37 list of defined terms **grandparented structure**: inserted (with effect on 1 April 2020), on 28 March 2024, by section 57(2) (and see section 57(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 37 list of defined terms **grandparented structure**: repealed, on 1 April 2020, by section 7(3) (and see section 7(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 37 list of defined terms **international aircraft**: repealed, on 1 April 2020, by section 7(3) (and see section 7(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 37 list of defined terms **New Zealand**: repealed, on 1 April 2020, by section 7(3) (and see section 7(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

EE 38 Items of low value

When this section applies

(1) This section applies for an item of property that a person acquires, in an income year, when—

(a) the total cost for the item is equal to or less than the threshold value given for the item by subsection (2); and

(b) the person uses the item, or has the item available for use, in the income year; and

(c) the item would be depreciable property if the person did not deal with it under this section; and

(d) the item has not been and will not become part of any other property that is depreciable property; and

(e) the person is denied a deduction for the cost of the item if the person does not deal with the item under this section; and

(f) the item is one of a group of items, acquired at the same time and from the same supplier, to which the same depreciation rate would apply if they were all treated as items of depreciable property,—

(i) if subparagraph (ii) does not apply, the total cost for all the items in the group is equal to or less than the threshold value given for the item by subsection (2):

(ii) if the items generally constitute the person's trading stock, the total cost for all the items in the group not treated by the person solely as trading stock is equal to or less than the threshold value given for the item by subsection (2).

Threshold value for item

(2) The threshold value for an item is—

(a) $200, if the item is acquired before 19 May 2005:

(b) $500, if the item is acquired on or after 19 May 2005 and before 17 March 2020:

(c) $5,000, if the item is acquired on or after 17 March 2020 and before 17 March 2021:

(d) $1,000, if the item is acquired on or after 17 March 2021.

Amount of depreciation loss

(3) If the person chooses to deal with the item under this section, the amount of depreciation loss that the person has for the item for the income year is the item's cost.

How election made

(4) The person makes the election by claiming, in their return of income for the income year for which the election is made, a deduction for the amount of depreciation loss described in subsection (3).

Amount of depreciation recovery income

(5) If the person disposes in an income year of an item for which they have been allowed a deduction on a claim under subsection (3), the consideration they derive from the disposal is an amount of depreciation recovery income for the income year.

Change of use treated as disposal

(6) Subsection (7) applies when—

(a) a person has been allowed a deduction on a claim under subsection (3) for an item; and

(b) at a later time, the person stops using the item, or having the item available for use, mainly in deriving assessable income or carrying on a business for the purpose of deriving assessable income; and

(c) the use to which the item is put at the later time is not subject to fringe benefit tax.

Disposal

(7) The person is treated as having disposed of the item for its market value at the later time.

Increase in specified sum

(8) The Governor-General may make an Order in Council increasing the sum specified in subsection (1)(a) and (f).

Secondary legislation

(9) An Order in Council under subsection (8) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: acquire, amount, assessable income, business, deduction, depreciable property, depreciation loss, depreciation recovery income, dispose, fringe benefit tax, income year, property, return of income, trading stock

Compare: 2004 No 35 s EE 31

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EE 38(2)(b): amended (with effect on 17 March 2020), on 25 March 2020, by section 8(1) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 38(2)(c): inserted (with effect on 17 March 2020), on 25 March 2020, by section 8(2) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 38(2)(d): inserted (with effect on 17 March 2020), on 25 March 2020, by section 8(2) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 38(9) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EE 38(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EE 39 Items no longer used

When this section applies

(1) This section applies when a person in an income year has an item of depreciable property that—

(a) is no longer used or, because the geothermal energy proving period has ended, becomes unavailable for use under section EE 6(4); and

(b) is not a building, unless the item meets the requirements of subsection (2); and

(c) has not been depreciated using the pool method.

Buildings

(2) This section applies to a building that meets the requirements of subsection (1)(a) and (c) if—

(a) the building has been irreparably damaged and rendered useless for the purpose of deriving income; and

(b) the damage occurs—

(i) in the 2005–06 income year or a later income year:

(ii) as a result of the extreme climatic conditions that occurred during the month of February 2004 in New Zealand:

(iii) as a result of the storm event that occurred during the month of July 2004 in the Bay of Plenty area; and

(c) the damage is caused other than as a result of the action or failure to act of the person, an agent of the person, or an associated person.

Amount of depreciation loss under this section

(3) The person has an amount of depreciation loss under this section and under no other provision of this subpart.

Circumstances

(4) The person has an amount of depreciation loss if—

(a) they no longer use the item in deriving assessable income or carrying on a business for the purpose of deriving assessable income; and

(b) neither they nor a person associated with them intends to use the item in deriving assessable income or carrying on a business for the purpose of deriving assessable income; and

(c) the costs of disposing of the item would be more than any consideration they could derive from disposing of it.

Amount

(5) The amount of depreciation loss is the item's adjusted tax value at the start of the income year.

Adjusted tax value at end of year

(6) The item's adjusted tax value at the end of the income year is zero.

Defined in this Act: adjusted tax value, amount, assessable income, associated person, building, business, depreciable property, depreciation loss, dispose, geothermal energy proving period, income year, pool method

Compare: 2004 No 35 s EE 32

Section EE 39 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Transfers of depreciable property: associated persons and certain amalgamations

EE 40 Transfer of depreciable property on or after 24 September 1997

When this section applies

(1) This section applies when, on or after 24 September 1997, a person (**person A**) acquires, directly or indirectly, an item of property from an associated person to whom any of subsections (2) to (6) applies. The income year referred to is the income year of the associated person.

Deduction for depreciation loss allowed in year of acquisition

(2) The associated person is allowed a deduction for an amount of depreciation loss for the item for the income year in which person A acquires it, or would have been allowed the deduction if section EE 11(1) had not applied, or if the rate for the item was not 0% in the case of a building with a rate of 0%.

Deduction for depreciation loss allowed in year before acquisition

(3) The associated person was allowed a deduction for an amount of depreciation loss for the income year before that in which person A acquired it, or would have been allowed a deduction if the rate for the item was not 0% in the case of a building with a rate of 0%.

When section DZ 9 applies

(4) The associated person has been allowed a deduction for the item under section DZ 9 (Premium paid on land leased before 1 April 1993)—

(a) for the income year in which person A acquired it; or

(b) for the income year before that in which person A acquired it; or

(c) would have been allowed a deduction in either income year if they had incurred a cost for the item for which they were denied any other deduction.

If costs incurred for which deduction denied

(5) The associated person would have been allowed a deduction for an amount of depreciation loss for the item—

(a) for the income year in which person A acquired it, if they had incurred a cost for the item for which they were denied any other deduction and if section EE 11(1) had not applied; or

(b) for the income year before that in which person A acquired it, if they had incurred a cost for the item for which they were denied any other deduction.

When section EE 8 applies

(6) The associated person would have been a person to whom any of subsections (2) to (5) applied, if they had not made an election under section EE 8.

Cost of item to person A

(7) For the purposes of determining the amount of depreciation loss that person A has, the cost of the item to person A is treated as 1 of the following:

(a) if section EE 58 applies to set a base value for the item, the lesser of—

(i) the cost of the item to person A:

(ii) the item's market value when the associated person starts to use it, or to have it available for use, for the purpose of deriving assessable income or carrying on a business for the purpose of deriving assessable income; or

(b) if section EE 58 does not apply, the lesser of—

(i) the cost of the item to person A:

(ii) the cost of the item to the associated person.

Exclusions

(8) Subsection (7) does not apply if—

(a) the item is not depreciable intangible property, and the Commissioner decides that it is appropriate to use the cost of the item to person A for the purposes of determining the amount of depreciation loss that person A has for the item:

(b) the cost to person A is income of the associated person, other than under section EE 48(1):

(c) person A acquires the item on a settlement of relationship property to which section FB 21 (Depreciable property) applies.

Rate

(9) The annual rate that person A applies to the item must be 1 of the following:

(a) when person A uses the same depreciation method for the item as that used by the associated person for it, the annual rate must be no more than the annual rate that the associated person applied to it:

(b) when person A uses a depreciation method for the item that is different from the method the associated person used for it, the annual rate must be no more than a rate equivalent to the rate that the associated person

applied to it, as determined by schedule 10 (Straight-line equivalents of diminishing value rates of depreciation).

Statutory change: exception

(9B) Subsection (9) does not apply when person A may, due to a change of annual rate by a statute, apply an annual rate that is more than the annual rate that the associated person applied.

Fixed life intangible property

(10) Subsection (9) does not apply to an item of fixed life intangible property whose rate is set in section EE 33.

Relationship with section EE 41 and subpart FC

(11) This section—

(a) is overridden by section EE 41:

(b) does not apply to a bequest of property when subpart FC (Distribution, transmission, and gifts of property) applies to it and the property is disposed of at market value.

Defined in this Act: acquire, amount, annual rate, assessable income, associated person, business, Commissioner, deduction, depreciable intangible property, depreciation loss, depreciation method, fixed life intangible property, income, income year, property, settlement of relationship property

Compare: 2004 No 35 s EE 33

Section EE 40(2): amended (with effect on 1 April 2011), on 30 March 2022, by section 79(1) (and see section 79(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 40(3): amended (with effect on 1 April 2011), on 30 March 2022, by section 79(2) (and see section 79(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 40(9B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 35(1) (and see section 35(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EE 40(9B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 35(1) (and see section 35(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EE 40(10): amended (with effect on 1 April 2008), on 30 March 2021, by section 35(2) (and see section 35(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EE 41 Transfer of depreciable property on certain amalgamations on or after 14 May 2002

When this section applies

(1) This section applies when, on or after 14 May 2002, an amalgamated company acquires, directly or indirectly, an item of property from an amalgamating company, and—

(a) the amalgamated company's acquisition of the item is part of an amalgamation that is not a resident's restricted amalgamation; and

(b) the amalgamating company is an associated person of the amalgamated company, treating the amalgamating company as existing at the time that the amalgamated company is treated under section FO 11(1)(b) or FO 15(3) (which relate to property passing on certain amalgamations) as having acquired the property from the amalgamating company.

Cost of item to person

(2) For the purposes of determining the amount of depreciation loss that the amalgamated company has, the cost of the item to it is treated as 1 of the following:

(a) if section EE 58 applies for the amalgamating company and the item, the lesser of—

(i) the value given under section FO 11 or FO 15, as applicable; and

(ii) the item's market value when the amalgamating company starts to use it, or to have it available for use, for the purpose of deriving assessable income or carrying on a business for the purpose of deriving assessable income; or

(b) if section EE 58 does not apply for the amalgamating company and the item, the lesser of—

(i) the value given under section FO 11 or FO 16 (Amortising property), as applicable; and

(ii) the cost of the item to the amalgamating company.

Exclusions

(3) Subsection (2) does not apply if—

(a) the item is not depreciable intangible property, and the Commissioner decides that it is appropriate to use the cost of the item to the amalgamated company for the purposes of determining the amount of depreciation loss that it has for the item:

(b) the cost to the amalgamated company is income of the amalgamating company, other than under section EE 48(1).

Rate

(4) The annual rate that the amalgamated company applies to the item must be 1 of the following:

(a) when the amalgamated company uses the same depreciation method for the item as that used by the amalgamating company for it, the annual rate that the amalgamated company applies to it must be no more than the annual rate that the amalgamating company applied to it:

(b) when the amalgamated company uses a depreciation method for the item that is different from the method the amalgamating company used for it, the annual rate that the amalgamated company applies to it must be no more than a rate equivalent to the rate that the amalgamating company

applied to it, as determined by schedule 10 (Straight-line equivalents of diminishing value rates of depreciation).

Fixed life intangible property

(5) Subsection (4) does not apply to an item of fixed life intangible property whose rate is set in section EE 33.

Defined in this Act: acquire, amalgamated company, amalgamating company, amalgamation, amount, annual rate, assessable income, business, Commissioner, depreciable intangible property, depreciation loss, depreciation method, fixed life intangible property, income, income year, property, resident's restricted amalgamation

Compare: 2004 No 35 s EE 34

Section EE 41(2)(b)(i): amended, on 30 March 2017, by section 60 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EE 42 Transfer of radiocommunications licence right on or after 24 September 1997

When this section applies

(1) This section applies when, on or after 24 September 1997, the holder of management rights created under the Radiocommunications Act 1989 grants a licence right under that Act to an associated person.

Exclusion

(2) This section does not apply when the Crown acting by and through the Secretary of Commerce is named as the manager under section 11(1) of the Radiocommunications Act 1989.

Cost of licence right

(3) For the purposes of determining the amount of depreciation loss that the associated person has, the cost of the licence right to the associated person is treated as zero.

Defined in this Act: amount, associated person, depreciation loss

Compare: 2004 No 35 s EE 35

EE 43 Transfer of depreciable intangible property on or after 1 July 1997

When this section applies

(1) This section applies when, on or after 1 July 1997, a person (**person A**) acquires, directly or indirectly, from an associated person an item of depreciable intangible property that—

(a) was not depreciable property of the associated person because it was not of a kind listed in schedule 14 (Depreciable intangible property) at the time the associated person acquired it; and

(b) was not an item for whose cost the associated person was allowed a deduction, other than a deduction for an amount of depreciation loss, under a provision of this Act outside this subpart.

No amount of depreciation loss

(2) Person A does not have an amount of depreciation loss for the item.

Defined in this Act: acquire, amount, associated person, deduction, depreciable intangible property, depreciable property, depreciation loss

Compare: 2004 No 35 s EE 36

Disposals and similar events

EE 44 Application of sections EE 48 to EE 51

When sections apply

(1) Sections EE 48 to EE 51 apply when a person has consideration from the disposal of an item or from an event involving an item, if—

(a) the consideration is consideration of a kind described in section EE 45; and

(b) either—

(i) the item is an item of a kind described in section EE 46; or

(ii) the event is an event of a kind described in section EE 47.

Exclusions

(2) Sections EE 48 to EE 51 do not apply when—

(a) a person disposes of an item of intangible property as part of an arrangement to replace it with an item of the same kind:

(b) a person's patent application has concluded because a patent is granted to the person in relation to the application:

(bb) a person's design registration application has concluded because a design registration is granted to the person in relation to the application:

(c) a person's geothermal well becomes unavailable for use under section EE 6(4) because the geothermal energy proving period has ended:

(d) a person receives, for an item of property, an amount of insurance or compensation to which section EZ 23B (Property acquired after depreciable property affected by Canterbury earthquakes) applies.

Defined in this Act: arrangement, consideration, design registration, design registration application, dispose, geothermal energy proving period, geothermal well, property

Compare: 2004 No 35 s EE 37

Section EE 44 heading: amended, on 30 March 2017, by section 61(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 44(1): amended, on 30 March 2017, by section 61(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 44(1): amended (with effect on 1 April 2008), on 21 December 2010, by section 51 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 44(2): amended, on 29 March 2018 (with effect on 30 March 2017), by section 68 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EE 44(2)(bb): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 124(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 44(2)(c): amended (with effect on 4 September 2010), on 29 August 2011, by section 24 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 44(2)(d): added (with effect on 4 September 2010), on 29 August 2011, by section 24 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 44(2)(d): amended (with effect on 4 September 2010), on 30 March 2022, by section 80 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 44 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 124(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 44 list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 124(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 45 Consideration for purposes of section EE 44

General rule

(1) For the purposes of section EE 44, the **consideration** equals the amount that a person derives excluding any GST charged if the person is a registered person, as modified by subsections (3) to (11) minus the amount (the **disposal cost**) that they incur in deriving that amount, to the extent to which the disposal cost—

(a) is not allowed as a deduction to the person other than as a deduction for an amount of depreciation loss; and

(b) is not counted in "the amount that a person derives".

GST for disposal costs

(1B) All amounts deducted or deductible by the person under section 20(3) of the Goods and Services Tax Act 1985 in relation to the disposal cost described in subsection (1) are subtracted from the disposal costs under that subsection.

Consideration may be zero or negative

(2) For the purposes of section EE 44, the **consideration** may be zero or a negative amount.

Other than market value

(3) If the person has consideration that is not the item's market value, the amount that the person derives is the item's market value. Three qualifications are—

(a) if the person makes a taxable supply, "market value" means the market value minus any GST that would be charged on the supply:

(b) this subsection does not apply to a transfer under a relationship agreement; and

(c) this subsection does not apply in a case described in any of subsections (5) to (10).

Relationship with subpart FC

(4) Subsection (3) does not apply to a disposal of property to which any of sections FC 3 and FC 4 (which relate to the distribution or transmission of property) applies.

Change of use or location of use

(5) The consideration that a person derives from the event described in section EE 47(2) is the item's market value. Two qualifications are—

(a) if the person is a registered person, "market value" means the market value excluding the amount of GST that would have been charged if the market value is treated as being consideration received for a taxable supply by the person:

(b) this subsection does not apply to a transfer under a relationship agreement.

Loss or theft

(6) The amount that a person derives from the event described in section EE 47(3) is the amount of insurance, indemnity, or compensation they receive for the loss or theft (**amount A**). If the person is a registered person, amount A does not include the amount, if any, of GST charged on amount A to the extent to which amount A is treated as being consideration received for a supply of services by the registered person under section 5(13) of the Goods and Services Tax Act 1985.

Unused geothermal well brought into use

(7) The amount that a person derives from the event described in section EE 47(6) is the amount of the deduction for depreciation loss allowed under section EE 39(4).

Irreparable damage or damage rendering building useless

(8) The amount that a person derives from the event described in section EE 47(4) is the total of the amount of insurance, indemnity, or compensation, and the amount of proceeds from the disposal, they receive for the affected item (**amount A**). If the person is a registered person, amount A does not include the amount, if any, of GST charged on amount A to the extent to which amount A is treated as being consideration received for a supply of services by the registered person under section 5(13) of the Goods and Services Tax Act 1985.

Repossession

(9) The amount that a person derives from the event described in section EE 47(5) is the item's cost minus the net amount paid. Two qualifications are—

(a) if the person is a registered person, the "amount that a person derives" does not include any GST charged on a taxable supply they make:

(b) "net amount paid" means the amount paid by the buyer to the seller for the item under the contract minus any amount refunded by the seller to the buyer.

Other items

(10) The amount that a person derives from the disposal of an item along with any other item, or from the occurrence of an event involving an item that also involves other items, is the item's market value. Two qualifications are—

(a) if the person makes a taxable supply, "market value" means the market value minus any GST that would be charged on the supply:

(b) this subsection does not apply to a transfer under a relationship agreement.

Item leaving New Zealand permanently

(11) The amount that a person derives from the event referred to in section EE 47(10) is described in section EZ 21(1) (Sections EE 45 and EE 47: permanent removal: allowance before 1 April 1995).

Item fitted to aircraft or aircraft engine in aircraft engine overhaul

(12) The amount that the person derives from the event referred to in section EE 47(11) is the adjusted tax value of the item before it is fitted as a replacement piece to an aircraft or aircraft engine as part of the aircraft engine overhaul.

Defined in this Act: adjusted tax value, aircraft engine, aircraft engine overhaul, amount, consideration, deduction, depreciation loss, dispose, geothermal well, GST, GST charged, New Zealand, registered person, relationship agreement, services, taxable supply

Compare: 2004 No 35 s EE 38

Section EE 45(1) heading: substituted (with effect on 1 April 2008), on 21 December 2010, by section 52(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(1): substituted (with effect on 1 April 2008), on 21 December 2010, by section 52(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(1B) heading: inserted (with effect on 1 April 2008), on 21 December 2010, by section 52(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(1B): inserted (with effect on 1 April 2008), on 21 December 2010, by section 52(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(2) heading: substituted (with effect on 1 April 2008), on 21 December 2010, by section 52(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(2): substituted (with effect on 1 April 2008), on 21 December 2010, by section 52(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(3): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(5)(a): replaced, on 18 March 2019, by section 164 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EE 45(6): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(7): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(8) heading: substituted (with effect on 4 September 2010), on 29 August 2011, by section 25(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 45(8): amended (with effect on 4 September 2010), on 2 November 2012, by section 36(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EE 45(8): amended (with effect on 4 September 2010), on 29 August 2011, by section 25(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 45(8): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(9): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(6)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(9)(a): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(6)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(10): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(7) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(11): amended (with effect on 1 April 2008), on 21 December 2010, by section 52(8) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 45(12) heading: inserted, on 1 April 2017, by section 62(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 45(12): inserted, on 1 April 2017, by section 62(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 45 list of defined terms **adjusted tax value**: inserted, on 1 April 2017, by section 62(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 45 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 62(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 45 list of defined terms **aircraft engine overhaul**: inserted, on 1 April 2017, by section 62(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EE 46 Items for purposes of section EE 44

Items to which sections EE 48 to EE 52 apply

(1) For the purposes of section EE 44, an item of property to which sections EE 48 to EE 52 apply is an item of depreciable property that a person owns, including—

(a) an item for which the person has been allowed a deduction for an amount of depreciation loss they have had under section EE 33; and

(b) an item to which section CZ 11 (Recovery of deductions for software acquired before 1 April 1993) applies.

Exclusions

(2) Sections EE 48 to EE 52 do not apply to—

(a) an item of property that, on the date on which the disposal or the event occurs, is accounted for in a pool; or

(b) an item of petroleum-related depreciable property; or

(c) an item of intangible property that is excluded depreciable property, other than software; or

(d) a land improvement that is excluded depreciable property of a kind for which no deduction for depreciation was allowed under section 108 of the Income Tax Act 1976.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, excluded depreciable property, own, petroleum-related depreciable property, pool, property

Compare: 2004 No 35 s EE 39

EE 47 Events for purposes of section EE 44

Events to which sections EE 48 to EE 51 apply

(1) For the purposes of section EE 44, this section describes the events to which sections EE 48 to EE 51 apply.

Change of use or location of use

(2) The first event is the change of use, or change of location of use, of an item of property, as a result of which a person is denied a deduction for an amount of depreciation loss for the item for the next income year. The event is treated as occurring on the first day of the next income year, and includes a change in use of an item for the purposes of the definition of **commercial fit-out** and a change in the status of a building related to an item for the purposes of that definition.

Event timing for person's income becoming tax exempt

(2B) Despite subsection (2), if the event is connected to a person's income becoming exempt income, the event is treated as occurring immediately before the person's income becomes exempt.

Loss or theft

(3) The second event is the loss or theft of an item of property, if the item is not recovered in the income year in which the loss or theft occurs.

Irreparable damage or damage rendering building useless

(4) The third event is—

(a) the irreparable damage of an item of property that is not a building; or

(b) the damage of an item of property that is a building, or of the neighbourhood of the building, causing the building to be—

(i) useless for the purpose of deriving income; and

(ii) demolished or abandoned for later demolition.

Repossession

(5) The fourth event is the seller's repossession of an item of property to which section EE 3 applies because the buyer wholly or partly fails to pay the consideration. The event is treated as occurring on the date on which the item is repossessed.

Unused geothermal well brought into use

(6) The fifth event is, for a person's geothermal well that is unavailable for use under section EE 6(4) because the geothermal energy proving period has ended, is when the person starts to—

(a) use the well in deriving assessable income or carrying on a business for the purpose of deriving assessable income:

(b) have the well available for use in deriving assessable income or carrying on a business for the purpose of deriving assessable income.

Statutory acquisition

(7) The sixth event is the acquisition of an item of property by a person acting under statutory authority.

Cessation of ownership under section EE 4 or EE 5

(8) The seventh event is the cessation of ownership of a fixture or improvement—

(a) that a lessee is treated as having under section EE 4(2); or

(b) that a person is treated as having under section EE 5(3).

Cessation of rights in intangible property

(9) The eighth event is an occurrence that has the effect that the owner of an item of intangible property is no longer able, and will never be able, to exercise the rights that constitute or are part of the item.

Item leaving New Zealand permanently

(10) The ninth event is described in section EZ 21(2) (Sections EE 45 and EE 47: permanent removal: allowance before 1 April 1995).

Item fitted to aircraft or aircraft engine in aircraft engine overhaul

(11) The tenth event is the fitting of an item of property to an aircraft or aircraft engine as a replacement piece as part of an aircraft engine overhaul to which section DW 5 (Aircraft operators: aircraft engines and aircraft engine overhauls) applies.

Defined in this Act: aircraft engine, aircraft engine overhaul, amount, assessable income, business, deduction, depreciation loss, geothermal energy proving period, geothermal well, improvement, income year, lessee, New Zealand, own, pay, property

Compare: 2004 No 35 s EE 40

Section EE 47(1) heading: amended, on 30 March 2017, by section 63(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 47(1): amended, on 30 March 2017, by section 63(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 47(2): amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 53(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 47(2B) heading: replaced, on 23 March 2020 (with effect on 28 June 2018), by section 105 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EE 47(2B): inserted (with effect on 28 June 2018), on 18 March 2019, by section 165 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EE 47(4) heading: substituted (with effect on 4 September 2010), on 29 August 2011, by section 26 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 47(4) heading: amended (with effect on 1 April 2020), on 30 March 2022, by section 81(1) (and see section 81(4) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 47(4): substituted (with effect on 4 September 2010), on 29 August 2011, by section 26 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 47(4)(a): amended (with effect on 1 April 2020), on 30 March 2022, by section 81(2) (and see section 81(4) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 47(4)(b): amended (with effect on 1 April 2020), on 30 March 2022, by section 81(3) (and see section 81(4) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 47(11) heading: inserted, on 1 April 2017, by section 63(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 47(11): inserted, on 1 April 2017, by section 63(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 47 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 63(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 47 list of defined terms **aircraft engine overhaul**: inserted, on 1 April 2017, by section 63(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EE 48 Effect of disposal or event

Amount of depreciation recovery income

(1) For the purposes of section EE 44, if the consideration is more than the item's adjusted tax value on the date on which the disposal or the event occurs, the lesser of the following amounts is the amount of depreciation recovery income derived by the person:

(a) the amount by which the consideration is more than the item's adjusted tax value on the date on which the disposal or the event occurs; and

(b) the amount given by subsections (1B) and (1C).

Amount for subsection (1)(b)

(1B) The amount for the purposes of subsection (1)(b) is given by the following formula:

item depreciation loss + CZ 11 item amount + DB 64 item amount + new investment asset amount.

Definition of items in formula

(1C) In the formula in subsection (1B),—

(a) **item depreciation loss** is the total of the amounts of—

(i) depreciation loss for which the person has been allowed deductions for the item; and

(ii) if the item is a building, the total amount of deductions allowed under sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and DB 65B (which deal with allowances for commercial buildings):

(b) **CZ 11 item amount** is the amount of any deduction allowed for the acquisition of the item, for the person, if the item is one to which section CZ 11 (Recovery of deductions for software acquired before 1 April 1993) applies:

(c) **DB 64 item amount** is the amount of the capital contribution for the item, for the person, if the item is one to which section DB 64 (Capital contributions) applies:

(d) **new investment asset amount** is the amount of the reduction for the item under section DI 6 (Relationship to cost, calculations, etc, in other provisions) for the person, if the item is a new investment asset.

Amount of depreciation loss

(2) For the purposes of section EE 44, if the consideration is less than the item's adjusted tax value on the date on which the disposal or the event occurs, the person has an amount of depreciation loss that is the amount by which the consideration is less than the item's adjusted tax value on that date.

Income year of depreciation recovery income

(2B) The person derives the depreciation recovery income in the income year that is the earliest income year in which the consideration can be reasonably estimated.

When subsection (2) does not apply

(3) Subsection (2) does not apply if the item is a building unless—

(a) the building has been rendered useless for the purpose of deriving income, and demolished or abandoned for later demolition as a result of damage to the building or of the neighbourhood of the building; and

(b) *[Repealed]*

(c) the damage is caused—

(i) by a natural event not under the control of the person, an agent of the person, or an associated person; and

(ii) other than as a result of the action or failure to act of the person, an agent of the person, or an associated person.

Defined in this Act: acquire, adjusted tax value, amount, building, capital contribution, consideration, deduction, depreciation loss, depreciation recovery income, dispose, income, income year, new investment asset

Compare: 2004 No 35 s EE 41

Section EE 48(1): amended (with effect on 4 September 2010), on 29 August 2011, by section 27(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48(1)(b): substituted (with effect on 20 May 2010), on 28 May 2010, by section 80(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 48(1B) heading: inserted (with effect on 20 May 2010), on 28 May 2010, by section 80(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 48(1B): inserted (with effect on 20 May 2010), on 28 May 2010, by section 80(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 48(1B) formula: amended (with effect on 22 May 2025), on 29 May 2025, by section 6(1) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section EE 48(1C) heading: inserted (with effect on 20 May 2010), on 28 May 2010, by section 80(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 48(1C): inserted (with effect on 20 May 2010), on 28 May 2010, by section 80(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 48(1C)(a): replaced, on 1 April 2024, by section 58(1) (and see section 58(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 48(1C)(d): inserted (with effect on 22 May 2025), on 29 May 2025, by section 6(2) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section EE 48(2): amended (with effect on 4 September 2010), on 29 August 2011, by section 27(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48(2B) heading: inserted (with effect on 4 September 2010), on 29 August 2011, by section 27(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48(2B): inserted (with effect on 4 September 2010), on 29 August 2011, by section 27(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48(3) heading: substituted (with effect on 4 September 2010), on 29 August 2011, by section 27(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48(3)(a): substituted (with effect on 4 September 2010), on 29 August 2011, by section 27(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48(3)(a): amended (with effect on 1 April 2020), on 30 March 2022, by section 82(1) (and see section 82(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EE 48(3)(b): repealed (with effect on 4 September 2010), on 29 August 2011, by section 27(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48(3)(c): substituted (with effect on 4 September 2010), on 29 August 2011, by section 27(7) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 48 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 48 list of defined terms **capital contribution**: inserted (with effect on 20 May 2010), on 28 May 2010, by section 80(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 48 list of defined terms **new investment asset**: inserted (with effect on 22 May 2025), on 29 May 2025, by section 6(3) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

EE 49 Amount of depreciation recovery income when item partly used for business

Item to which this section applies

(1) This section applies to an item of property that—

(a) is an item to which this section applies, as described in section EE 46; and

(b) is, at any time during the period the person owns it, dealt with in—

(i) subpart DE (Motor vehicle expenditure); or

(ii) any applicable paragraph in section EZ 11 (Amounts of depreciation recovery income and depreciation loss for part business use up to 2004–05 income year); or

(iii) section EE 50.

Depreciation recovery income

(2) If the consideration referred to in section EE 44 is less than or equal to the cost of the item to the person, the amount of depreciation recovery income that the person has is an amount calculated using the formula in subsection (3).

No depreciation recovery income

(2B) Despite subsections (1) and (2), there is no depreciation recovery income under this section for a motor vehicle which is dealt with under subpart DE if the person has made an election under section DE 2B(1) (Election to use kilometre rate method or costs method) to use the kilometre rate method described in section DE 12 (Kilometre rate method) for that vehicle.

Formula

(3) The formula is—

(all deductions ÷ (base value − adjusted tax value))
× amount of depreciation recovery income.

Definition of items in formula

(4) The items in the formula are defined in subsections (5) to (8).

All deductions

(5) **All deductions** is all amounts of depreciation loss for which the person has been allowed a deduction for the item in each of the income years in which the person has owned the item.

Base value

(6) **Base value** has the applicable one of the meanings in sections EE 57 to EE 59.

Adjusted tax value

(7) **Adjusted tax value** is the item's adjusted tax value on the date on which the disposal or the event occurs.

Amount of depreciation recovery income

(8) **Amount of depreciation recovery income** is the amount described in section EE 48(1)(a).

Defined in this Act: adjusted tax value, amount, business, deduction, depreciation loss, depreciation recovery income, income year, own, property

Compare: 2004 No 35 s EE 42

Section EE 49(2B) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 80(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section EE 49(2B): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 80(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section EE 49(8): amended (with effect on 1 April 2008), on 30 March 2017, by section 64(1) (and see section 64(2) and (3)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EE 50 Amount of depreciation loss when item partly used to produce income

When subsection (2) applies

(1) Subsection (2) applies when—

(a) a person has an amount of depreciation loss for an item of depreciable property for an income year, other than an amount arising under section EE 48(2); and

(b) at a time during the income year, the item is partly used, or partly available for use, by the person—

(i) in deriving assessable income or carrying on a business for the purpose of deriving assessable income; or

(ii) in a way that is subject to fringe benefit tax; and

(c) at the same time, the item is partly used, or is partly available for use, by the person for a use that falls outside both paragraph (b)(i) and (ii); and

(d) the item is not a motor vehicle to which subpart DE (Motor vehicle expenditure) applies.

Partial use: formula

(2) The deduction the person is allowed for the amount of depreciation loss must not be more than the amount calculated using the formula—

depreciation loss × qualifying use days ÷ all days.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **depreciation loss** is the amount of depreciation loss for the income year:

(b) **qualifying use days** is the number of days in the income year on which the person owns the item and uses it, or has it available for use, for a use that falls within subsection (1)(b)(i) or (ii):

(c) **all days** is the number of days in the income year on which the person owns the item and uses it or has it available for use.

Other units of measurement

(4) A unit of measurement other than days, whether relating to time, distance, or anything else, is to be used in the formula if it achieves a more appropriate apportionment.

When subsection (6) applies

(5) Subsection (6) applies when—

(a) a person has an amount of depreciation loss for an item of depreciable property arising under section EE 48(2); and

(b) the item was, at any time during the period the person owned it, dealt with in—

(i) subsection (2); or

(ii) any applicable paragraph in section EZ 11 (Amounts of depreciation recovery income and depreciation loss for part business use up to 2004–05 income year); and

(c) the item is not a motor vehicle to which subpart DE applies.

Deduction for depreciation loss: formula

(6) The deduction the person is allowed for the amount of depreciation loss is calculated using the formula—

$$\text{disposal depreciation loss} \times \text{all deductions} \div (\text{base value} - \text{adjusted tax value at date}).$$

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **disposal depreciation loss** is the amount resulting from a calculation made for the item under section EE 48(2):

(b) **all deductions** is all amounts of depreciation loss relating to the item for which the person has been allowed a deduction in each of the income years in which the person has owned the item:

(c) **base value** has whichever is applicable of the meanings in sections EE 57 to EE 59:

(d) **adjusted tax value at date** is the item's adjusted tax value on the date on which the disposal or event occurs.

When subsection (9) applies

(8) Subsection (9) applies when—

(a) a person has an amount of depreciation loss for an item of depreciable property for an income year arising under section EE 48(2); and

(b) in the income year in which the amount of depreciation loss arises, the person starts to use the item, or have it available for use, for the purpose of deriving assessable income or carrying on a business for the purpose of deriving assessable income; and

(c) at a time during the income year, the item is partly used, or partly available for use, by the person—

(i) in deriving assessable income or carrying on a business for the purpose of deriving assessable income; or

(ii) in a way that is subject to fringe benefit tax; and

(d) the item is not a motor vehicle to which subpart DE (Motor vehicle expenditure) applies.

Partial use: formula

(9) The deduction the person is allowed for the amount of depreciation loss is calculated using the formula—

disposal depreciation loss × qualifying use days ÷ all days.

Definition of items in formula

(10) In the formula in subsection (9),—

(a) **disposal depreciation loss** is the amount resulting from a calculation made for the item under section EE 48(2):

(b) **qualifying use days** is the number of days in the income year on which the person owns the item and uses it, or has it available for use, for a use that falls within subsection (8)(c)(i) or (ii):

(c) **all days** is the number of days in the income year on which the person owns the item and uses it or has it available for use for any purpose.

Other units of measurement

(11) A unit of measurement other than days, whether relating to time, distance, or anything else, is to be used in the formula if it achieves a more appropriate apportionment.

Defined in this Act: adjusted tax value, amount, assessable income, business, deduction, depreciable property, depreciation loss, fringe benefit tax, income year, motor vehicle, property

Compare: 2004 No 35 s FB 7

EE 51 Amount of depreciation recovery income when lost or stolen items recovered

When this section applies

(1) This section applies when an item of property to which section EE 47(3) applies—

(a) is recovered in a later income year; and

(b) is still owned by the person; and

(c) is still used or available for use by the person.

Person treated as acquiring item

(2) The person is treated as having acquired the item, on the date of recovery, for its adjusted tax value at the start of the income year in which it was lost or stolen.

Person treated as deriving income: amount

(3) The person is treated as deriving an amount of depreciation recovery income equal to the amount of depreciation loss that the person has under section EE 48(2) for which they have been allowed a deduction.

Person treated as deriving income: income year

(4) The income year in which the person derives the depreciation recovery income is—

(a) the income year in which the item is lost or stolen, if the person chooses that year; or

(b) the income year in which the item is recovered, in any other case.

Defined in this Act: adjusted tax value, amount, deduction, depreciation loss, depreciation recovery income, income year, own, property

Compare: 2004 No 35 s EE 43

EE 52 Amount of depreciation recovery income when compensation received

When this section applies

(1) This section applies when a person receives insurance, indemnity, or compensation for an item of property to which this section applies, as described in section EE 46, other than for an item that is lost, stolen, or irreparably damaged.

Compensation subtracted

(2) An amount must be subtracted from the item's adjusted tax value. The amount is the amount by which the insurance, indemnity, or compensation that the person receives is more than the expenditure that the person incurs because of the event for which the person receives the insurance, indemnity, or compensation.

Depreciation recovery income

(3) If the item's adjusted tax value becomes negative in an income year through the application of subsection (2), the negative amount is an amount of depreciation recovery income derived by the person in the income year.

Compensation derived when item no longer owned

(4) If, in the absence of this subsection, the person would derive the amount of insurance, indemnity, or compensation after ceasing to own the item, the

person is treated as deriving the amount immediately before the person ceases to own the item.

Defined in this Act: adjusted tax value, amount, depreciation recovery income, income year, property

Compare: 2004 No 35 s EE 44

Section EE 52(4) heading: inserted (with effect on 25 June 2013), on 27 February 2014, by section 49 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EE 52(4): inserted (with effect on 25 June 2013), on 27 February 2014, by section 49 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EE 53 Unused geothermal well brought into use

When this section applies

(1) This section applies to a person when an event occurs to which section EE 47(6) applies.

Person treated as acquiring well

(2) The person is treated as having acquired the geothermal well on the day on which the event occurs for the cost of the well under this subpart before the event occurs.

Defined in this Act: acquire, geothermal well

Compare: 2004 No 35 s EE 44B

Interpretation provisions

EE 54 Cost: GST

When this section applies

(1) This section applies when an amount of depreciation loss or an amount of depreciation recovery income is calculated by reference to the cost of an item of depreciable property to a person.

Cost reduced: input tax

(2) The item's cost is reduced by subtracting the amount, if any, of input tax applying to the supply of the item to the person. This subsection is overridden by subsections (3) and (4).

Deductions from output tax

(3) The item's cost is reduced by the amount of any adjustment taken into account in the income year under section 20(3)(e) of the Goods and Services Tax Act 1985.

Adjustments for output tax

(4) The item's cost is increased by adding an amount of deductible output tax that the person has for the income year.

Defined in this Act: amount, deductible output tax, depreciable property, depreciation loss, depreciation recovery income, GST, income year, input tax, output tax

Compare: 2004 No 35 s EE 45

Section EE 54(2): amended, on 1 April 2011, by section 54(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 54(3) heading: substituted, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 54(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 54(3): substituted, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 54(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 54(4) heading: substituted, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 54(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 54(4): substituted, on 1 April 2011 (applying to taxable supplies made on or after 1 April 2011), by section 54(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 54 list of defined terms **deductible output tax**: inserted, on 1 April 2011, by section 54(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EE 54 list of defined terms **taxable supply**: repealed, on 1 April 2011, by section 54(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Adjusted tax value

EE 55 Meaning of adjusted tax value

Meaning

(1) **Adjusted tax value** means,—

(a) for an item of depreciable property, the amount calculated using the formula in section EE 56:

(b) for a pool, the total adjusted tax value determined under section EE 21.

Exception

(2) Section FA 11B(6) (Adjustments for certain operating leases) overrides this section.

Defined in this Act: adjusted tax value, amount, depreciable property, pool

Compare: 2004 No 35 s EE 46

Section EE 55(1) heading: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EE 55(1)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 120(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EE 55(2) heading: inserted, on 1 April 2008, by section 357 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EE 55(2): inserted, on 1 April 2008, by section 357 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EE 56 Formula

Formula

(1) The formula referred to in section EE 55 is—

base value − total deductions.

Definition of items in formula

(2) In the formula,—

(a) **base value** has the applicable meaning in sections EE 57, EE 58, EE 59, and EZ 22(1) (Base value and total deductions in section EE 56: before 1 April 1995):

(b) **total deductions** is defined in section EE 60.

Defined in this Act: deduction

Compare: 2004 No 35 s EE 47

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

When this section applies

(1) This section applies when none of sections EE 58, EE 59, and EZ 22(1) (Base value and total deductions in section EE 56: before 1 April 1995) applies.

Base value

(2) **Base value** is the cost of the item to the person.

Cost

(3) In this section, "cost" is qualified as follows:

(a) expenditure is excluded from it if it is expenditure for which a person has been allowed a deduction for an amount of depreciation loss they have had under section EE 38(3) or EE 48(2) or the corresponding provision of the Income Tax Act 2004 or the Income Tax Act 1994; and

(b) expenditure is not excluded from it if it is expenditure for which a person has been allowed a deduction for an amount of depreciation loss they have had under any other provision of this subpart or the corresponding provision of the Income Tax Act 2004 or the Income Tax Act 1994; and

(c) expenditure is excluded from it if it is expenditure for which a person has been allowed a deduction under any other subpart or the corresponding provision of the Income Tax Act 2004 or the Income Tax Act 1994; and

(cb) expenditure is included in it if the item is a patent application, a patent, a design registration, a design registration application, plant variety rights, or a resource consent under the Resource Management Act 1991 and the expenditure has given rise under section CG 7B (Disposals or applications after earlier deductions) to a corresponding amount of income relating to the item; and

(d) expenditure—

(i) is not excluded from it if it is described in section EZ 22(2)(a); and

(ii) is excluded from it if it is described in section EZ 22(2)(b) or EZ 23BA(2) (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased).

Defined in this Act: amount, deduction, depreciation loss, design registration, design registration application

Compare: 2004 No 35 s EE 48

Section EE 57(3)(cb): inserted (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 67(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EE 57(3)(cb): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section EE 57(3)(cb): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 125(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 57(3)(d)(ii): amended, on 1 April 2017, by section 65 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 57 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 125(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 57 list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 125(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EE 58 Base value in section EE 56 when no previous deduction

When this section applies

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

(a) it is not a building; and

(b) it is not an item of petroleum-related depreciable property; and

(c) it is not an item that the person—

(i) acquired to use or have available for use in deriving assessable income or carrying on a business for the purpose of deriving assessable income; and

(ii) first used for the purpose of deriving assessable income or carrying on a business for the purpose of deriving assessable income; and

(d) it has been, since the person acquired it and first used it or had it available for use for any purpose, an item for which the person could not in any income year have been allowed a deduction for an amount of depreciation loss, whether because of the nature of the person's use of the item or the person's non-residence or for any other reason; and

(e) in relation to the 1992–93 income year,—

(i) it was acquired by the person after the end of that income year; or

(ii) it was an item described in section EZ 22(3) (Base value and total deductions in section EE 56: before 1 April 1995).

Base value

(2) **Base value** is the item's market value when the person starts to use it, or to have it available for use, for the purpose of deriving assessable income or carrying on a business for the purpose of deriving assessable income, reduced for an item that is an aircraft engine or aircraft by an amount referred to in section EZ 23BA(2) (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased) for the item.

Defined in this Act: acquire, aircraft engine, amount, assessable income, building, business, deduction, depreciation loss, income year, petroleum-related depreciable property

Compare: 2004 No 35 s EE 49

Section EE 58(2): amended, on 1 April 2017, by section 66(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 58 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 66(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 58 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

EE 59 Base value in section EE 56 when property is petroleum-related depreciable property

When this section applies

(1) This section applies when the item is an item of petroleum-related depreciable property to which both the following apply:

(a) section EZ 22(1) (Base value and total deductions in section EE 56: before 1 April 1995) does not apply to it; and

(b) the person (**person A**) acquires it from an associated person.

Base value

(2) **Base value** is the lesser of—

(a) the cost of the item to person A; and

(b) the total of the amounts described in subsections (3) and (4).

First amount for purposes of subsection (2)(b)

(3) The amount is the cost of the item to—

(a) the associated person, if the associated person did not acquire the item from either person A or another person associated with person A; or

(b) whoever owned the item, whether person A or the associated person, at the start of an unbroken chain of ownership made up of person A and 1 or more persons associated with person A.

Second amount for purposes of subsection (2)(b)

(4) The amount is all expenditure incurred for the item by person A and the associated person or associated persons before the date on which person A acquired the item.

Cost and expenditure

(5) In this section, "cost" and "expenditure" are qualified as follows:

(a) expenditure is excluded from them if it is expenditure for which a person has been allowed a deduction for an amount of depreciation loss they have had under section EE 38(3) or EE 48(2) or the corresponding provision of the Income Tax Act 2004 or the Income Tax Act 1994; and

(b) expenditure is not excluded from them if it is expenditure for which a person has been allowed a deduction for an amount of depreciation loss they have had under any other provision of this subpart or the corresponding provision of the Income Tax Act 2004 or the Income Tax Act 1994; and

(c) expenditure is excluded from them if it is expenditure for which a person is allowed a deduction under any other subpart or the corresponding provision of the Income Tax Act 2004 or the Income Tax Act 1994; and

(d) expenditure is excluded from them if it is expenditure for which a person would have been allowed a deduction under any other subpart if this Act had applied or the corresponding provision of the Income Tax Act 2004 or the Income Tax Act 1994 if the Act had applied.

Defined in this Act: acquire, amount, associated person, deduction, depreciation loss, own, petroleum-related depreciable property

Compare: 2004 No 35 s EE 50

EE 60 Total deductions in section EE 56

Total deductions

(1) **Total deductions** is the total, calculated as at a particular time, of—

(a) the amount described in subsection (2); and

(b) the amount described in subsection (3); and

(c) the amount of a deduction under section EE 25; and

(d) the total amount of deductions allowed under sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and DB 65B (which deal with allowances for commercial buildings).

First amount for purposes of subsection (1)

(2) The amount is all amounts that 1 or more of the following provisions has required to be subtracted from the item's adjusted tax value since the start of the 1993–94 income year:

(a) section EE 52(2):

(b) section EE 44(2) of the Income Tax Act 2004:

(c) section EG 19(5) of the Income Tax Act 1994:

(d) the provision described in section EZ 22(4) (Base value and total deductions in section EE 56: before 1 April 1995); and

(e) section EZ 23BA(4) (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased).

Second amount for purposes of subsection (1)

(3) The amount is all deductions for amounts of depreciation loss, calculated using the method described in subsection (4), that, in the period described in subsection (5),—

(a) the person was allowed for the item and,—

(i) if the item is a patent, for the patent application in relation to which the item was granted:

(ib) if the item is a design registration, for the design registration application in relation to which the item was granted:

(ii) if the item is a geothermal well that a person acquired under section EE 53(2), for the well before the person acquired it under that section; or

(b) the person would have been allowed if they had used the item wholly in deriving assessable income or carrying on a business for the purpose of deriving assessable income.

Treatment of assets not available for use

(3B) Subsection (3)(b) does not apply in relation to an amount of depreciation loss for an item that is not available for use in deriving assessable income or carrying on a business for the purpose of deriving assessable income. However, this exclusion does not apply to an amount of depreciation loss for which the person has a deduction under section EE 39.

Method

(4) The method is—

(a) the depreciation method that the person used in each relevant income year; or

(b) the diminishing value method, if the person did not make deductions for amounts of depreciation loss for the item.

Period

(5) The period ends with the end of the income year before the income year in which the particular time occurs, and starts with,—

(a) for an item to which section EE 57 applies,—

(i) unless subparagraph (ii), (iii), or (iv) applies, the date on which the person acquired the item; or

(ii) if the item is a geothermal well that a person acquired under section EE 53(2), the earliest date on which the person acquired the well under section EE 6(4) or otherwise; or

(iii) if the item is a patent and the person acquired the patent application in relation to which the patent was granted, the date on which the person acquired the patent application; or

(iv) if the item is a design registration and the person acquired the design registration application in relation to which the design registration was granted, the date on which the person acquired the design registration application; or

(b) for an item to which section EE 58 applies,—

(i) unless subparagraph (ii) or (iii) applies, the beginning of the month in which the person started to use the item, or to have it available for use for the purpose of deriving assessable income or carrying on a business for the purpose of deriving assessable income; or

(ii) if the item is a patent and the person acquired the patent application in relation to which the patent was granted, the beginning of the month in which the person acquired the patent application; or

(iii) if the item is a design registration and the person acquired the design registration application in relation to which the design registration was granted, the beginning of the month in which the person acquired the design registration application; or

(c) for an item to which section EE 59 applies, the date on which person A or the relevant associated person acquired the item; or

(d) for an item to which section EZ 22(1) applies, to the item, the end of the 1992–93 income year.

Defined in this Act: acquire, adjusted tax value, amount, assessable income, associated person, business, deduction, depreciation loss, depreciation method, design registration, design registration application, diminishing value method, geothermal well, income year

Compare: 2004 No 35 s EE 51

Section EE 60(1)(d): inserted, on 1 April 2020, by section 9 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 60(1)(d): amended, on 1 April 2024, by section 59(1) (and see section 59(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 60(2)(d): amended, on 1 April 2017, by section 67(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 60(2)(e): inserted, on 1 April 2017, by section 67(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EE 60(2)(e): amended, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EE 60(3)(a)(ib): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 126(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 60(3B) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 47(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EE 60(3B): inserted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 31(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EE 60(3B): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 47(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EE 60(5)(a)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 126(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 60(5)(a)(ii): amended (with effect on 1 April 2008), on 2 November 2012, by section 37 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EE 60(5)(a)(iv): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 126(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 60(5)(b)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 126(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 60(5)(b)(iii): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 126(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 60 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 126(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 60 list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 126(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Definitions

EE 61 Meaning of annual rate

Meaning

(1) **Annual rate** means the annual depreciation rate applying to an item of depreciable property that a person owns. The rate is 1 of the rates described in subsections (2) to (5B).

1995–96 income year or later

(2) The rate is the rate set by section EE 31(2)(a) or (b), or by section EE 31(3)(a), as applicable, if both the following apply to the item:

(a) the person acquires it in their 1995–96 income year or a later income year; and

(b) the item is not dealt with in any of subsections (3) to (5).

1995–96 income year or later: international aircraft

(3) The rate is the rate set by section EE 31(2)(c), or by section EE 31(3)(b), as applicable, if the item is an international aircraft that the person acquires in their 1995–96 income year or a later income year.

1995–1996 income year or later: buildings with estimated useful lives of 50 years or more

(3B) The rate is the rate set by section EE 31(2)(d), or by section EE 31(3)(c), as applicable, if the item is a building that—

(a) has an economic rate or provisional rate of more than 0% due to an estimated useful life of 50 years or more; and

(b) the person acquires in their 1995–96 income year or a later income year.

Fixed life intangible property

(4) The rate is the rate set by section EE 33 if both the following apply to the item:

(a) the item is an item of fixed life intangible property; and

(b) the item is not an item of excluded depreciable property.

Patents, applications: complete specification before 1 April 2005

(5) The rate is the rate set by section EE 34 if the item is a patent and section EE 34 applies to the item and the person.

Design registrations, applications

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

1994–95 income year

(6) The rate is the rate set by section EZ 13 (Annual rate for item acquired on or after 1 April 1993 and before end of person's 1994–95 income year) if all the following apply to the item:

(a) the person acquired it before the end of their 1994–95 income year; and

(b) the item is not an item of fixed life intangible property; and

(c) the item is not an item of excluded depreciable property.

Excluded depreciable property

(7) The rate is the rate set by section EZ 15 (Annual rate for excluded depreciable property: 1992–93 tax year) if the item is an item of excluded depreciable property.

Special excluded depreciable property

(7B) The rate is 0% for all depreciation methods if the item is an item of special excluded depreciable property that would be an item of excluded depreciable property but for the exclusion in section EE 64(3).

Exception

(8) Section FA 11B(7) (Adjustments for certain operating leases) overrides this section.

Defined in this Act: acquire, annual rate, building, depreciable property, design registration, economic rate, estimated useful life, excluded depreciable property, fixed life intangible property, income year, international aircraft, own, provisional rate, special excluded depreciable property

Compare: 2004 No 35 s EE 52

Section EE 61(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 127(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 61(2): amended (with effect on 20 May 2010), on 28 May 2010, by section 81(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 61(3): amended (with effect on 20 May 2010), on 28 May 2010, by section 81(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 61(3B) heading: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 81(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 61(3B) heading: amended, on 1 April 2024, by section 60(1) (and see section 60(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 61(3B): inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 81(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 61(3B): amended, on 1 April 2024, by section 60(2) (and see section 60(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 61(5B) heading: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 127(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 61(5B): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 127(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 61(7B) heading: replaced, on 1 April 2024, by section 60(3) (and see section 60(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 61(7B): replaced, on 1 April 2024, by section 60(3) (and see section 60(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 61(8) heading: inserted, on 1 April 2008, by section 358 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EE 61(8): inserted, on 1 April 2008, by section 358 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EE 61 list of defined terms **building**: inserted, on 1 April 2024, by section 60(4)(b) (and see section 60(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 61 list of defined terms **building**: repealed, on 1 April 2020, by section 10(4)(a) (and see section 10(5) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 61 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 127(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 61 list of defined terms **economic rate**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 81(5) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 61 list of defined terms **estimated useful life**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 81(5) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 61 list of defined terms **provisional rate**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 81(5) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 61 list of defined terms **residential building**: repealed, on 1 April 2024, by section 60(4)(a) (and see section 60(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 61 list of defined terms **special excluded depreciable property**: inserted, on 1 April 2024, by section 60(4)(b) (and see section 60(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 61 list of defined terms **special excluded depreciable property**: repealed, on 1 April 2020, by section 10(4)(a) (and see section 10(5) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

EE 62 Meaning of depreciable intangible property

Meaning

(1) **Depreciable intangible property** means the property listed in schedule 14 (Depreciable intangible property).

Criteria for listing in schedule 14

(2) For property to be listed in schedule 14, the criteria are as follows:

(a) it must be intangible; and

(b) it must have a finite useful life that can be estimated with a reasonable degree of certainty on the date of its acquisition.

Schedule 14 prevails

(3) Property that is listed in schedule 14 is depreciable intangible property even if the criteria are not met.

Defined in this Act: acquire, depreciable intangible property, property

Compare: 2004 No 35 s EE 53

EE 63 Meaning of estimated useful life

Meaning for item of depreciable property, except for copyright in sound recording

(1) **Estimated useful life**, for an item of depreciable property, other than a copyright in a sound recording, means the period over which the item might reasonably be expected to be useful in deriving assessable income or carrying on a business for the purpose of deriving assessable income, taking into account—

(a) the passage of time, likely wear and tear, exhaustion, and obsolescence; and

(b) an assumption of normal and reasonable maintenance.

Meaning for copyright in sound recording

(2) **Estimated useful life**, for a copyright in a sound recording, means the period from the time at which the copyright might reasonably be expected to be first useful in deriving assessable income until the end of the income year in which it might reasonably be expected that 90% of all the income that will be derived from it has been derived.

Defined in this Act: assessable income, business, depreciable property, estimated useful life, income year, sound recording

Compare: 2004 No 35 s EE 54

EE 64 Meaning of excluded depreciable property

Meaning

(1) **Excluded depreciable property** means, for a person,—

(a) depreciable property for whose acquisition or construction the person entered into a binding contract before 16 December 1991; or

(b) depreciable property that the person used or had available for use for any purpose whatever within New Zealand, other than as trading stock, before 1 April 1993; or

(c) depreciable property that is an intangible item that the person used or had available for use before 1 April 1993; or

(d) depreciable property that is or has been a qualifying asset for the person; or

(e) depreciable property to the extent to which it is or has been a qualifying improvement for the person.

Exclusion

(2) **Excluded depreciable property** does not include property to which both the following apply:

(a) it existed at the end of the 1992–93 income year; and

(b) the Commissioner allowed it to be accounted for in that income year using the standard value method, the replacement value method, or the annual revaluation method.

Another exclusion

(3) **Excluded depreciable property** does not include special excluded depreciable property.

Another exclusion

[Repealed]

(3) *[Repealed]*

Defined in this Act: Commissioner, depreciable property, excluded depreciable property, income year, New Zealand, property, qualifying improvement, qualifying asset, special excluded depreciable property, trading stock

Compare: 2004 No 35 s EE 55

Section EE 64(1)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 64(3) heading: inserted, on 1 April 2024, by section 61(1) (and see section 61(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 64(3): inserted, on 1 April 2024, by section 61(1) (and see section 61(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 64(3) heading: repealed, on 1 April 2020, pursuant to section 11(1) (and see section 11(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 64(3): repealed, on 1 April 2020, by section 11(1) (and see section 11(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 64 list of defined terms **special excluded depreciable property**: inserted, on 1 April 2024, by section 61(2) (and see section 61(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 64 list of defined terms **special excluded depreciable property**: repealed, on 1 April 2020, by section 11(2) (and see section 11(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

EE 65 Meaning of maximum pooling value

Meaning

(1) **Maximum pooling value**, for an item of depreciable property, means the greater of—

(a) $5,000; and

(b) the value set in a determination issued under section 91AAL of the Tax Administration Act 1994 applying to the item.

Increase in specified sum

(2) The Governor-General may make an Order in Council increasing the sum specified in subsection (1)(a).

Secondary legislation

(3) An Order in Council under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: depreciable property, maximum pooling value

Compare: 2004 No 35 s EE 56

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EE 65(1)(a): the sum specified in this paragraph was increased, on 1 July 2015 (applying for the 2015–16 income year and later income years), by clause 3(1) of the Income Tax (Maximum Pooling Value) Order 2015 (LI 2015/141).

Section EE 65(3) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EE 65(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EE 66 Meaning of poolable property

Meaning

(1) **Poolable property**, for an income year, means an item of depreciable property that a person owns to which subsections (2) to (4) apply.

Not a building

(2) The item is not a building.

Maximum pooling value or globo method

(3) The item—

(a) is acquired in the income year for a cost equal to or less than its maximum pooling value; or

(b) was previously accounted for separately but has, as at the start of the income year, an adjusted tax value equal to or less than its maximum pooling value; or

(c) was accounted for at the end of the 1992–93 income year using, with the Commissioner's permission, the globo accounting method.

Wholly used or subject to fringe benefit tax

(4) The item—

(a) is wholly used or available for use by the person in deriving assessable income or carrying on a business for the purpose of deriving assessable income; or

(b) to the extent to which it is not wholly used or available for use by the person in deriving assessable income or carrying on a business for the

purpose of deriving assessable income, is used in a way that is subject to fringe benefit tax.

Defined in this Act: acquire, adjusted tax value, assessable income, building, business, Commissioner, depreciable property, fringe benefit tax, income year, maximum pooling value, own, poolable property

Compare: 2004 No 35 s EE 57

Section EE 66 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

EE 67 Other definitions

In this Act,—

depreciation method means a method described in section EE 12

diminishing value method means the method of calculating an amount of depreciation loss for an item of depreciable property by subtracting, in each income year, a constant percentage of the item's adjusted tax value from the item's adjusted tax value

diminishing value rate means the rate that a person using the diminishing value method applies to an item of depreciable property

economic rate means the economic depreciation rate of an item of depreciable property, set under sections EE 27 to EE 30

estimated residual market value means, for an item of depreciable property, its market value at the end of its estimated useful life, estimated reasonably as at the date of acquisition and based on an assumption of normal and reasonable maintenance over its estimated useful life

fixed life intangible property means property that—

(a) is depreciable intangible property; and

(b) has a legal life that could reasonably be expected, on the date of the property's acquisition, to be the same length as the property's remaining estimated useful life

improvement means an alteration, extension, or repair of an item of depreciable property that increases its capital value

international aircraft means a jet-engined aircraft that a person uses in an income year mainly in regular commercial service to transport passengers between New Zealand and any other place

legal life,—

(a) for an item to which paragraphs (b) to (d) do not apply, means the number of years, months, and days for which an owner's interest in an item of intangible property exists under the contract or statute that creates the owner's interest, assuming that the owner exercises any rights of renewal or extension that are either essentially unconditional or conditional on the payment of predetermined fees:

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

(bb) for an item that is industrial artistic copyright, means the number of years, months, and days for which protection against copyright infringement is available as a result of section 75(1)(c) to (e) of the Copyright Act 1994:

(c) for an item that is plant variety rights, means the total of—

(i) the legal life that the rights would have under paragraph (a); and

(ii) the number of whole calendar months during which the person owns the plant variety rights application in relation to which the rights are granted:

(d) for a person and a right (a **land right**) that is a leasehold estate, or a licence to use land, means the number of years, months, and days for which the person or an associated person has an owner's interest in the land right, or in a consecutive or successive land right, under the contract or statute that creates the owner's interest, determined—

(i) when the person acquires the owner's interest; and

(ii) assuming that the person or associated person exercises rights of renewal, extension, or further grant that are either essentially unconditional or conditional on the payment of predetermined fees

petroleum-related depreciable property means depreciable property that is—

(a) petroleum drilling rigs; or

(b) support vessels for offshore petroleum drilling rigs; or

(c) support vessels for offshore petroleum production platforms

pool means items of depreciable property that a person chooses under section EE 12 to depreciate as a pool using the pool method

pool method means the method of calculating an amount of depreciation loss set out in section EE 21

provisional rate means a provisional rate as described in section EE 35

special excluded depreciable property means all buildings that are not items specified in schedule 39 (Items for purposes of definition of special excluded depreciable property)

special excluded depreciable property *[Repealed]*

special rate means a special rate as described in section EE 35

straight-line method means the method of calculating an amount of depreciation loss for an item of depreciable property by subtracting, in each income

year, a constant percentage of the item's cost, to its owner, from the item's adjusted tax value

straight-line rate means the rate that a person using the straight-line method applies to an item of depreciable property.

Defined in this Act: acquire, adjusted tax value, amount, building, depreciable intangible property, depreciable property, depreciation loss, depreciation method, design registration, design registration application, diminishing value method, diminishing value rate, economic rate, estimated residual market value, estimated useful life, fixed life intangible property, improvement, income year, industrial artistic copyright, international aircraft, legal life, New Zealand, own, pay, petroleum, petroleum-related depreciable property, plant variety rights, pool, pool method, property, provisional rate, special excluded depreciable property, special rate, straight-line method, straight-line rate

Compare: 2004 No 35 s EE 58

Section EE 67 **legal life** paragraph (a): amended, on 1 April 2015, by section 68(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EE 67 **legal life** paragraph (b): replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 128(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 67 **legal life** paragraph (bb): inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 128(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 67 **legal life** paragraph (c)(ii): amended, on 1 April 2015, by section 68(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EE 67 **legal life** paragraph (d): inserted, on 1 April 2015, by section 68(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EE 67 **special excluded depreciable property**: inserted, on 1 April 2024, by section 62(1) (and see section 62(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EE 67 **special excluded depreciable property**: repealed, on 1 April 2020, by section 12(1) (and see section 12(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EE 67 list of defined terms **building**: inserted (with effect on 30 July 2009), on 28 May 2010, by section 84 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EE 67 list of defined terms **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 128(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 67 list of defined terms **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 128(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 67 list of defined terms **industrial artistic copyright**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 128(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EE 67 list of defined terms **special excluded depreciable property**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 83(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Subpart EF—Taxes and levies

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EF 1 Fringe benefit tax

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

Defined in this Act: deduction, fringe benefit tax, income year, pay

Compare: 2004 No 35 s EF 1

EF 2 Employer's superannuation contribution tax

An amount of employer's superannuation contribution tax (ESCT) for which a deduction is allowed may be deducted only in the income year in which the employer's superannuation cash contributions to which the tax relates are made, whether or not the tax actually becomes due and payable in the income year.

Defined in this Act: deduction, employer's superannuation cash contribution, ESCT, income year, pay

Compare: 2004 No 35 s EF 2

Section EF 2: amended (with effect on 1 April 2008), on 6 October 2009, by section 121(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EF 2 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 121(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EF 2 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 121(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EF 3 Accident compensation levies and premiums

Timing of deduction

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

Earlier income year

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

Balance dates between 1 October and 6 April

(3) If a person's income year ends on a balance date falling between 1 October and 6 April (both dates inclusive), an ACC levy or premium that is due on a date in schedule 3, part A, column H (Payment of provisional tax and terminal tax) is treated as if it were due and payable on the relevant date in schedule 3, part A, column G for the person's corresponding income year.

References to dates in schedule 3

(4) For the purposes of subsection (3), references to the date in schedule 3, part A, columns G and H (which refer to months only and not days) are references to the day in the relevant month that is fixed by the following:

(a) the definition of **instalment date** in section YA 1 (Definitions); and

(b) sections RA 3 (Terminal tax obligations), RC 1(2), and RC 20 to RC 24 (which relate to provisional tax instalments in transitional years).

Meaning of ACC levy or premium

(5) In this section, **ACC levy or premium** means any of the following levies, premiums, or penalties:

(a) the following levy or premium:

(i) a levy to fund the Work Account under section 168 of the Accident Compensation Act 2001; or

(ii) an employer's premium to fund the Employers' Account under section 281B of the Accident Insurance Act 1998:

(b) *[Repealed]*

(c) the following levy or premium:

(i) a levy to fund the Work Account under section 168B or 211 of the Accident Compensation Act 2001; or

(ii) a premium to fund the Self-Employed Work Account under section 300 of the Accident Insurance Act 1998:

(d) the following levy or premium:

(i) a levy to fund the Earners' Account under section 219(1) of the Accident Compensation Act 2001; or

(ii) a premium to fund the Earners' Account under section 283(1) of the Accident Insurance Act 1998:

(e) an Earners' Account levy under section 283(2) of the Accident Insurance Act 1998:

(f) a levy to meet the costs of the Regulator under section 236 of the Accident Insurance Act 1998:

(g) a contribution to the Insolvent Insurers Fund under section 246 or 247 of the Accident Insurance Act 1998:

(h) a levy or penalty payable to the Non-Compliers Fund under section 263 of the Accident Insurance Act 1998:

(i) a base premium under sections 466 to 470 of the Accident Insurance Act 1998.

Defined in this Act: ACC levy or premium, Commissioner, deduction, employer, income year, pay, time bar

Compare: 2004 No 35 s EF 3

Section EF 3(5)(a)(i): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EF 3(5)(b): repealed, on 3 March 2010, by section 49 of the Accident Compensation Amendment Act 2010 (2010 No 1).

Section EF 3(5)(c)(i): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EF 3(5)(d)(i): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EF 3(5)(e): substituted, on 3 March 2010, by section 49 of the Accident Compensation Amendment Act 2010 (2010 No 1).

EF 4 Use of money interest payable by Commissioner

Timing of income

(1) Income that is interest payable by the Commissioner to a person under Part 7 of the Tax Administration Act 1994 is allocated to the income year in which the Commissioner pays the interest.

Interest paid in same year as liability arises

[Repealed]

(2) *[Repealed]*

Effect of amended assessment

[Repealed]

(3) *[Repealed]*

Amended assessment in same year

[Repealed]

(4) *[Repealed]*

Defined in this Act: Commissioner, income, income year, interest, pay

Compare: 2004 No 35 s EF 4

Section EF 4(1): amended (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 28(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4(2) heading: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), pursuant to section 28(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4(2): repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 28(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4(3) heading: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), pursuant to section 28(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4(3): repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 28(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4(4) heading: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), pursuant to section 28(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4(4): repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 28(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4 list of defined terms **assessment**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 28(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4 list of defined terms **notice**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 28(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 4 list of defined terms **tax year**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 28(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

EF 5 Use of money interest payable by person

Timing of deduction

(1) A deduction for interest payable by a person to the Commissioner under Part 7 of the Tax Administration Act 1994 is allocated to the income year in which the person pays the interest.

Assessment made in same year as liability arises

[Repealed]

(2) *[Repealed]*

Effect of amended assessment

[Repealed]

(3) *[Repealed]*

Terminal amended assessment

[Repealed]

(4) *[Repealed]*

Amended assessment in same year

[Repealed]

(5) *[Repealed]*

Defined in this Act: Commissioner, deduction, income year, pay

Compare: 2004 No 35 s EF 5

Section EF 5(1): substituted (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 29(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(2) heading: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), pursuant to section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(2): amended (with effect on 1 April 2008), on 2 November 2012, by section 38 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EF 5(2): repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(3) heading: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), pursuant to section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(3): repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(4) heading: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), pursuant to section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(4): repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(5) heading: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), pursuant to section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5(5): repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 29(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **assessment**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **Commissioner**: substituted (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **deduction**: substituted (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **income tax liability**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **income year**: substituted (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **interest**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **liquidation**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **notice**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **pay**: substituted (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EF 5 list of defined terms **tax year**: repealed (with effect on 1 April 2011), on 29 August 2011, by section 29(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

EF 6 Different tax years

[Repealed]

Section EF 6: repealed (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 30(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Subpart EG—Recognition of accounting treatment

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EG 1 Election to use balance date used in foreign country

When this section applies

(1) This section applies when—

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

(b) the foreign source income or foreign expenditure has been included in 1 of their income tax returns in the country or territory; and

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

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

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

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

Election to allocate

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

How election made

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

What election applies to

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

(a) income or expenditure under the financial arrangements rules, unless the Commissioner notifies the person that the election can apply; or

(b) dividends, unless the Commissioner notifies the person that the election can apply and the person is not a company; or

(c) attributed controlled foreign company (CFC) income; or

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

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

Timing of income

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

Election treated as continuing

(6) An election made by a person under subsection (2) applies for the income year referred to in subsection (1)(c) and all later income years, unless—

(a) the person seeks the Commissioner's agreement to revoke the election, and the Commissioner notifies them that they may revoke the election; or

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

Net income of more than $100,000

(7) If subsection (6)(b) applies,—

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

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

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

Factors considered

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

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

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

(c) any other factors the Commissioner considers relevant.

Person ceasing to be, or becoming, resident

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

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

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

(i) the foreign source income is assessable income in the income year in which the foreign source income is allocated under this section, despite section BD 1(5)(c) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income); and

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

Some definitions

(10) In this section,—

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

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

foreign source income means income that does not have a source in New Zealand and that is not exempt income.

Defined in this Act: annual income tax balance date, assessable income, attributed CFC income, attributing interest, Commissioner, company, deduction, dividend, exempt income, FIF income, financial arrangements rules, foreign expenditure, foreign source income, income, income tax, income year, net income, notify, pay, resident in New Zealand, return of income, source in New Zealand, tax year

Compare: 2004 No 35 s EG 1

Section EG 1(4)(a): amended, on 2 June 2016, by section 16(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EG 1(4)(b): amended, on 2 June 2016, by section 16(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EG 1(6): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 69(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EG 1(6)(a): replaced, on 2 June 2016, by section 16(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EG 1(10) **foreign source income**: amended, on 21 December 2010, by section 55(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EG 1 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 55(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EG 1 list of defined terms **notify**: inserted, on 2 June 2016, by section 16(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EG 1 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 55(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

EG 2 Adjustment for changes to accounting practice

When this section applies

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

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

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

From cash to accrual accounting method

(2) If subsection (1)(a) applies,—

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

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

From accrual to cash accounting method

(3) If subsection (1)(b) applies,—

(a) an amount equal to the total of all amounts owing by the person in the year of change that have been allowed as a deduction in earlier income years is income of the person in the year of change; and

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

Some definitions

(4) In this section,—

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

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

Defined in this Act: accrual accounting method, amount, cash accounting method, deduction, generally accepted accounting practice, income, income tax liability, income year

Compare: 2004 No 35 s EG 2

EG 3 Allocation of income, deductions, and tax credits by portfolio tax rate entity

[Repealed]

Section EG 3: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 122(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart EH—Income equalisation schemes

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[Repealed]

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[Repealed]

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[Repealed]

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Introductory provisions

EH 1 Income equalisation schemes

Description

(1) An income equalisation scheme allows a person to reduce their net income for a tax year by making a deposit with the Commissioner for the corresponding income year.

Two schemes

(2) The 2 income equalisation schemes are—

(a) the **main income equalisation scheme**, described in sections EH 3 to EH 36 and EZ 80:

(b) *[Repealed]*

(c) the **thinning operations income equalisation scheme**, described in sections EH 63 to EH 79.

Meaning of terms

(3) Terms used in the 2 schemes are defined as follows:

(a) terms used specifically in the main income equalisation scheme are defined in sections EH 34 to EH 36:

(b) *[Repealed]*

(c) terms used specifically in the thinning operations income equalisation scheme are defined in sections EH 78 and EH 79.

Defined in this Act: adverse event income equalisation scheme, Commissioner, corresponding income year, deposit, income, main income equalisation scheme, net income, person, tax year, thinning operations income equalisation scheme

Compare: 2004 No 35 s EH 1

Section EH 1(2) heading: amended, on 18 March 2019, by section 166(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EH 1(2): amended (with effect on 18 March 2019), on 26 June 2019, by section 61 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EH 1(2)(a): amended (with effect on 1 April 2017), on 30 March 2021, by section 36(1) (and see section 36(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EH 1(2)(b): repealed, on 18 March 2019, by section 166(2) (and see section 166(5) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EH 1(3): amended, on 18 March 2019, by section 166(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EH 1(3)(b): repealed, on 18 March 2019, by section 166(4) (and see section 166(5) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 2 Deposits to be paid into Crown Bank Account

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

(a) is public money; and

(b) must be paid into a Crown Bank Account.

Defined in this Act: Commissioner, deposit, pay, person

Section EH 2: replaced, on 30 March 2022, by section 83 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Main income equalisation scheme

Application

EH 3 Persons to whom main income equalisation scheme applies

Meaning of farmer, fisher, and forester for main income equalisation scheme

(1) The main income equalisation scheme applies to—

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

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

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

(i) derives income from forestry; and

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

Meaning of person for main income equalisation scheme

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

Defined in this Act: business, company, farmer, fisher, fishing business, forester, income from forestry, main income equalisation scheme, Maori authority, New Zealand, person, public authority

Compare: 2004 No 35 s EH 3

Deposits and accounts

EH 4 Main deposit

Deposit for business or forestry

(1) A person may make a payment to the Commissioner for entry in their main income equalisation account for an accounting year as follows:

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

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

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

Upper limit of deposit

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

Lower limit of deposit

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

(a) $200; and

(b) the difference between—

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

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

Time of making deposit

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

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

(b) doing both the following:

(i) making the deposit during the specified period for the accounting year; and

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

(c) doing both the following:

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

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

Limit on making deposit

(5) If a refund has been made to a person for an accounting year under section EH 13 or EH 15, the person may later make a deposit for that accounting year

only if the Commissioner is satisfied, before the deposit is made, that all the refund has been used to develop or expand a farmer's business, if the person is a farmer, or a fishing business, if the person is a fisher, or the means by which a forester derives income from forestry, if the person is a forester, or has been used for the purpose stated in section EH 15(3)(a) for which the refund was made.

Defined in this Act: accounting year, business, Commissioner, deposit, farmer, fisher, fishing business, forester, income from forestry, main deposit, main income equalisation account, main maximum deposit, notice, pay, person, specified period

Compare: 2004 No 35 s EH 4

Section EH 4(5): amended, on 18 March 2019, by section 167(1) (and see section 167(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 5 Main income equalisation account

Person's account

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

Deposits in account

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

Amounts in accounts

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

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

(b) interest paid under section EH 6.

Amounts not available to others

(4) Despite section FC 2 (Transfer at market value), amounts entered in a person's main income equalisation account must not, while they are in the account,—

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

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

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

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

Amounts available only for refunds

(5) The only payments that may be made from a person's main income equalisation account are refunds under any of sections EH 8, EH 10, EH 13, EH 15, EH 17, EH 19, EH 23, EH 25, EZ 80, and EZ 81.

Defined in this Act: amount, Commissioner, deposit, interest, liquidation, main income equalisation account, pay, person

Compare: 2004 No 35 s EH 5

Section EH 5(5): amended, on 30 March 2021, by section 37 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Interest

EH 6 Interest on deposits in main income equalisation account

No interest payable

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

Interest payable

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

Period

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

Date to which accrues

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

(a) 31 March in each year; and

(b) the date the deposit is refunded.

Added to deposit

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

Rate

(6) The interest rate is 3% a year.

Defined in this Act: deposit, interest, main income equalisation account, pay, year

Compare: 2004 No 35 s EH 6

Deduction

EH 7 Deduction of deposit

When this section applies

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

Amount of deduction

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

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

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

Timing of deduction

(3) The person is allowed the deduction in the accounting year.

Defined in this Act: accounting year, amount, corresponding income year, deduction, deposit, main maximum deposit, person

Compare: 2004 No 35 s EH 7

Refunds: automatic

EH 8 Refund of excess deposit

When this section applies

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

Refund

(2) The Commissioner must refund the excess to the person as soon as practicable after the date the deposit ends.

Defined in this Act: accounting year, Commissioner, date the deposit ends, deposit, main maximum deposit, person

Compare: 2004 No 35 s EH 8

EH 9 Income does not include excess deposit

A refund under section EH 8 is excluded income under section CX 51 (Income equalisation schemes).

Defined in this Act: excluded income

Compare: 2004 No 35 s EH 9

EH 10 Refund at end of 5 years

When this section applies

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

Refund

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

Defined in this Act: accounting year, Commissioner, deposit, main income equalisation account, person, year

Compare: 2004 No 35 s EH 10

EH 11 Income when refund given at end of 5 years

A refund under section EH 10 is income, under section CB 27 (Income equalisation schemes), derived by the person and is allocated to the income year in which the refund is given.

Defined in this Act: income, income year, person

Compare: 2004 No 35 s EH 11

Refunds: on application

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

Who may apply

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

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

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

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

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

Application

(2) An application for a refund must—

(a) *[Repealed]*

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

(c) state the amount applied for.

Defined in this Act: amount, apply, Commissioner, liquidation, main income equalisation account, person, trustee

Compare: 2004 No 35 s EH 12

Section EH 12(2)(a): repealed, on 2 June 2016, by section 17(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EH 12 list of defined terms **apply**: inserted, on 2 June 2016, by section 17(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 13 Refund on application

When this section applies

(1) This section applies when a person wants a refund of some or all of the amount in their main income equalisation account, and none of sections EH 8, EH 10, EH 15, EH 17, EH 19, EH 23, EH 25, EZ 80, and EZ 81 applies.

Refund

(2) The Commissioner must refund to the person the amount applied for, to the extent to which it can be made up of 1 or more deposits that have been in the

person's main income equalisation account for at least 1 year before the date the deposit ends. Section EH 28 overrides this subsection.

Defined in this Act: amount, apply, Commissioner, date the deposit ends, deposit, main income equalisation account, person, year

Compare: 2004 No 35 s EH 13

Section EH 13 heading: amended, on 2 June 2016, by section 18(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EH 13(1): amended, on 30 March 2021, by section 38 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EH 13 list of defined terms **apply**: inserted, on 2 June 2016, by section 18(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 14 Income when refund given on application

Year of income

(1) A refund under section EH 13 is income, under section CB 27 (Income equalisation schemes), derived by the person and is allocated to the income year in which the Commissioner receives the application for the refund.

When year of income may be different

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

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

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

Different year of income

(3) The refund is income, under section CB 27, and is allocated to the income year to which the specified period or the longer period relates.

Defined in this Act: accounting year, apply, Commissioner, income, income year, person, specified period

Compare: 2004 No 35 s EH 14

Section EH 14 heading: amended, on 2 June 2016, by section 19(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EH 14 list of defined terms **apply**: inserted, on 2 June 2016, by section 19(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 15 Refund for development or recovery

Refund for development: application of subsection (2)

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

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

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

Refund

(2) If the Commissioner is satisfied that the person will use the refund for either or both of the purposes, the Commissioner must refund to them the amount applied for, to the extent to which it can be made up of 1 or more deposits that have been in their main income equalisation account for at least 6 months before the date the deposit ends. Section EH 28 overrides this subsection.

Refund for recovery: application of subsection (4)

(3) Subsection (4) applies when a person wants a refund of some or all of the amount in their main income equalisation account for 1 or more of the following purposes:

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

(b) to avoid them suffering serious hardship:

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

Refund

(4) If the Commissioner is satisfied that the person will use the refund for 1 or more of the purposes, the Commissioner must refund to them the amount applied for, regardless of the length of time it has been in the account. Section EH 28 overrides this subsection.

Defined in this Act: amount, apply, business, Commissioner, date the deposit ends, deposit, fishing business, main income equalisation account, person, self-assessed adverse event

Compare: 2004 No 35 s EH 15

Section EH 15 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 16 Income when refund given for development or recovery

Year of income

(1) A refund under section EH 15 is income, under section CB 27 (Income equalisation schemes), derived by the person in the income year in which the Commissioner receives the application for the refund.

When year of income may be different

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

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

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

Different year of income

(3) The refund is income, under section CB 27, and is allocated to the income year to which the specified period or the longer period relates.

Defined in this Act: accounting year, apply, Commissioner, income, income year, person, specified period

Compare: 2004 No 35 s EH 16

Section EH 16 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 17 Refund on retirement

When this section applies

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

(a) has a main income equalisation account; and

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

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

Refund

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

Defined in this Act: amount, business, Commissioner, company, date the deposit ends, farmer, fisher, fishing business, main income equalisation account, person, trustee

Compare: 2004 No 35 s EH 17

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

Year of income

(1) A refund under section EH 17 is income, under section CB 27 (Income equalisation schemes), derived by the person in the income year in which they retire.

When year of income may be different

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

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

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

Different year of income

(3) The amount allocated by the person to the earlier accounting year is income, under section CB 27, derived by them in the corresponding income year.

How election made

(4) A person makes an election under this section by giving the Commissioner notice within 1 of the following times:

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

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

Defined in this Act: accounting year, amount, Commissioner, corresponding income year, deposit, income, income year, notice, person, return of income, tax year

Compare: 2004 No 35 s EH 18

EH 19 Refund on death

When this section applies

(1) This section applies when a person—

(a) has a main income equalisation account; and

(b) dies.

Refund

(2) Despite section FC 2 (Transfer at market value), the Commissioner must refund to the trustee of the person's estate the amount that, on the date the deposit ends, is in the person's main income equalisation account, regardless of the length of time it has been in the account. Section EH 28 overrides this subsection.

Defined in this Act: amount, Commissioner, date the deposit ends, main income equalisation account, person, trustee

Compare: 2004 No 35 s EH 19

EH 20 Income when refund given on death

Year of income

(1) A refund under section EH 19 is income, under section CB 27 (Income equalisation schemes), derived by the person immediately before their death.

When year of income may be different

(2) However, section EH 21 or EH 22 applies instead of subsection (1) if the circumstances described in section EH 21(1) or EH 22(1) apply in the person's case.

Defined in this Act: income, person

Compare: 2004 No 35 s EH 20

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

When this section applies

(1) This section applies when—

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

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

Different year of income

(2) The amount allocated by the trustee to the earlier accounting year is income, under section CB 27 (Income equalisation schemes), derived by the person in the corresponding income year.

How election made

(3) A trustee makes an election under this section by giving the Commissioner notice within 1 of the following times:

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

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

Defined in this Act: accounting year, amount, Commissioner, corresponding income year, deposit, income, notice, person, return of income, trustee

Compare: 2004 No 35 s EH 21

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

When this section applies

(1) This section applies when—

(a) the trustee of the person's estate does not make an election under section EH 21; and

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

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

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

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

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

Allocated amount remains in account

(3) An amount allocated by the trustee to a later accounting year remains in the person's main income equalisation account until—

(a) it is refunded to the trustee in the accounting year to which it is allocated; or

(b) it is not refunded because of the application of section EH 28.

Different year of income

(4) An amount allocated by the trustee to a later accounting year is income, under section CB 27 (Income equalisation schemes), derived by the person in the corresponding accounting year.

How election made

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

(a) specifies—

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

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

(b) is given to the Commissioner within 1 of the following times:

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

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

Defined in this Act: accounting year, amount, Commissioner, corresponding income year, deposit, income, main income equalisation account, notice, person, return of income, trustee, year

Compare: 2004 No 35 s EH 22

EH 23 Refund on bankruptcy

When this section applies

(1) This section applies when a person—

(a) has a main income equalisation account; and

(b) is bankrupt.

Refund

(2) The Commissioner must refund to the Official Assignee having charge of the person's estate the amount that, on the date the deposit ends, is in the person's main income equalisation account, regardless of the length of time it has been in the account. Section EH 28 overrides this subsection.

Defined in this Act: amount, Commissioner, date the deposit ends, main income equalisation account, person

Compare: 2004 No 35 s EH 23

EH 24 Income when refund given on bankruptcy

A refund under section EH 23 is income, under section CB 27 (Income equalisation schemes), derived by the person immediately before the bankruptcy starts.

Defined in this Act: income, person

Compare: 2004 No 35 s EH 24

EH 25 Refund on liquidation

When this section applies

(1) This section applies when a person—

(a) has a main income equalisation account; and

(b) is put into liquidation.

Refund

(2) The Commissioner must refund to the liquidator appointed for the person the amount that, on the date the deposit ends, is in the person's main income equalisation account, regardless of the length of time it has been in the account. Section EH 28 overrides this subsection.

Defined in this Act: amount, Commissioner, date the deposit ends, liquidation, main income equalisation account, person

Compare: 2004 No 35 s EH 25

EH 26 Income when refund given on liquidation

A refund under section EH 25 is income, under section CB 27 (Income equalisation schemes), derived by the person immediately before the liquidation starts.

Defined in this Act: income, liquidation, person

Compare: 2004 No 35 s EH 26

Refunds: general provisions

EH 27 Amendment of assessment

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

Defined in this Act: assessment, Commissioner, time bar

Compare: 2004 No 35 s EH 27

EH 28 Minimum refund

The Commissioner must not give a refund under any of sections EH 10, EH 13, EH 15, EH 17, EH 19, EH 22(3), EH 23, and EH 25 that is less than the lesser of—

(a) $200; and

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

Defined in this Act: Commissioner, date the deposit ends, main income equalisation account, person

Compare: 2004 No 35 s EH 28

EH 29 Deposits from which refunds come

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

Defined in this Act: amount, deposit, person

Compare: 2004 No 35 s EH 29

Tax credit

EH 30 When person entitled to tax credit

A person who is given a refund is entitled to a tax credit if—

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

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

Defined in this Act: amount, person

Compare: 2004 No 35 s EH 30

EH 31 Kind and amount of refund that entitles person to tax credit

Kind

(1) A refund that entitles a person to a tax credit is 1 to which both the following apply:

(a) the refund is given under any of sections EH 10, EH 13, EH 15, EH 17, EH 19, EH 22(3), EH 23, and EH 25; and

(b) the refund does not come from a deposit made for the accounting year in which the refund is given; if the refund comes in part from a deposit made for the accounting year in which the refund is given and in part from a deposit made for some other accounting year, the refund that entitles the person to a tax credit is the part coming from the deposit for some other accounting year.

Amount

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

(a) the amount of the refund given to the person under any of sections EH 10, EH 13, EH 15, EH 17, EH 19, EH 22(3), EH 23, and EH 25; and

(b) the total of the amounts by which the person's income was reduced in 1 or more earlier accounting years by subtracting the deposit or deposits or parts of deposits from which the refund comes.

Defined in this Act: accounting year, amount, deposit, income, income tax, person, tax credit

Compare: 2004 No 35 s EH 31

EH 32 Kind of person entitled to tax credit

A person in the following circumstances is entitled to a tax credit:

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

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

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

Defined in this Act: accounting year, amount, deposit, income, income tax, income tax liability, person, tax credit, tax year

Compare: 2004 No 35 s EH 32

EH 33 Amount of tax credit

The amount of a tax credit to which a person is entitled under section EH 30 is the amount by which the extra tax, as described in section EH 32(c), is more than the tax saving, as described in section EH 32(c).

Defined in this Act: amount, income tax, tax credit

Compare: 2004 No 35 s EH 33

Definitions

EH 34 Meaning of income from forestry

Income

(1) **Income from forestry**—

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

(b) includes permanent forestry income.

Disposals

(2) The disposals are—

(a) the disposal of timber:

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

Circumstances

(3) The circumstances are—

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

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

Defined in this Act: income, income from forestry, New Zealand, own, permanent forestry income, person, timber

Compare: 2004 No 35 s EH 34

Section EH 34(1): substituted (with effect on 1 April 2008), on 7 December 2009, by section 18(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EH 34(1)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EH 34(1)(b): replaced, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EH 34(2) heading: replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EH 34(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EH 34(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EH 34(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EH 34(3)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EH 34 list of defined terms **permanent forestry income**: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EH 34 list of defined terms **PFSI forestry income**: repealed, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

EH 35 Meaning of main maximum deposit

Meaning

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

Meaning of amount

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

(a) any provision, other than section EZ 4B (Cattle destroyed because of *Mycoplasma bovis*: spreading), allocating income derived or expenditure incurred to an income year other than the corresponding income year in which the income was in fact derived or the expenditure was in fact incurred; or

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

Maximum deposit of farmer

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

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

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

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

(ii) *[Repealed]*

Maximum deposit of fisher

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

Maximum deposit of forester

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

Order in Council relating to farmers

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

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

(b) an unlimited amount.

Secondary legislation

(7) An Order in Council under subsection (6) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: accounting year, amount, business, corresponding income year, deposit, farmer, fisher, fishing business, forester, income, main income equalisation account, main maximum deposit, net income, income year, pay, person, tax year

Compare: 2004 No 35 s EH 35

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EH 35(2)(a): amended (with effect on 1 April 2017), on 30 March 2021, by section 39(1) (and see section 39(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EH 35(3)(b)(ii): repealed, on 18 March 2019, by section 168(1) (and see section 168(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EH 35(7) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EH 35(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EH 36 Other definitions

In the main income equalisation scheme,—

date the deposit ends means—

(a) the date on which the refund is calculated, when section EH 8 applies:

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

(c) the date on which the Commissioner receives the application for the refund, when section EH 13 or EH 15 applies:

(d) the date of the person's retirement, when section EH 17 applies:

(e) the date of the person's death, when section EH 19 applies:

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

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

deposit—

(a) means a main deposit; and

(b) includes, for the purposes of sections EH 6(2) to (4), EH 10 to EH 33, and EZ 80(3) and (7)(b), interest that is added to a main deposit under section EH 6(5)

fishing business includes a business of—

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

(b) mussel farming:

(c) rock oyster farming

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

main income equalisation account, for a person, means the account that the Commissioner keeps in the person's name under section EH 5

specified period, for a person's tax year, means the shorter of—

(a) the period of 6 months after the end of the accounting year that corresponds to the tax year; and

(b) the period from the end of the accounting year that corresponds to the tax year to the date 1 month after the date by which the person must, under section 37 of the Tax Administration Act 1994, file their return of income for the accounting year that corresponds to the tax year.

Defined in this Act: accounting year, apply, business, Commissioner, date the deposit ends, deposit, fishing business, interest, liquidation, main deposit, main income equalisation account, main income equalisation scheme, pay, person, return of income, specified period, tax year, year

Compare: 2004 No 35 s EH 37

Section EH 36 **deposit** paragraph (b): amended, on 30 March 2021, by section 40 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EH 36 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Adverse event income equalisation scheme

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(1) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Application

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(1) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 37 Persons to whom adverse event income equalisation scheme applies

[Repealed]

Section EH 37: repealed, on 18 March 2019, by section 169(2) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Deposits and accounts

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(2) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 38 Adverse event deposit

[Repealed]

Section EH 38: repealed, on 18 March 2019, by section 169(3) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 39 Adverse event income equalisation account

[Repealed]

Section EH 39: repealed, on 18 March 2019, by section 169(3) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Interest

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(3) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 40 Interest on deposits in adverse event income equalisation account

[Repealed]

EH 40: repealed, on 18 March 2019, by section 169(4) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Deduction

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(4) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 41 Deduction of deposit

[Repealed]

Section EH 41: repealed, on 18 March 2019, by section 169(5) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Refunds: automatic

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(5) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 42 Refund of excess deposit

[Repealed]

Section EH 42: repealed, on 18 March 2019, by section 169(6) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 43 Income does not include excess deposit

[Repealed]

Section EH 43: repealed, on 18 March 2019, by section 169(6) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Refunds: on application

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(6) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 44 Application for refund by person, trustee of estate, Official Assignee, or liquidator

[Repealed]

Section EH 44: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 45 Refund on application

[Repealed]

Section EH 45: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 46 Income when refund given on application

[Repealed]

Section EH 46: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 47 Refund on retirement

[Repealed]

Section EH 47: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 48 Income when refund given on retirement, and election to allocate amount to earlier year

[Repealed]

Section EH 48: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 49 Refund on death

[Repealed]

Section EH 49: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 50 Income when refund given on death

[Repealed]

Section EH 50: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 51 Income when refund given on death, and election to allocate amount to earlier year

[Repealed]

Section EH 51: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 52 Income when refund given on death, and election to allocate amount to later year or years

[Repealed]

Section EH 52: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 53 Refund on bankruptcy

[Repealed]

Section EH 53: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 54 Income when refund given on bankruptcy

[Repealed]

Section EH 54: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 55 Refund on liquidation

[Repealed]

Section EH 55: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 56 Income when refund given on liquidation

[Repealed]

Section EH 56: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Refunds: general provisions

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(7) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 57 Amendment of assessment

[Repealed]

Section EH 57: repealed, on 18 March 2019, by section 169(8) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 58 Minimum refund

[Repealed]

Section EH 58: repealed, on 18 March 2019, by section 169(8) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 59 Deposits from which refunds come

[Repealed]

Section EH 59: repealed, on 18 March 2019, by section 169(8) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Transfers

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(8) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 60 Transfer of deposit

[Repealed]

Section EH 60: repealed, on 18 March 2019, by section 169(9) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Definitions

[Repealed]

Heading: repealed, on 18 March 2019, by section 169(9) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EH 61 Meaning of adverse event maximum deposit

[Repealed]

Section EH 61: repealed, on 18 March 2019, by section 169(10) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EH 61(3): amended (with effect on 1 April 2017), on 30 March 2021, by section 41 (and see section 41(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EH 62 Other definitions

[Repealed]

Section EH 62: repealed, on 18 March 2019, by section 169(10) (and see section 169(11) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Thinning operations income equalisation scheme

Application

EH 63 Persons to whom thinning operations income equalisation scheme applies

Person described

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

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

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

Meaning of person for thinning operations income equalisation scheme

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

Defined in this Act: accounting year, business, company, forestry business, income, New Zealand, person, thinning operations, thinning operations income equalisation scheme

Compare: 2004 No 35 s EH 65

Section EH 63 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Deposits and accounts

EH 64 Thinning operations deposit

Deposit for thinning operations

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

Upper limit of deposit

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

Lower limit of deposit

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

(a) $200; and

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

Time of making deposit

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

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

(b) doing both the following:

(i) making the deposit during the specified period for the accounting year; and

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

(c) doing both the following:

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

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

Limit on making deposit

(5) If a refund has been made to a person for an accounting year under section EH 71 or EH 73, the person may later make a deposit for the accounting year only

if the Commissioner is satisfied, before the deposit is made, that all the refund has been used to expand or develop the person's business.

Defined in this Act: accounting year, business, Commissioner, deposit, income, notice, pay, person, specified period, thinning operations, thinning operations deposit, thinning operations income equalisation account, thinning operations maximum deposit

Compare: 2004 No 35 s EH 66

EH 65 Thinning operations income equalisation account

Person's account

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

Deposits in accounts

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

Amounts in accounts

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

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

(b) interest paid under section EH 66.

Amounts not available to others

(4) Despite section FC 2 (Transfer at market value), amounts entered in a person's thinning operations income equalisation account must not, while they are in the account,—

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

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

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

Amounts available only for refunds

(5) The only payments that may be made from a person's thinning operations income equalisation account are refunds under any of sections EH 68, EH 71, EH 73, and EH 75.

Defined in this Act: amount, Commissioner, deposit, interest, liquidation, pay, person, thinning operations income equalisation account

Compare: 2004 No 35 s EH 67

Interest

EH 66 Interest on deposits in thinning operations income equalisation account

No interest payable

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

Interest payable

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

Period

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

Date to which interest accrues

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

(a) 31 March in each year; and

(b) the date the deposit is refunded.

Added to deposit

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

Rate

(6) The interest rate is 3% a year.

Defined in this Act: deposit, interest, pay, thinning operations income equalisation account, year

Compare: 2004 No 35 s EH 68

Deductions

EH 67 Deduction of deposit

When this section applies

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

Amount of deduction

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

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

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

Timing of deduction

(3) The person is allowed the deduction in the accounting year.

Defined in this Act: accounting year, amount, deduction, deposit, person, thinning operations maximum deposit

Compare: 2004 No 35 s EH 69

Refunds: automatic

EH 68 Refund of excess deposit

When this section applies

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

Refund

(2) The Commissioner must refund the excess to the person as soon as practicable after the date the deposit ends.

Defined in this Act: accounting year, Commissioner, date the deposit ends, deposit, person, thinning operations maximum deposit

Compare: 2004 No 35 s EH 70

EH 69 Income does not include excess deposit

A refund under section EH 68 is excluded income under section CX 51 (Income equalisation schemes).

Defined in this Act: excluded income

Compare: 2004 No 35 s EH 71

Refunds: on application

EH 70 Application for refund by person or liquidator

Who may apply

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

(a) the person may apply under section EH 71 or EH 73:

(b) the liquidator appointed for the person may apply under section EH 75.

Application

(2) An application for a refund must—

(a) *[Repealed]*

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

(c) state the amount applied for.

Defined in this Act: amount, apply, Commissioner, liquidation, person, thinning operations income equalisation account

Compare: 2004 No 35 s EH 72

Section EH 70(2)(a): repealed, on 2 June 2016, by section 23(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EH 70 list of defined terms **apply**: inserted, on 2 June 2016, by section 23(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 71 Refund on application

When this section applies

(1) This section applies when a person wants a refund of some or all of the amount in the person's thinning operations income equalisation account, and neither section EH 73 nor EH 75 applies.

Refund

(2) The Commissioner must refund to the person the amount applied for, to the extent to which it can be made up of 1 or more deposits that have been in the person's thinning operations income equalisation account for at least 1 year before the date the deposit ends.

Defined in this Act: amount, apply, Commissioner, date the deposit ends, deposit, person, thinning operations income equalisation account, year

Compare: 2004 No 35 s EH 73

Section EH 71 heading: amended, on 2 June 2016, by section 24(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EH 71 list of defined terms **apply**: inserted, on 2 June 2016, by section 24(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 72 Income when refund given on application

Year of income

(1) A refund under section EH 71 is income, under section CB 27 (Income equalisation schemes), derived by the person in the income year in which the Commissioner receives the application for the refund.

When year of income may be different

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

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

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

Different year of income

(3) The refund is income under section CB 27 in the corresponding income year to which the specified period or the longer period relates.

Defined in this Act: accounting year, apply, Commissioner, corresponding income year, income, income year, person, specified period

Compare: 2004 No 35 s EH 74

Section EH 72 heading: amended, on 2 June 2016, by section 25(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EH 72 list of defined terms **apply**: inserted, on 2 June 2016, by section 25(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 73 Refund for development or recovery

Refund for development: application of subsection (2)

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

Refund

(2) If the Commissioner is satisfied that the person will use the refund for the purpose, the Commissioner must refund to them the amount applied for, to the extent to which it can be made up of 1 or more deposits that have been in the person's thinning operations income equalisation account for at least 6 months before the date the deposit ends.

Refund for recovery: application of subsection (4)

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

(a) to avoid them suffering serious hardship:

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

Refund

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

Defined in this Act: amount, apply, business, Commissioner, date the deposit ends, deposit, forestry business, person, thinning operations income equalisation account

Compare: 2004 No 35 s EH 75

Section EH 73 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EH 73 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

EH 74 Income when refund given for development or recovery

Year of income

(1) A refund under section EH 73 is income, under section CB 27 (Income equalisation schemes), derived by the person in the income year in which the Commissioner receives the application for the refund.

When year of income may be different

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

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

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

Different year of income

(3) The refund is income under section CB 27 derived in the corresponding income year to which the specified period or the longer period relates.

Defined in this Act: accounting year, apply, Commissioner, corresponding income year, income, income year, person, specified period

Compare: 2004 No 35 s EH 76

Section EH 74 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EH 75 Refund on liquidation

When this section applies

(1) This section applies when a person—

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

(b) is put into liquidation.

Refund

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

Defined in this Act: amount, Commissioner, date the deposit ends, liquidation, person, thinning operations income equalisation account

Compare: 2004 No 35 s EH 77

EH 76 Income when refund given on liquidation

A refund under section EH 75 is income, under section CB 27 (Income equalisation schemes), derived by the person immediately before the liquidation starts.

Defined in this Act: income, liquidation, person

Compare: 2004 No 35 s EH 78

Refunds: general provisions, and tax credits

EH 77 Sections of main income equalisation scheme that apply to thinning operations income equalisation scheme

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

Defined in this Act: main income equalisation scheme, thinning operations income equalisation scheme

Compare: 2004 No 35 s EH 79

Definitions

EH 78 Meaning of thinning operations maximum deposit

Meaning

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

Maximum deposit

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

Meaning of amount

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

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

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

Defined in this Act: accounting year, amount, business, deposit, forestry business, income, income year, person, thinning operations, thinning operations income equalisation account, thinning operations maximum deposit

Compare: 2004 No 35 s EH 80

Section EH 78 list of defined terms **forestry business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

EH 79 Other definitions

In the thinning operations income equalisation scheme,—

date the deposit ends means—

(a) the date on which the refund is calculated, when section EH 68 applies:

(b) the date on which the Commissioner receives the application for the refund, when section EH 71 or EH 73 applies:

(c) the date on which the Commissioner receives notice of the liquidation, when section EH 75 applies

deposit—

(a) means a thinning operations deposit; and

(b) includes, for the purposes of sections EH 66(2) to (4) and EH 70 to EH 77, interest that is added to a thinning operations deposit under section EH 66(5)

specified period, for a person's tax year, means the shorter of—

(a) the period of 6 months after the end of the accounting year that corresponds to the tax year; and

(b) the period from the end of the accounting year that corresponds to the tax year to the date 1 month after the date by which the person must, under section 37 of the Tax Administration Act 1994, file their return of income for the accounting year that corresponds to the tax year

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

thinning operations deposit means a payment made to the Commissioner under section EH 64(1)

thinning operations income equalisation account, for a person, means the account that the Commissioner keeps in the person's name under section EH 65.

Defined in this Act: apply, Commissioner, date the deposit ends, interest, liquidation, pay, person, return of income, specified period, tax year, thinning operations, thinning operations deposit, thinning operations income equalisation account, thinning operations income equalisation scheme

Compare: 2004 No 35 s EH 81

Section EH 79 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Subpart EI—Spreading of specific income

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Farming and forestry

EI 1 Spreading backward of income from timber

When this section applies

(1) This section applies when a person derives income under section CB 24 (Disposal of timber or right to take timber) or CB 25 (Disposal of land with standing timber).

Timing of income

(2) The person may allocate the income between the income year in which they derive it and any 1 or more of the previous 3 income years.

Application

(3) A person who wants to make an allocation under subsection (2) must apply to the Commissioner no later than 1 year after the end of the income year in which they derive the income.

Defined in this Act: apply, Commissioner, income, income year, timber, year

Compare: 2004 No 35 s EI 1

Section EI 1(3): amended, on 2 June 2016, by section 26(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EI 1 list of defined terms **apply**: inserted, on 2 June 2016, by section 26(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Inflation-indexed instruments

EI 2 Interest from inflation-indexed instruments

When this section applies

(1) This section applies when—

(a) an amount of money lent is outstanding at the end of the lender's current income year; and

(b) an amount is payable to the lender for the money lent, in a future income year of the lender; and

(c) the amount payable is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand; and

(d) the amount payable that has accrued at the end of the lender's current income year differs from any amount payable that had accrued—

(i) at the time the money was lent, if it was lent during the lender's current income year; or

(ii) at the end of the lender's previous income year, if it was lent before the lender's current income year.

Increase treated as credited

(2) If the difference is an increase, the increase is treated as having been credited in account and capitalised by the borrower for the benefit of the lender on—

(a) the day following the day on which the level of the relevant index at the end of the lender's current income year becomes public knowledge; or

(b) if the level of the relevant index is not calculated for the end of the lender's current income year, the last date before the end of the income year for which the level is calculated.

This subsection is overridden by subsection (3).

Increase not treated as credited

(3) An increase is not treated as having been credited to the extent to which—

(a) the money lent has been repaid:

(b) an amount on account of the increase has already been paid to the lender:

(c) the increase represents a recovery of a decrease in the amount payable over an earlier income year of the lender.

Defined in this Act: amount, income year, interest, money lent, New Zealand, pay

Compare: 2004 No 35 s EI 2

Intellectual property

EI 3 Assigning or granting copyright

When this section applies

(1) This section applies when a person—

(a) is the author of a literary, dramatic, musical, or artistic work; and

(b) made the work over a period of more than 1 year; and

(c) receives consideration from—

(i) assigning some or all of the copyright in the work; or

(ii) granting an interest in the copyright by licence.

Timing of income: lump sum payment

(2) If some or all of the consideration is a lump sum payment that would be income in 1 tax year, the person may allocate the income equally between the income year in which they receive it and—

(a) the income year before that income year, if they made the work over a period of 2 years or less; or

(b) the 2 income years before that income year, if they made the work over a period of more than 2 years.

Timing of income: other payments

(3) If some or all of the consideration is not a lump sum payment, would be income in 1 tax year, and is received by the person within 2 years after the first publication of the work, the person may allocate the income equally between the income year in which they receive it and the previous income year.

Self-publication

(4) Subsection (3) applies to income that the person derives from being the publisher of their work.

Application

(5) The following provisions apply to an allocation for the purposes of subsections (2) and (3):

(a) for an allocation under subsection (2), the person must apply to the Commissioner no later than 6 years after the end of the income year in which they receive the payment; and

(b) for an allocation under subsection (3), the person must apply to the Commissioner no later than 8 years after the first publication of the work.

Some definitions

(6) In this section,—

author includes a joint author

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

lump sum payment includes an advance on account of royalties.

Defined in this Act: apply, author, Commissioner, first publication, income, income year, lump sum payment, pay, royalty, tax year, year

Compare: 2004 No 35 s EI 3

Section EI 3(5)(a): amended, on 2 June 2016, by section 27(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EI 3(5)(b): amended, on 2 June 2016, by section 27(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EI 3 list of defined terms **apply**: inserted, on 2 June 2016, by section 27(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EI 4 Spreading income from patent rights

When this section applies

(1) This section applies when a person derives income under section CB 30 (Disposal of patent applications or patent rights).

Timing of income

(2) The person may allocate the income equally between the income year in which they derive it and the following 2 income years.

Defined in this Act: income, income year, patent right

Compare: 2004 No 35 s EI 3B

Section EI 4(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Land

EI 4B Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence

When this section applies

(1) This section applies when a person, in an income year, derives an amount that is income under section CC 1B (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence), or incurs an amount of expenditure that is allowed as a deduction under section DB 20B (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence), and the amount is incurred or derived—

(a) in relation to a right (the **land right**) that is a leasehold estate or a licence to use land; and

(b) in relation to a period (the **spreading period**)—

(i) beginning with the commencement, or a renewal or extension, of the land right; and

(ii) ending before the earliest following date on which the land right may be terminated, or may expire, if not extended or renewed.

Exception for amount of income under section CC 1 or CG 8

(2) This section does not apply to an amount that is income under section CC 1 or CG 8 (which relate to income from land or capital contributions).

Timing of income and deductions for land right with spreading period

(3) If the amount is incurred or derived—

(a) before the end of the spreading period, the amount is allocated in equal portions to each month that—

(i) includes part of the spreading period; and

(ii) ends after the amount is incurred or derived; and

(iii) is included in an income year ending within 50 years from the beginning of the spreading period; and

(b) at or after the end of the spreading period, the amount is allocated to the income year in which it is incurred or derived.

Effect for income of person ceasing to have estate in land

(4) If an amount of income would be allocated to a spreading period of a land right under subsection (3) for a person in the absence of this subsection, the amount is allocated to an income year (the **balance year**) ending before the end of the spreading period, if—

(a) at the beginning of the balance year, the person holds the land right, or the estate in land from which the land right is granted; and

(b) in the balance year, the person ceases to hold the land right, or the estate in land from which the land right is granted; and

(c) the amount would be allocated under subsection (3) to an income year—

(i) ending before, or including, the end of the spreading period; and

(ii) after the balance year.

Effect for deduction of person ceasing to have leasehold estate or licence

(5) If an amount of a deduction would be allocated to a spreading period of a land right under subsection (3) for a person (the **affected person**) in the absence of this subsection, the amount is allocated to an income year (the **balance year**) ending before the end of the spreading period, if—

(a) at the beginning of the balance year, either or both of the land right and the estate in land from which the land right is granted are held by the affected person or a person associated with the affected person; and

(b) at the end of the balance year, neither of the land right and the estate in land from which the land right is granted are held by the affected person or a person associated with the affected person; and

(c) the amount would be allocated under subsection (3) to an income year—

(i) ending before, or including, the end of the spreading period; and

(ii) after the balance year.

Effect for deduction of early termination of leasehold estate or licence

(5B) If an amount of a deduction would be allocated to a spreading period of a land right under subsection (3) for a person (the **affected person**) in the absence of this subsection, the amount is allocated to an income year (the **balance year**) ending before the end of the spreading period, if—

(a) the affected person holds the estate in land from which the land right is granted; and

(b) the land right is surrendered or terminated in the balance year.

Relationship between subsections

(6) Subsections (4), (5), and (5B) override subsection (3).

Defined in this Act: amount, associated, deduction, estate, income, income year, land, leasehold estate, own

Section EI 4B: inserted (with effect on 1 April 2013 and applying to an amount that is incurred or derived on or after that date in relation to a lease or licence entered, renewed, extended, or transferred on or after that date), on 17 July 2013, by section 48(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EI 4B(5B) heading: inserted (with effect on 1 April 2013 and applying to an amount that is incurred or derived on or after that date in relation to a lease or licence entered, renewed, extended, or transferred on or after that date), on 30 June 2014, by section 70(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EI 4B(5B): inserted (with effect on 1 April 2013 and applying to an amount that is incurred or derived on or after that date in relation to a lease or licence entered, renewed, extended, or transferred on or after that date), on 30 June 2014, by section 70(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EI 4B(6): replaced (with effect on 1 April 2013 and applying to an amount that is incurred or derived on or after that date in relation to a lease or licence entered, renewed, extended, or transferred on or after that date), on 30 June 2014, by section 70(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EI 5 Amount paid to lessor for non-compliance with covenant for repair

When this section applies

(1) This section applies when a lessor receives an amount of income under section CC 2 (Non-compliance with covenant for repair).

Timing of income: if election made

(2) The lessor may choose to allocate the income between the income year in which they receive the amount and any 1 or more of the following 4 income years.

Timing of income: if election not made

(3) Any part of the amount that the lessor does not allocate as described in subsection (2) is allocated to the fourth income year following the income year in which they receive the amount.

Notice

(4) The following provisions apply to an allocation for the purposes of subsection (2):

(a) the lessor must give a notice to the Commissioner that specifies how the income has been allocated; and

(b) the lessor must give the notice within the time required to file a return of income for the income year to which the income is allocated or within a longer time if the Commissioner agrees; and

(c) the lessor must not revoke the election.

Relationship with sections CC 2 and EI 6

(5) This section overrides section CC 2(2) and is overridden by section EI 6.

Defined in this Act: amount, Commissioner, income, income year, notice, return of income

Compare: 2004 No 35 s EI 4

EI 6 Amount paid for non-compliance: when lessor ceases to own land

When this section applies

(1) This section applies when a lessor—

(a) allocates income under section EI 5 to more than 1 income year; and

(b) ceases to own the land to which the income relates before the end of the third tax year following the tax year in which they receive the income.

Timing of income

(2) If the lessor has not allocated a part of the income, the part is allocated to the income year in which the lessor ceases to own the land.

Ownership of part of land ceasing

(3) If the lessor ceases to own part of the land to which the income relates,—

(a) this section applies to the part of the land that the lessor ceases to own; and

(b) section EI 5 applies to the part of the land that the lessor continues to own.

Defined in this Act: amount, income, income year, own, tax year

Compare: 2004 No 35 s EI 5

EI 7 Leases: income derived in anticipation

When this section applies

(1) This section applies when a person derives, in a tax year, income in anticipation from fines, premiums, a payment of goodwill on the grant of a lease, or in another similar way.

Timing of income

(2) The person may choose to—

(a) divide the income into 6 equal portions; and

(b) allocate a portion to the income year in which they derive the amount; and

(c) similarly allocate a portion to each of the next 5 income years.

Notice

(3) The following provisions apply to an allocation for the purposes of subsection (2):

(a) the person must notify the Commissioner of their election:

(b) the person must give the notice in the tax year following the tax year to which the income year of derivation corresponds:

(c) the Commissioner may cancel the allocation at any time.

Cancellation of allocation

(4) If the Commissioner cancels the allocation, the income allocated to the income year in which the cancellation occurs and to future income years is allocated to the income year before the income year in which the cancellation occurs.

Transitional provision: 2015–16 and later income years

(5) Despite subsection (2), when a person has derived an amount of income to which this section applies before the 2015–16 income year, and all or part of that amount remains unallocated at the start of that income year, the person must—

(a) if the period of 5 income years after the income year of derivation has expired by the start of the 2015–16 income year, allocate the remaining amount to the 2015–16 income year; or

(b) if the period of 5 income years after the income year of derivation has not expired before the start of the 2015–16 income year, divide the remaining amount into equal portions based on the number of income years left in the period, and allocate a portion to each of those income years falling after the end of the 2014–15 income year.

Defined in this Act: amount, Commissioner, income, income year, lease, notice, pay, tax year

Compare: 2004 No 35 s EI 6

Section EI 7(2): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 71(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EI 7(3)(a): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 71(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EI 7(5) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 71(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EI 7(5): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 71(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EI 7 list of defined terms **amount**: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 71(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EI 8 Disposal of land to the Crown

[Repealed]

Section EI 8: repealed (with effect on 26 August 2024), on 29 March 2025, by section 49 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Shareholder-employees

EI 9 Matching rule for employment income of shareholder-employee

Matching if company allowed deduction

(1) If a company is allowed a deduction for expenditure on employment income that is paid or is payable to a shareholder-employee under section CE 1 (Amounts derived in connection with employment), the income is allocated in the way set out in subsections (2) and (3).

Allocation to deduction year unless unexpired

(2) The income is allocated to the income year to which the deduction allowed to the company is allocated, except for an amount equal to any unexpired portion for the income year of the company's expenditure under section EA 4 (Deferred payment of employment income).

Allocation when no longer treated as unexpired

(3) The remaining income is allocated to the income year or years in which the corresponding amount of the company's expenditure on the income is no longer treated as an unexpired portion.

Defined in this Act: amount, company, deduction, employment income, income year, pay, shareholder-employee

Compare: 2004 No 35 s EI 8

Subpart EJ—Spreading of specific expenditure

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Farming and forestry

EJ 1 Spreading backward of deductions for costs of timber

When this section applies

(1) This section applies when a person derives income under section CB 24 (Disposal of timber or right to take timber) or CB 25 (Disposal of land with standing timber).

Timing of deduction

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

Defined in this Act: amount, deduction, income, income year

Compare: 2004 No 35 s EJ 1

EJ 2 Spreading forward of deductions for repairs to fishing boats

When this section applies: generally

(1) This section applies when a person who carries on a fishing business in New Zealand is allowed a deduction for expenditure incurred in making repairs or alterations required by Part 19 or 21 of the Maritime Rules made under the Maritime Transport Act 1994 to the equipment, hull, or machinery of a fishing boat used wholly for the purposes of the business.

When subsection (3) applies

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

Business not ceasing within 4 years

(3) The person may do 1 of the following to the total amount of expenditure allowed as a deduction:

- (a) deduct it in the income year in which the expenditure is incurred; or
- (b) allocate it to any 1 of the 4 income years following the income year in which the expenditure is incurred, and deduct it in that income year; or
- (c) allocate parts of it over some or all of the 4 income years following the income year in which the expenditure is incurred, and deduct each part allocated in the income year to which it is allocated; or
- (d) deduct it, or any part of it that has not already been deducted, in the fourth income year following the income year in which the expenditure is incurred.

When subsection (5) applies

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

Business ceasing within 4 years

(5) The person may do 1 of the following to the total amount of expenditure allowed as a deduction:

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

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

Some definitions

(6) In this section,—

fishing boat—

(a) means a boat registered as a fishing vessel under section 103 of the Fisheries Act 1996; and

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

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

Defined in this Act: amount, business, deduction, fishing boat, fishing business, income year, New Zealand, tax year

Compare: 2004 No 35 s EJ 2

Section EJ 2(1): amended (with effect on 1 April 2014), on 30 March 2017, by section 68 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EJ 2(1): amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 39(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EJ 2(6) **fishing boat** paragraph (a): amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 39(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EJ 2(6) **fishing business**: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EJ 3 Spreading forward of fertiliser expenditure

When this section applies

(1) This section applies when—

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

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

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

Timing of deduction: if election made

(2) The person may choose to allocate the expenditure by allocating some or all of it, in the proportions they choose, to any 1 or more of the 4 income years following the income year in which they incur the expenditure.

Timing of deduction: if election not made

(3) The person is allowed a deduction in the fourth income year following the income year in which they incur the expenditure for any part of the expenditure—

(a) for which they do not claim a deduction in the income year in which they incur the expenditure; or

(b) that they do not allocate under subsection (2).

Timing of deduction: business ceasing within 4 years

(4) If the person ceases to carry on the business before the end of the fourth income year following the income year in which they incurred the expenditure, they must choose 1 of the following ways to deal with any part of the expenditure that has not so far been deducted:

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

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

How elections made

(5) An election under this section is made as follows:

(a) a person makes an election under subsection (2) by taking a tax position on that basis in their return of income for the income year to which they choose to allocate some or all of the expenditure:

(b) a person makes an election under subsection (4),—

(i) paragraph (a), by taking a tax position on that basis in their return of income for the income year in which the person ceases to carry on the business:

(ii) paragraph (b), by notifying the Commissioner of the allocation within the time within which the person is required to file a return of income for the income year in which the person ceases to carry on the business.

Extension of time: elections under subsection (4)(b)

(5B) The Commissioner may extend the time limit imposed under subsection (5)(b)(ii) in any case or class of cases.

Personal representative

(6) An election under subsection (4) may be made by a deceased's personal representative.

Elections under subsection (2) irrevocable

(7) An election made under subsection (2) cannot be revoked.

Defined in this Act: business, Commissioner, deduction, income year, New Zealand, notify, return of income, tax position

Compare: 2004 No 35 s EJ 3

Section EJ 3(1)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EJ 3(5) heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 42(1) (and see section 42(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3(5): replaced (with effect on 1 April 2020), on 30 March 2021, by section 42(1) (and see section 42(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3(5B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 42(1) (and see section 42(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3(5B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 42(1) (and see section 42(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3(7) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 42(2) (and see section 42(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3(7): inserted (with effect on 1 April 2020), on 30 March 2021, by section 42(2) (and see section 42(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3 list of defined terms **notice**: repealed (with effect on 1 April 2020), on 30 March 2021, by section 42(3)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3 list of defined terms **notify**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 42(3)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 3 list of defined terms **tax position**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 42(3)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Films

EJ 4 Expenditure incurred in acquiring film rights in feature films

Feature films

(1) A deduction for expenditure that a person incurs in acquiring a film right is allocated under this section if the film is a feature film and—

(a) the deduction is allowed under section DS 1 (Acquiring film rights):

(b) the deduction is allowed under section DS 2 (Film production expenditure) and the film is one for which a large budget film grant is made.

Timing of deduction: retention of film right

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

(a) the greater of—

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

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

(b) the remaining deduction.

Calculation of apportioned amount

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

(completed months ÷ non-completed months) × deduction.

Definition of items in formula

(4) In the formula,—

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

(b) **non-completed months** is 24, reduced by the number of complete months in the period that—

(i) starts on the first day of the month in which the film is completed; and

(ii) ends on the last day of the income year before the income year referred to in subsection (2):

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

Timing of deduction: disposal of film right

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

Meaning of remaining deduction

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

Defined in this Act: amount, completed, deduction, feature film, film, film income, film right, income year, large budget film grant, remaining deduction

Compare: 2004 No 35 s EJ 4

Section EJ 4(1): substituted, on 1 April 2008, by section 360 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EJ 4(1)(b): substituted, on 1 January 2010, by section 123(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 4(1)(b): amended (with effect on 1 January 2010), on 7 September 2010, by section 32(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 4 list of defined terms **government screen production payment**: repealed (with effect on 1 January 2010), on 7 September 2010, by section 32(2)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 4 list of defined terms **large budget film grant**: inserted (with effect on 1 January 2010), on 7 September 2010, by section 32(2)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

EJ 5 Expenditure incurred in acquiring film rights in films other than feature films

Films other than feature films

(1) A deduction for expenditure that a person incurs in acquiring a film right is allocated under this section if the film is not a feature film and—

(a) the deduction is allowed under section DS 1 (Acquiring film rights):

(b) the deduction is allowed under section DS 2 (Film production expenditure) and the film is one for which a large budget film grant is made.

Timing of deduction: retention of film right

(2) If the person has the film right at the end of an income year,—

(a) the deduction that is allocated to the income year in which the film right is acquired or the film is completed, whichever is later, is—

(i) 50% of the deduction; or

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

(b) the deduction that is allocated to the next income year is the remaining deduction.

Timing of deduction: disposal of film right

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

Meaning of remaining deduction

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

Defined in this Act: amount, completed, deduction, feature film, film, film income, film right, income year, large budget film grant, remaining deduction

Compare: 2004 No 35 s EJ 5

Section EJ 5(1): substituted, on 1 April 2008, by section 361 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EJ 5(1)(b): substituted, on 1 January 2010, by section 124(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 5(1)(b): amended (with effect on 1 January 2010), on 7 September 2010, by section 33(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 5 list of defined terms **government screen production payment**: repealed (with effect on 1 January 2010), on 7 September 2010, by section 33(2)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 5 list of defined terms **large budget film grant**: inserted (with effect on 1 January 2010), on 7 September 2010, by section 33(2)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

EJ 6 Certification of New Zealand films

Certification of New Zealand films

(1) The New Zealand Film Commission may certify that a film is a New Zealand film, if the Commission is satisfied that the film has, or will on completion have, a significant New Zealand content, as determined under section 18 of the New Zealand Film Commission Act 1978.

Final and provisional certificates

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

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

(b) a final certificate, if the film is completed.

Applications for certification of New Zealand films

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

Notice of certificate to Commissioner

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

Revocation of certificate

(5) The New Zealand Film Commission may revoke a provisional certificate or a final certificate if the Commission is satisfied that the certificate should not remain in force, whether because an incorrect statement was made in the provision of information for the purpose of obtaining a certificate or for any other reason.

Effect of revocation

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

Notice of revocation to Commissioner

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

Defined in this Act: Commissioner, completed, film, New Zealand, notice

Compare: 2004 No 35 s EJ 6

EJ 7 Film production expenditure for New Zealand films having no large budget film grant

New Zealand films

(1) A deduction under section DS 2 (Film production expenditure) for film production expenditure is allocated under this section if—

(a) the film is not one for which a large budget film grant is made; and

(b) the film has a final certificate under section EJ 6.

Timing of deduction: up to completion of film

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

Timing of deduction: after completion of film

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

Defined in this Act: completed, deduction, film, film production expenditure, income year, large budget film grant, New Zealand

Compare: 2004 No 35 s EJ 7

Section EJ 7 heading: amended (with effect on 1 January 2010), on 7 September 2010, by section 34(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 7 heading: amended, on 1 January 2010, by section 125(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 7 heading: amended, on 1 April 2008, by section 362(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EJ 7(1): substituted, on 1 April 2008, by section 362(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EJ 7(1)(a): substituted, on 1 January 2010, by section 125(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 7(1)(a): amended (with effect on 1 January 2010), on 7 September 2010, by section 34(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 7 list of defined terms **government screen production payment**: repealed (with effect on 1 January 2010), on 7 September 2010, by section 34(3)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 7 list of defined terms **large budget film grant**: inserted (with effect on 1 January 2010), on 7 September 2010, by section 34(3)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

EJ 8 Film production expenditure for other films having no large budget film grant

Films other than New Zealand films

(1) A deduction under section DS 2 (Film production expenditure) for film production expenditure is allocated under this section if—

(a) the film is not one for which a large budget film grant is made; and

(b) the film does not have a final certificate under section EJ 6.

Timing of deduction: up to completion of film

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

(a) to the income year in which the film is completed,—

(i) 50% of the deduction; or

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

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

Timing of deduction: after completion of film

(3) If the person has a film right in an income year after the film is completed, a deduction for film production expenditure incurred after the film is completed is allocated to the income year in which it is incurred.

Timing of deduction: disposal of film right

(4) If the person disposes of a film right in the income year in which the film is completed, and does not have a film right in the film at the end of the income year, the remaining deduction is allocated to the income year.

Meaning of remaining deduction

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

Defined in this Act: amount, completed, deduction, film, film income, film production expenditure, film right, income year, large budget film grant, New Zealand, remaining deduction

Compare: 2004 No 35 s EJ 8

Section EJ 8 heading: substituted, on 1 April 2008, by section 363(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EJ 8 heading: amended (with effect on 1 January 2010), on 7 September 2010, by section 35(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 8 heading: amended, on 1 January 2010, by section 126(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 8(1): substituted, on 1 April 2008, by section 363(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EJ 8(1)(a): substituted, on 1 January 2010, by section 126(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 8(1)(a): amended (with effect on 1 January 2010), on 7 September 2010, by section 35(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 8 list of defined terms **government screen production payment**: repealed (with effect on 1 January 2010), on 7 September 2010, by section 35(3)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EJ 8 list of defined terms **large budget film grant**: inserted (with effect on 1 January 2010), on 7 September 2010, by section 35(3)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

EJ 9 Avoidance arrangements

The allocation of a deduction under any of sections EJ 4, EJ 5, EJ 7, and EJ 8 may be subject to adjustment under—

(a) section GB 18 (Arrangements to acquire film rights or incur production expenditure):

(b) section GB 19 (When film production expenditure payments delayed or contingent).

Defined in this Act: deduction, film production expenditure, film right, pay

Compare: 2004 No 35 ss GC 11B, GD 12A, GD 12B

Leases

EJ 10 Personal property lease payments

What this section applies to

(1) This section applies to a lease that—

(a) is of a personal property lease asset; and

(b) is not a finance lease; and

(c) is not a specified lease; and

(d) is not an operating lease to which section EJ 10B applies.

Payments

(2) Personal property lease payments are treated as being paid for the term of the lease.

Formula

(3) The expenditure that the lessee incurs is allocated to income years using the formula—

(part of term ÷ term of the lease) × total of payments.

Definition of items in formula

(4) In the formula,—

(a) **part of term** is the part of the term of the lease that falls within the income year:

(b) **term of the lease** has the meaning given in section YA 1 (Definitions):

(c) **total of payments** is the total amount of the personal property lease payments.

Defined in this Act: finance lease, income year, lease, lessee, operating lease, pay, personal property lease asset, personal property lease payment, specified lease, term of the lease

Compare: 2004 No 35 s EJ 9

Section EJ 10(1)(d): inserted (with effect on 1 January 2019), on 30 March 2021, by section 43(1) (and see section 43(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 10 list of defined terms **operating lease**: inserted (with effect on 1 January 2019), on 30 March 2021, by section 43(2) (and see section 43(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EJ 10B IFRS leases

When this section applies

(1) This section applies in relation to an operating lease of a personal property lease asset (the **IFRS lease**), if—

(a) the person, as lessee, uses NZ IFRS 16 in their financial statements for the IFRS lease; and

(b) the lessor for the IFRS lease is not associated with the person; and

(c) the person does not sublease the personal property lease asset to another person; and

(d) the person irrevocably chooses to use this section for the IFRS lease, as evidenced by a return of income made in accordance with this section.

Deduction: de minimis

(2) If the initial right of use asset under NZ IFRS 16 is $100,000 or less and the remaining term of the IFRS lease under NZ IFRS 16 is 4 years or less initially and immediately after any extension starts, then the person, as lessee for the IFRS lease, is allowed, for an income year, a deduction for a positive amount, and has income for a negative amount, for the total amount recognised by the person through their profit and loss account for the IFRS lease for the income year, if the amount is in accordance with NZ IFRS 16.

Deduction: formula

(3) If subsection (2) does not apply, then the person, as lessee for the IFRS lease, is allowed, for an income year, a deduction for a positive amount, and has income for a negative amount, for amounts calculated using the formula—

accounting amount − add-back adjustment + impairment and revaluation adjustment − make-good and direct costs adjustment.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **accounting amount** is the total amount recognised by the person through their profit and loss account for the IFRS lease for the income year, if the amount is in accordance with NZ IFRS 16:

(b) **add-back adjustment** is the total amount of the accounting measures in subparagraphs (i) and (ii), used by the person in accordance with IFRS through their profit and loss account for the income year—

(i) impairment of the lease asset described in paragraph 33 of NZ IFRS 16 arising in the income year:

(ii) revaluation or impairment of the lease asset described in paragraph 35 of NZ IFRS 16 arising in the income year:

(c) **impairment and revaluation adjustment** is the total amount of the add-back adjustment for any income year under paragraph (b) spread proportionally on a daily basis over the remaining income years of the lease term:

(d) **make-good and direct costs adjustment** is the total amount of the accounting measures in subparagraphs (i) and (ii), spread proportionally on a daily basis over the remaining income years of the lease term—

(i) make-good costs for the lease described in paragraph 24(d) of NZ IFRS 16:

(ii) direct costs for the lease described in paragraph 24(c) of NZ IFRS 16, if the person chooses to apply this subparagraph, as evidenced by a return of income made in accordance with this subparagraph.

Deduction: incurred

(5) The person, as lessee, is allowed a deduction for the IFRS lease for—

(a) make-good costs, described in subsection (4)(d)(i), for the income year that they incur the costs:

(b) direct costs, described in subsection (4)(d)(ii), for the income year that they incur the costs, if they have chosen to apply subsection (4)(d)(ii).

Wash-up: income or deduction

(6) The person, as lessee, has income for a positive amount, and is allowed a deduction for a negative amount, for the income year in which the IFRS lease

ends or does not meet a requirement in subsection (1)(a), (b), or (c), calculated using the formula—

IFRS deductions − IFRS income − expenditure.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **IFRS deductions** is the total amount deducted for the IFRS lease for all income years, including when the person has not applied this section:

(b) **IFRS income** is the total amount of income for the IFRS lease for all income years, including when the person has not applied this section:

(c) **expenditure** is the amount of expenditure for the IFRS lease for all income years, ignoring this section.

Transitional deduction: retrospective treatment spread forward

(8) If the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, then the person is allowed a deduction for a positive amount and has income for a negative amount, spread in equal proportions over the income year and the following 4 income years, calculated using the formula—

retrospective accounting expenditure − retrospective tax adjustments − previous tax deductions.

Definition of items in formula

(9) In the formula in subsection (8),—

(a) **retrospective accounting expenditure** is the total amount of expenditure or loss recognised under NZ IFRS 16 for the IFRS lease for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, if the amount is in accordance with NZ IFRS 16:

(b) **retrospective tax adjustments** is the total amount of adjustments and deductions in subsections (4)(b), (c), and (d) and (5) for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it, treating subsections (4)(b), (c), and (d) and (5) as applying for those income years:

(c) **previous tax deductions** is the total amount of deductions not in accordance with NZ IFRS 16 and not provided by this section, for the income years that the person has applied NZ IFRS 16 retrospectively for the IFRS lease or has not applied this section for the IFRS lease while they have applied NZ IFRS 16 for it.

Defined in this Act: amount, deduction, income, income year, NZ IFRS 16, operating lease, person, personal property lease asset

Section EJ 10B: inserted (with effect on 1 January 2019), on 30 March 2021, by section 44(1) (and see section 44(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EJ 10B(6): amended (with effect on 1 January 2019), on 30 March 2022, by section 84(1)(a) (and see section 84(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EJ 10B(6): amended (with effect on 1 January 2019), on 30 March 2022, by section 84(1)(b) (and see section 84(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EJ 11 Amount paid by lessee for non-compliance with covenant for repair

When this section applies

(1) This section applies when a lessee of land is allowed a deduction under section DB 21 (Amounts paid for non-compliance with covenant for repair).

Timing of deduction

(2) The lessee may choose to allocate some or all of the amount of the deduction to any 1 or more of the 3 income years before the income year in which the amount is paid or recovered. The lessee may make an allocation only to an income year in which they used the land for deriving income.

Effect of allocation

(3) If the lessee makes an allocation,—

(a) they are denied a deduction for the allocated amount in the income year in which the amount of the deduction is paid or recovered; and

(b) they are allowed a deduction for the allocated amount in the income year to which it is allocated.

Notice

(4) The following provisions apply to an allocation for the purposes of subsection (2):

(a) the lessee makes the election by giving a notice to the Commissioner that specifies how the amount of the deduction has been allocated; and

(b) the lessee must give the notice within the time required to file a return of income for the tax year in which the amount was paid or recovered or within a longer time if the Commissioner agrees; and

(c) the lessee must not revoke the allocation.

Defined in this Act: amount, Commissioner, deduction, income, income year, lessee, notice, return of income, tax year

Compare: 2004 No 35 s EJ 10

Petroleum mining

EJ 12 Petroleum development expenditure: default allocation rule

When this section applies

(1) This section applies to a petroleum miner's petroleum development expenditure that relates to petroleum mining developments in a permit area and that is incurred on or after 1 April 2008, when section EJ 12B does not apply to the expenditure.

Default allocation rule

(2) For the purposes of section DT 5(2)(a) (Petroleum development expenditure), a deduction for the petroleum development expenditure is allocated in equal amounts over a period of 7 income years. The period of 7 years starts with the income year in which the expenditure is incurred.

Relationship with other petroleum mining provisions

(3) Sections EJ 13 to EJ 16 override subsection (2). Sections DT 7, DT 8, DT 10, DT 11, and DT 16 (which relate to petroleum miners) override this section.

Defined in this Act: amount, deduction, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining development

Section EJ 12: substituted (with effect on 1 April 2008), on 6 October 2009, by section 127(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 12(3): amended, on 1 April 2018, by section 70(1) (and see section 70(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EJ 12B Petroleum development expenditure: reserve depletion method

When this section applies

(1) This section applies to a petroleum miner's petroleum development expenditure that relates to petroleum mining developments in a permit area, when the expenditure is incurred—

(a) on or after 1 April 2008; and

(b) an election to apply this section, described in subsection (2), is made for the permit area.

Choice: first year of commercial production and later years

(2) An election to apply this section may be made by a petroleum miner for a permit area, in a return of income for an income year, only if that income year is the first one in which petroleum is produced in commercial quantities in the permit area. The election is irrevocable, and applies this section to petroleum development expenditure that relates to petroleum mining developments in the relevant permit area for the income year and later income years.

Reserve depletion method expense allocation rule

(3) For the purposes of section DT 5(2)(b) (Petroleum development expenditure), the deduction allocated to an income year for the petroleum development

expenditure that relates to a petroleum mining development in the relevant permit area is the amount calculated using the following formula, if the amount is positive:

(reserve expenditure − previous expenditure)
× reserve depletion for the year ÷ probable reserves.

Definition of items in formula

(4) The items in the formula are defined in subsections (5) to (8).

Reserve expenditure

(5) **Reserve expenditure** is the total petroleum development expenditure that relates to the petroleum mining development for the income year or an earlier income year to which this section applied.

Previous expenditure

(6) **Previous expenditure** is the total petroleum development expenditure that relates to the petroleum mining development and that has been allocated to an earlier income year to which this section applied.

Reserve depletion for the year

(7) **Reserve depletion for the year** is the amount, expressed in barrels of oil equivalent, of petroleum produced from the petroleum mining development for the income year.

Probable reserves

(8) **Probable reserves** is the amount, expressed in barrels of oil equivalent, of the reserves of petroleum for the petroleum mining development that are not yet proven but are estimated, at the beginning of the income year, to have a better than 50% chance of being technically and commercially producible.

Relationship with other petroleum mining provisions

(9) Sections EJ 13 to EJ 16 override subsection (3). Sections DT 7, DT 8, DT 10, DT 11, and DT 16 (which relate to petroleum miners) override this section.

Defined in this Act: amount, deduction, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining development

Section EJ 12B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 127(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 12B(9): amended, on 1 April 2018, by section 71(1) (and see section 71(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EJ 13 Permanently ceasing petroleum mining operations

When this section applies

(1) This section applies when a petroleum miner and each farm-in party to a farm-out arrangement, if any, to which the petroleum miner is a party, permanently ceases petroleum mining operations—

(a) in a permit area for which the petroleum miner holds a petroleum permit; and

(b) for which petroleum development expenditure has been incurred.

Amount of deduction for petroleum miner

(2) The amount of the deduction that the petroleum miner is allowed is the difference between—

(a) the amount of the deduction allowed for the petroleum miner under section DT 5 (Petroleum development expenditure) and attributable to—

(i) the permit; or

(ii) an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) held solely in connection with the permit; and

(b) any part of the deduction for the petroleum miner allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).

Amount of deduction for farm-in party

(3) The amount of the deduction that the farm-in party is allowed is the difference between—

(a) the amount of the deduction allowed for the farm-in party under section DT 14 (Farm-out arrangements) for petroleum development expenditure, and attributable to—

(i) the permit; or

(ii) an asset of the kind described in section CT 7(1)(b) or (c) held solely in connection with the permit; and

(b) any part of the deduction for the farm-in party allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).

Timing of deduction

(4) For the purposes of section DT 5(2)(c) (Petroleum development expenditure), the deduction is allocated to the income year in which petroleum mining operations permanently cease.

Defined in this Act: amount, deduction, farm-in party, farm-out arrangement, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining operations, petroleum permit

Section EJ 13: replaced, on 1 April 2018, by section 72(1) (and see section 72(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EJ 13B Dry well drilled

When this section applies

(1) This section applies when—

(a) the petroleum miner has petroleum development expenditure for a well, the drilling of which stops in an income year, and, from the time of stopping, the well—

(i) will never produce petroleum in commercial quantities; and

(ii) is abandoned; and

(b) part of a deduction under section DT 5 (Petroleum development expenditure) for the petroleum development expenditure described in paragraph (a) has not been allocated under section EJ 12 or EJ 12B.

Allocation

(2) The part of the deduction described in subsection (1) is allocated to the income year.

Defined in this Act: amount, deduction, income year, petroleum development expenditure

Section EJ 13B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 129(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EJ 13C Well not producing

When this section applies

(1) This section applies when—

(a) the petroleum miner has petroleum development expenditure for a well that, in an income year—

(i) stops producing petroleum in commercial quantities; and

(ii) is abandoned; and

(b) the petroleum miner has elected to apply section EJ 12B for the petroleum development expenditure described in paragraph (a) before the start of the income year; and

(c) part of a deduction under section DT 5 (Petroleum development expenditure) for the petroleum development expenditure described in paragraphs (a) and (b) has not been allocated under section EJ 12B.

Allocation

(2) The part of the deduction described in subsection (1) is allocated to the income year.

Defined in this Act: amount, deduction, income year, petroleum development expenditure

Section EJ 13C: inserted (with effect on 1 April 2008), on 6 October 2009, by section 129(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EJ 14 Spreading deduction backwards

[Repealed]

Section EJ 14: repealed, on 1 April 2018, by section 73(1) (and see section 73(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EJ 15 Disposal of petroleum mining asset

When this section applies

(1) This section applies when a petroleum miner disposes of a petroleum mining asset.

Amount, and timing, of deduction

(2) Part of a deduction under section DT 5 (Petroleum development expenditure) is allocated to the income year in which the miner disposes of the asset. The part is that to which both the following apply:

(a) it is attributable to the asset; and

(b) it has not been allocated under section EJ 12 or EJ 12B to the income year in which the miner disposes of the asset or to an earlier income year.

Allocation to more than 1 year

(3) If the petroleum miner's income from disposing of the asset is derived in 2 or more income years,—

(a) the amount of the deduction is allocated among the income years in which the miner derives the income; and

(b) the amount allocated to each income year bears the same relation to the total amount of the deduction as the income that the miner derives in that income year bears to the total amount of income that the miner derives from the disposal.

Relationship with section EJ 16

(4) This section is overridden by section EJ 16.

Defined in this Act: amount, deduction, dispose, income, income year, petroleum miner, petroleum mining asset

Compare: 2004 No 35 s EJ 13

Section EJ 15(2)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 130(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EJ 16 Disposal of petroleum mining asset to associate

When this section applies

(1) This section applies when, in an income year, a petroleum miner disposes of a petroleum mining asset to—

(a) a person associated with the miner:

(b) a person who holds the asset for the miner:

(c) a person who holds the asset for a person associated with the miner.

Amount of deduction

(2) The maximum amount that may be allocated under section EJ 15 to the income year is the amount that would be the net income of the petroleum miner in the income year if their only income were from the disposal.

Defined in this Act: amount, associated person, dispose, income, income year, net income, petroleum miner, petroleum mining asset

Compare: 2004 No 35 s EJ 14

EJ 17 Partnership interests and disposal of part of asset

In sections EJ 12 to EJ 16, unless the context requires otherwise,—

(a) a partner is treated as having a share or interest in a petroleum permit or other property of a partnership to the extent of their interest in the income of the partnership:

(b) references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: dispose, income, petroleum permit

Compare: 2004 No 35 s EJ 15

EJ 18 Petroleum mining operations outside New Zealand

Sections EJ 12 to EJ 17 and EJ 20 apply with any necessary modifications to a petroleum miner undertaking petroleum mining operations that are, or decommissioning that is,—

(a) outside New Zealand and undertaken through a branch or a controlled foreign company; and

(b) substantially the same as the petroleum mining activities governed by sections EJ 12 to EJ 17 and EJ 20.

Defined in this Act: controlled foreign company, decommissioning, New Zealand, petroleum miner, petroleum mining operations

Compare: 2004 No 35 s EJ 16

Section EJ 18: amended, on 1 April 2018, by section 74(1) (and see section 74(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EJ 18(b): amended, on 1 April 2018, by section 74(2) (and see section 74(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EJ 18 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 74(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Definitions

EJ 19 Meaning of offshore development

[Repealed]

Section EJ 19: repealed (with effect on 1 April 2008), on 6 October 2009, by section 131(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EJ 20 Meaning of petroleum mining development

Meaning

(1) In sections EJ 12 and EJ 12B, **petroleum mining development** means a place where 1 or more of the activities described in subsection (2) is carried out.

Activities: inclusions

(2) The activities are those carried out in connection with—

(a) developing a permit area for producing petroleum:

(b) producing petroleum:

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

(d) decommissioning.

Activities: exclusions

(3) The activities do not include further treatment to which all the following apply:

(a) it occurs after the well stream has been separated and stabilised into crude oil, condensate, or natural gas; and

(b) it is done—

(i) by liquefaction or compression; or

(ii) for the extraction of constituent products; or

(iii) for the production of derivative products; and

(c) it is not treatment at the production facilities.

Defined in this Act: decommissioning, permit area, petroleum

Section EJ 20: substituted (with effect on 1 April 2008), on 6 October 2009, by section 131(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EJ 20(2)(d): amended, on 1 April 2018, by section 75(1) (and see section 75(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EJ 20 list of defined terms **decommissioning**: inserted, on 1 April 2018, by section 75(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EJ 20 list of defined terms **removal or restoration operations**: repealed, on 1 April 2018, by section 75(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Mineral mining

Heading: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 50 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EJ 20B Certain mining expenditure spread over assumed life of mine

When this section applies

(1) This section applies for the purposes of section DU 6 (Deduction for certain mining expenditure spread over assumed life of mine) when a mineral miner—

(a) incurs an amount of mining development expenditure or mining exploration expenditure as described in that section; and

(b) starts to use the mining permit area to derive income; and

(c) either does not meet the requirements to allow allocation of the expenditure under section EJ 20E or, if they do, they do not choose to allocate the expenditure under that section.

Spreading rule

(2) The mineral miner is allowed a deduction for an income year that falls within the spreading period referred to in section EJ 20C calculated using the formula—

$$\text{rate} \times \text{value}.$$

Definition of items in formula

(3) The items in the formula are defined in subsections (4) and (5).

Rate

(4) **Rate** is—

(a) the straight-line rate set out in schedule 12, column 2 (Old banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in section EJ 20D(2), if the mineral miner chooses to use the straight-line method:

(b) the diminishing value rate set out in schedule 12, column 1 that corresponds to the straight-line rate under paragraph (a), if the mineral miner chooses to use the diminishing value method.

Value

(5) **Value** is—

(a) the adjusted tax value of the expenditure, if the mineral miner chooses to use the straight-line method:

(b) the diminished value of the expenditure for the income year, if the mineral miner chooses to use the diminishing value method.

Allocation to mines

(6) For the purposes of this section, a mineral miner may allocate expenditure for an income year under this section in relation to a mine rather than in relation to a mining permit area, but only if—

(a) the mineral miner uses IFRS rules to prepare their financial statements; and

(b) the allocation is permitted for the purposes of their statements.

Defined in this Act: adjusted tax value, amount, deduction, diminishing value method, diminishing value rate, financial statements, IFRS, mineral miner, mining development expenditure, mining exploration expenditure, permit area, straight-line method, straight-line rate

Section EJ 20B: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 50 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EJ 20C Length of spreading period

When this section applies

(1) This section applies for the purposes of section EJ 20B(3) to determine the length of the spreading period for certain mining expenditure of a mineral miner related to a mining permit area.

Start and end dates

(2) The spreading period is the number of income years that represents the assumed life of the mine referred to in section EJ 20D that comprises the mining permit area,—

(a) starting from the later of—

(i) the first day of the income year in which the mineral miner's commercial production of a listed industrial mineral from the mining permit area starts; or

(ii) the first day of the income year in which the expenditure is incurred; and

(b) ending on the last day of the income year in which the expiry of the assumed life of the mine occurs.

Defined in this Act: commercial production, income year, listed industrial mineral, mineral miner, permit area

Section EJ 20C: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 50 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EJ 20D Measurement of assumed life of mine and application to rate

When this section applies

(1) This section applies for the purposes of section EJ 20B(4)(a) for the item **rate** in the formula that determines the amount of the deduction a mineral miner

is allowed for an income year that falls in the spreading period described in section EJ 20C.

Formula for straight-line rate

(2) The formula for the straight-line rate is—

100% ÷ assumed life.

Definition of item in formula

(3) In the formula, **assumed life**, for an amount of expenditure and an income year, is the period that is the lesser of the following periods:

(a) the period that—

(i) the mineral miner uses for accounting purposes as the amortisation period for the mining permit area; or

(ii) for a mineral miner that is not required to use an amortisation period for their accounts, the mineral miner estimates is a reasonable period for the commercial production of a listed industrial mineral from the mining permit area; and

(b) the period that is not more than 25 years from the later of—

(i) the date on which commercial production from the mining permit area starts; and

(ii) the date on which the mineral miner incurs the expenditure relating to the mining permit area.

Reassessment of life of mine

(4) A mineral miner must reassess the assumed life of the mine for the purposes of this section and sections DU 11 (Meaning of mining development expenditure) and EJ 20C. A reassessment must be made at the end of each income year that falls within the period, and applies from the start of the next income year for all remaining income years in the period in relation to all outstanding expenditure for which no deduction has yet been allowed.

Defined in this Act: commercial production, deduction, income year, listed industrial mineral, mineral miner, permit area, straight-line rate

Section EJ 20D: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 50 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EJ 20D(3): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 73(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EJ 20D(4): amended (with effect on 1 April 2014 and applying for the 2014–15 and later income years), by section 73(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EJ 20E Certain mining expenditure spread on basis of units of production

When this section applies

(1) This section applies for the purposes of section DU 7 (Deduction for certain mining expenditure spread on basis of units of production) when a mineral miner—

(a) incurs expenditure described in section DU 6(1)(a) (Deduction for certain mining expenditure spread over assumed life of mine) on or in relation to their mining operations or associated mining operations in a mining permit area; and

(b) starts to use the permit area to derive income; and

(c) either—

(i) uses IFRS rules to prepare their financial statements; or

(ii) keeps appropriate records that are sufficient to enable the Commissioner to verify the calculations used by the mineral miner; and

(d) chooses to apply this section in the way described in subsection (2).

Election

(2) The mineral miner may make an election to apply this section in relation to the permit area in a return of income for an income year that is the first year in which the miner's commercial production of a listed industrial mineral from the mining permit area starts. The election is irrevocable and applies only to expenditure referred to in subsection (1)(a).

Reserve depletion method

(3) The deduction for the expenditure incurred by the mineral miner and allocated to an income year is calculated using the formula—

(reserve expenditure − previous expenditure)
× reserve depletion for the year ÷ proven and probable reserves.

Definition of items in formula

(4) In the formula,—

(a) **reserve expenditure** is the total amount of the mineral miner's expenditure described in section DU 6(1)(a) for the permit area for the income year and earlier income years to which this section applies:

(b) **previous expenditure** is the total expenditure for the permit area that has been allocated to an earlier income year to which this section applied:

(c) **reserve depletion for the year** is the amount of a listed industrial mineral produced from the permit area for the income year:

(d) **proven and probable reserves** is the amount of the proven ore reserves and probable ore reserves of the listed industrial mineral for the permit

area as set out in the reserve statement for the area, provided the reserve statement is prepared in accordance with a classification code recognised for the purposes of estimating reserves and resources under the Crown Minerals (Minerals other than Petroleum) Regulations 2007.

Appropriate units of measure

(5) In subsection (4)(c) and (d), the amount must be expressed in an appropriate unit of measure as set out in the mineral miner's reserve statement, and must be the same measure used in the formula for the items defined in those paragraphs.

Mines and mining permit areas

(6) For the purposes of this section, a mineral miner may allocate expenditure for an income year under this section in relation to a mine rather than in relation to a mining permit area, but only if—

(a) the mineral miner uses IFRS rules to prepare their financial statements; and

(b) the allocation in relation to the mine is permitted for the purposes of those statements.

Transitional provision for existing mines

(7) Despite subsection (2), a mineral miner may make an election to apply this section in relation to an existing permit area for the 2014–15 income year. The election is irrevocable and applies to expenditure incurred by the mineral miner in the permit area for the income year and later income years.

Defined in this Act: amount, associated mining operations, commercial production, Commissioner, deduction, financial statements, general permission, IFRS, income, income year, listed industrial mineral, mineral miner, mining operations, permit area, return of income

Section EJ 20E: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 50 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EJ 20E(4)(a): amended (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 74(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EJ 20E list of defined terms **mining development expenditure**: repealed (with effect on 1 April 2014), on 30 June 2014, by section 74(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Superannuation contributions

EJ 21 Contributions to employees' superannuation schemes

When this section applies

(1) This section applies when an employer is allowed a deduction for a superannuation contribution to an employee's superannuation scheme under section DC 7 (Contributions to employees' superannuation schemes).

Timing of deduction

(2) The employer may choose to allocate the deduction to the income year for which the contribution was required by the superannuation scheme to be made, or for which the amount of the contribution was calculated taking into account the earnings paid to employees who were members of the scheme during the income year, if the employer makes the contribution within 63 days after the end of the income year.

Election

(3) The employer must make the election before filing a return of income for the income year or within a longer time if the Commissioner agrees.

Defined in this Act: amount, Commissioner, deduction, employee, employer, income year, return of income, superannuation contribution, superannuation scheme

Compare: 2004 No 35 s EJ 19

Research, development, and resulting market development

EJ 22 Deductions for market development: product of research, development

When this section applies

(1) This section applies when a person is allowed a deduction for expenditure that is not interest and is incurred—

(a) on market development for a product that has resulted from expenditure incurred by the person on research or development; and

(b) before the person begins commercial production or commercial use of the product.

Choice for allocation of deduction

(2) The person may choose to allocate under section DB 34(7) all or part of the deduction to an income year—

(a) after the income year in which the person incurs the expenditure; and

(b) in the way required by section EJ 23.

Defined in this Act: deduction, development, income year, research

Compare: 2004 No 35 s EJ 20

Section EJ 22(1): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 76(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EJ 23 Allocation of deductions for research, development, and resulting market development

When this section applies

(1) This section applies when a person has—

(a) a deduction for expenditure incurred on research or development that the person chooses to allocate under section DB 34(7) (Research or development):

(b) a deduction for an amount of depreciation loss for an item used for research or development, that the person chooses to allocate under section EE 1(5) (What this subpart does):

(c) a deduction for expenditure incurred on market development for a product that has resulted from expenditure incurred on research or development that the person chooses to allocate under section EJ 22(2).

Timing of deduction

(2) The person must allocate the deduction to an income year—

(a) in which the person derives an amount of income that is assessable income that the person would not have derived but for—

(i) expenditure that gives rise to a deduction that may be allocated under this section:

(ii) the use or disposal of an item for which the person has an amount of depreciation loss that may be allocated under this section:

(b) to which under Part I (Treatment of tax losses) a loss balance is carried forward for the income year in which the expenditure or depreciation loss was incurred.

Minimum amount of deduction allocated to income year

(3) The person must not allocate to an income year (the **current year**) an amount of deductions referred to in subsection (1) that is less than the lesser of—

(a) the amount of assessable income referred to in subsection (2)(a) that the person derives in the current year:

(b) the amount of the deductions that have not been allocated to an income year before the current year.

Maximum amount of deduction allocated to income year

(4) The person must not allocate to an income year (the **current year**) an amount of deductions referred to in subsection (1) that is more than the greater of—

(a) the amount of assessable income referred to in subsection (2)(a) that the person derives in the current year:

(b) the amount of the deductions that—

(i) arise in other income years from which a loss balance may be carried forward under Part I to the current year; and

(ii) have not been allocated to income years before the current year.

Defined in this Act: amount, assessable income, deduction, depreciation loss, development, income year, loss balance, research

Compare: 2004 No 35 s EJ 21

Aircraft engine overhauls

Heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EJ 24 Allocation of expenditure on aircraft engine overhauls

When this section applies

(1) This section applies when a person is allowed a deduction under section DW 5 or DW 6 (which relate to the acquisition, overhaul, and leasing of aircraft engines) for expenditure incurred in acquiring an aircraft engine or in performing an aircraft engine overhaul of an aircraft engine or under a finance lease involving an aircraft engine.

Allocation of deduction: general rule

(2) A person who does not make an election under section EJ 25 or EJ 26 must allocate a proportion of the deduction for an acquisition or aircraft engine overhaul to each income year that includes a part of the scheduled overhaul period following the acquisition or aircraft engine overhaul, with the proportion for an income year being equal to the proportion of the scheduled overhaul period that occurs in the income year.

Exception: allocation of deduction when early aircraft engine overhaul

(3) If the person performs in an income year an aircraft engine overhaul during the scheduled overhaul period relating to the preceding acquisition or aircraft engine overhaul of the aircraft engine, the person must allocate to the income year the part of the deduction for the preceding acquisition or aircraft engine overhaul that would otherwise be allocated under subsection (2) to a later income year.

Exception: allocation of deduction when lease ends

(4) If the person leases an aircraft engine, or an aircraft including an unpriced aircraft engine, under a lease that ends before the end of the scheduled overhaul period relating to the preceding acquisition or aircraft engine overhaul of the aircraft engine, the person must allocate to the income year in which the lease ends the part of the deduction for the preceding acquisition or aircraft engine overhaul that would otherwise be allocated under subsection (2) to a later income year.

Defined in this Act: aircraft engine, aircraft engine overhaul, associated person, business, deduction, income year, lease, scheduled overhaul period, unpriced aircraft engine

Section EJ 24: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EJ 25 Allocation of expenditure on aircraft engine overhauls: election by IFRS user

Election

(1) A person may elect to quantify and allocate under this section the amount of a deduction allowed by section DW 5 or DW 6 (which relate to the acquisition, overhaul, and leasing of aircraft engines) in relation to an aircraft or aircraft engine and an income year if—

(a) the person is a New Zealand resident or holds a valid certificate of registration for the aircraft from the Director of Civil Aviation under the Civil Aviation Act 2023; and

(b) the person uses IFRS rules to prepare financial statements; and

(c) the aircraft is treated under the IFRS rules as being owned by the person or is leased by the person under a finance lease.

Adjusted figures from financial statements

(2) A person who elects to rely on this subsection must quantify and allocate deductions under section DW 5 or DW 6 for an assessment to which the election applies by using the figures relating to aircraft and aircraft engines used in the person's financial statements and using methods and adjustments agreed with the Commissioner.

Currency of election

(3) An election under this section applies for each assessment that is made by the person—

(a) after the person—

(i) reaches any necessary agreement under subsection (2) with the Commissioner; and

(ii) notifies the Commissioner of the election when or before making a return based on the elected approach; and

(iii) is notified that the Commissioner accepts the election, if the Commissioner has previously notified the person under paragraph (d); and

(b) before the person's return for an income year for which the person does not meet the requirements of subsection (1); and

(c) before the person notifies the Commissioner, when or before making a return based on an approach other than the elected approach, that the election is revoked; and

(d) before the person is notified that the Commissioner will not accept assessments based on the elected approach.

Grounds for Commissioner's refusal

(4) The Commissioner may give to the person a notice referred to in subsection (3)(d), or may refuse to give to the person a notice referred to in subsection (3)(a)(iii), if the Commissioner considers that the person has, in making an assessment, departed significantly from an agreement with the Commissioner or from the requirements of the IFRS rules.

Defined in this Act: aircraft engine, Commissioner, deduction, finance lease, financial statements, IFRS, income year, lease, New Zealand resident, notice, notify, return

Section EJ 25: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EJ 25(1)(a): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

EJ 26 Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft

Election

(1) A person may elect to quantify and allocate under this section the amount of a deduction allowed by section DW 5 or DW 6 (which relate to the acquisition, overhaul, and leasing of aircraft engines) in relation to an aircraft and an income year if—

(a) no more than 1 aircraft is operated in business by the person and persons who are associated with the person other than by blood relationship; and

(b) no more than 1 aircraft is operated in a particular business by the person and a person who is associated with the person by blood relationship.

Expenditure on acquisition and overhaul of aircraft engines

(2) A person who elects to rely on this subsection to the income year must—

(a) allocate a deduction under section DW 5(2) to the income year of the aircraft engine overhaul to which the deduction relates; and

(b) treat each aircraft engine as an unpriced aircraft engine for the purposes of section DW 5.

Currency of election

(3) An election under this section applies for each assessment that is made by the person—

(a) after the person notifies the Commissioner of the election, when or before making a return based on the approach required by subsection (2); and

(b) before the person's return for the third consecutive income year in which the person does not meet the requirements of subsection (1); and

(c) before the person notifies the Commissioner, when or before making a return based on an approach other than the elected approach, that the election is revoked.

Defined in this Act: aircraft engine, associated person, business, deduction, income year, notice, notify, return, unpriced aircraft engine

Section EJ 26: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EJ 27 Disposal of aircraft engine or aircraft

When this section applies

(1) This section applies when a person—

(a) is allowed a deduction under section DW 5 or DZ 22 (which relate to deductions for expenditure on aircraft engine maintenance) in relation to an aircraft engine or an aircraft including an unpriced aircraft engine; and

(b) disposes of the aircraft engine or aircraft.

Allocation of remaining deductions

(2) The person must allocate to the income year in which the disposal occurs the part of the deduction under section DW 5 or DZ 22 for the preceding acquisition or aircraft engine overhaul that is not allocated to an earlier income year.

Allocation of consideration

(3) The person must allocate the consideration derived for the disposal between—

(a) the aircraft engine or aircraft as an item of depreciable property; and

(b) the unexpired portion of the scheduled overhaul period for the aircraft engine.

Allocation of consideration by agreement

(4) The allocation by the person under subsection (3) must be—

(a) the apportionment agreed with the purchaser; or

(b) a fair and reasonable apportionment, if there is no agreed apportionment under paragraph (a).

Recovery income

(5) The person derives from the disposal an amount of income equal to—

(a) the total amount of deductions under section DW 5 or DZ 22 allowed for the aircraft engine or aircraft and the latest scheduled overhaul period beginning before the disposal, if that amount is less than the amount described in paragraph (b); or

(b) the amount of consideration allocated under subsection (3) to the unexpired portion of the scheduled overhaul period for the aircraft engine, if paragraph (a) does not apply.

Sections CC 11 and FA 9: consideration paid by lessee for lease asset

(6) For the purposes of sections CC 11 and FA 9 (which relate to a lessee acquiring a lease asset when a lease ends), the amount of consideration paid by a lessee or an associated person of a lessee to acquire an aircraft engine or aircraft, after the term of a finance lease of the aircraft engine or aircraft, does not include the amount allocated under subsection (3) to the unexpired portion of the scheduled overhaul period for the aircraft engine or aircraft.

Sections CC 12 and FA 10: consideration derived by lessor from disposal of lease asset

(7) For the purposes of sections CC 12 and FA 10 (which relate to a lessor acquiring a lease asset when a lease ends), the amount of consideration received by the lessor for a disposal of an aircraft engine or aircraft after the term of a finance lease of the aircraft engine or aircraft does not include an amount of consideration allocated under subsection (3) to the unexpired portion of the scheduled overhaul period for the aircraft engine or aircraft.

Defined in this Act: aircraft engine, aircraft engine overhaul, deduction, depreciable year, dispose, finance lease, income, income year, scheduled overhaul period, unpriced aircraft engine

Section EJ 27: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 69(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart EK—Environmental restoration accounts

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EK 1 Payment to Crown Bank Account

Every payment a person makes to the Commissioner under section EK 2—

(a) is public money; and

(b) must be paid into a Crown Bank Account.

Defined in this Act: Commissioner, pay

Section EK 1: replaced, on 30 March 2022, by section 85 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EK 2 Persons who may make payment to environmental restoration account

A person may make a payment to the Commissioner for entry in the person's environmental restoration account for an income year if the person—

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

(b) expects to incur, for a later income year, expenditure that—

(i) is not on revenue account property, other than land to which section CB 8 (Disposal: land used for landfill, if notice of election) applies; and

(ii) is of a kind listed in schedule 19, part B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise); and

(iii) is of a kind not listed in schedule 19, part C; and

(c) makes a provision for such expenditure in financial statements that are—

(i) prepared for external reporting purposes; and

(ii) audited by an accountant who is a chartered accountant or has equivalent professional qualifications; and

(iii) given by the accountant a standard audit opinion, without qualifications on matters relating to the effect of this subpart.

Defined in this Act: business, Commissioner, environmental restoration account, income year, pay, revenue account property

Compare: 2004 No 35 s EK 2

Section EK 2(b)(ii): amended (with effect on 1 April 2018), on 18 March 2019, by section 170 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EK 3 Payments to environmental restoration account

Upper limit of payment

(1) A person must not make a payment for an income year of more than the person's maximum payment for the income year.

Lower limit of payment

(2) A person must not make a payment for an income year of less than $1,000.

Time for making payment

(3) A payment made after the day that is 6 months after the end of an income year is not made for the income year unless—

(a) the Commissioner has allowed a longer period for the payment; and

(b) the payment is made within the period allowed by the Commissioner.

Defined in this Act: Commissioner, income year, maximum payment, pay

Compare: 2004 No 35 s EK 3

EK 4 Environmental restoration account

Person's account

(1) The Commissioner must keep an environmental restoration account in the name of every person who makes a payment to the Commissioner under section EK 2.

Payments in account

(2) Every payment under section EK 2 that a person makes to the Commissioner must be entered in the person's environmental restoration account.

Amounts in account

(3) The only amounts that may be entered in a person's environmental restoration account are—

(a) payments made by the person to the Commissioner under section EK 2:

(b) transfers made to the account under subsection (6):

(c) interest paid under section EK 6.

Amounts not available to others

(4) An amount entered in a person's environmental restoration account may not, while in the account,—

(a) be assigned or charged in any way:

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

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

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

Amounts not available except for refunds or transfers

(5) An amount entered in a person's environmental restoration account may not be removed from the environmental restoration account except by a refund under section EK 9 or EK 12 or by a transfer under subsection (6).

Transfers of amounts

(6) An amount may be transferred from the environmental restoration account of a person—

(a) to an environmental restoration account of a person to whom the amount has been transferred under section EK 15 or EK 16(3)(b):

(b) to the department that is at the time responsible for administering the Environment Act 1986, if the amount has been transferred under section EK 16(3)(a):

(c) to an environmental restoration account of an amalgamated company to which the amount has been transferred under section EK 19.

Commissioner may close empty account

(7) The Commissioner may close an environmental restoration account of a person if the amount in the environmental restoration account is zero.

Defined in this Act: amalgamating company, amount, Commissioner, environmental restoration account, interest, liquidation, pay

Compare: 2004 No 35 s EK 4

EK 5 Details to be provided with payment to environmental restoration account

Notice and details required

(1) A person making a payment to an environmental restoration account must provide the Commissioner with a notice, in a form prescribed by the Commissioner, giving—

(a) the name of the person; and

(b) the income year for which the payment is made; and

(c) a calculation of the maximum payment for the person and the income year; and

(d) any additional information that the Commissioner requires.

Time for providing information

(2) The person must provide the information required by subsection (1) within 2 working days from the day of the payment.

Defined in this Act: Commissioner, environmental restoration account, income year, maximum payment, notice, pay, working day

Compare: 2004 No 35 s EK 5

Section EK 5 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 6 Interest on payments to environmental restoration account

Interest payable

(1) Interest is payable by the Commissioner on—

(a) a payment under section EK 2 to an environmental restoration account:

(b) an amount that is treated under section EK 15, EK 16, or EK 19 as being a payment to an environmental restoration account.

Period

(2) Interest is computed with daily rests from the day after the date of the payment until the day before the date on which the payment is included in a refund under section EK 12 or in a transfer under section EK 15, EK 16, or EK 19.

Date to which interest accrues

(3) Interest that has accrued on a payment is payable to the person who has the environmental restoration account on the earlier of—

(a) 31 March in each year:

(b) the day on which the payment is included in a refund under section EK 12 or in a transfer under section EK 15, EK 16, or EK 19.

Rate

(4) The interest rate is 3% per year.

Defined in this Act: Commissioner, environmental restoration account, interest, pay, year

Compare: 2004 No 35 s EK 6

EK 7 Deduction for payment

When this section applies

(1) This section applies when a person is allowed a deduction under section DQ 4 (Environmental restoration accounts scheme) for a payment to their environmental restoration account under section EK 2.

Amount of deduction

(2) The amount of the deduction is calculated using the formula—

payment ÷ tax rate.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) and (5).

Payment

(4) **Payment** is the lesser of—

(a) the person's payment to the Commissioner under section EK 2 for the income year; and

(b) the person's maximum payment for the income year.

Tax rate

(5) **Tax rate** is the highest rate of income tax on taxable income that—

(a) is set out in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits); and

(b) would apply to the person for the tax year if the person had sufficient taxable income.

Timing of deduction

(6) The person is allowed the deduction for the income year for which the payment is made.

Defined in this Act: Commissioner, deduction, environmental restoration account, income tax, income year, maximum payment, pay, tax year, taxable income

Compare: 2004 No 35 s EK 7

Section EK 7(5)(a): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EK 8 Deduction for transfer

When this section applies

(1) This section applies when a person is allowed a deduction under section DQ 4 (Environmental restoration accounts scheme) for a transfer to their environmental restoration account under section EK 15, EK 16, or EK 19.

Amount of deduction

(2) The amount of the deduction is calculated using the formula—

transfer ÷ tax rate.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) and (5).

Transfer

(4) **Transfer** is the amount of the transfer to the person's environmental restoration account that is treated as a payment by the person under section EK 15(3), EK 16, or EK 19.

Tax rate

(5) **Tax rate** is the highest rate of income tax on taxable income that—

(a) is set out in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits); and

(b) would apply to the person for the tax year if the person had sufficient taxable income.

Timing of deduction

(6) The person is allowed the deduction for the income year for which the transfer is made.

Defined in this Act: deduction, environmental restoration account, income tax, income year, maximum payment, pay, tax year, taxable income

Compare: 2004 No 35 s EK 8

Section EK 8(5)(a): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EK 9 Refund of payment if excess, lacking details

When this section applies

(1) This section applies when a person's payment under section EK 2 for an income year is—

(a) more than the person's maximum payment for the income year:

(b) made without providing the details required by section EK 5.

Refund

(2) As soon as practicable after the date on which the payment is received, the Commissioner must refund to the person—

(a) the excess, if the payment is more than the person's maximum payment for the income year:

(b) the payment, if the payment is described by subsection (1)(b).

No interest payable by Commissioner

(3) No interest is payable by the Commissioner under section EK 6 on the amount of the payment.

Defined in this Act: Commissioner, income year, interest, maximum payment, pay

Compare: 2004 No 35 s EK 9

EK 10 Certain refunds not income

A refund under section EK 9 is excluded income under section CX 52 (Refund from environmental restoration account).

Defined in this Act: excluded income

Compare: 2004 No 35 s EK 10

EK 11 Application for refund

Who may apply

(1) A person may apply to the Commissioner for a refund under section EK 12 of an amount in the person's environmental restoration account if the refund—

(a) corresponds to expenditure incurred by the person of a kind that is listed in schedule 19, part B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise) and not in schedule 19, part C:

(b) represents an excess in the person's environmental restoration account over the maximum account balance for the person's environmental restoration account for the income year.

Application

(2) An application for a refund must—

(a) *[Repealed]*

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

(c) provide evidence satisfactory to the Commissioner verifying the existence of the grounds; and

(d) state the amount of the refund that the applicant wants.

Defined in this Act: apply, Commissioner, environmental restoration account, income year

Compare: 2004 No 35 s EK 11

Section EK 11(1)(a): amended (with effect on 1 April 2018), on 18 March 2019, by section 171 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EK 11(2)(a): repealed, on 2 June 2016, by section 29(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 11 list of defined terms **apply**: inserted, on 2 June 2016, by section 29(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 12 Refund if application or excess balance

When this section applies

(1) This section applies when—

(a) a person wants a refund of some or all of the amount in the person's environmental restoration account and none of sections EK 9, EK 15, EK 16, and EK 19 applies:

(b) the amount in the person's environmental restoration account is more than the maximum account balance for an income year.

Refund if application made

(2) The Commissioner must make a refund under this section to a person if—

(a) the person applies for a refund and has incurred expenditure—

(i) of a kind that is listed in schedule 19, part B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise) and not in schedule 19, part C; and

(ii) of an amount equal to or greater than the amount given by subsection (3) for the amount of the refund; and

(iii) after the first date on which the person made to the Commissioner a payment under section EK 2 for entry in the person's environmental restoration account or a transfer under section EK 15, EK 16, or EK 19 was made to the person's environmental restoration account:

(b) the maximum account balance for the latest complete income year for the person's environmental restoration account is less than the amount in the environmental restoration account at the end of that income year.

Minimum amount of expenditure incurred

(3) The amount of expenditure incurred that corresponds to the amount of a refund is calculated using the formula—

amount ÷ tax rate.

Definition of items in formula

(4) In the formula,—

(a) **amount** is the amount of the refund:

(b) **tax rate** is the highest rate of income tax on taxable income that—

(i) is set out in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits); and

(ii) would apply to the person for the tax year if the person had sufficient taxable income.

Amount of refund if expenditure incurred

(5) If a person is entitled to a refund under subsection (2)(a), the amount that the Commissioner must refund to the person is the smallest of—

(a) the refund for which the person applies:

(b) the contents of the person's environmental restoration account at the time of the refund:

(c) the refund corresponding to the person's expenditure that meets the requirements of subsection (2)(a)(i) to (iii).

Amount of refund if maximum account balance decreases

(6) If a person is entitled to a refund under subsection (2)(b), the amount that the Commissioner must refund is the difference at the end of the latest complete income year between—

(a) the amount in the person's environmental restoration account after any transfer under section EK 15, EK 16, or EK 19 for the income year:

(b) the person's maximum account balance for the income year.

Relationship with section EK 17

(7) Section EK 17 overrides subsections (5) and (6).

Defined in this Act: amount, apply, Commissioner, environmental restoration account, income tax, income year, maximum account balance, pay, tax year, taxable income

Compare: 2004 No 35 s EK 12

Section EK 12 heading: amended, on 2 June 2016, by section 30(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 12(2) heading: amended, on 2 June 2016, by section 30(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 12(2)(a)(i): amended (with effect on 1 April 2018), on 18 March 2019, by section 172 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EK 12(4)(b)(i): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EK 12 list of defined terms **apply**: inserted, on 2 June 2016, by section 30(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 13 Income when refund given on application

A refund under section EK 12 is income, of the amount given by section CB 28 (Environmental restoration accounts), derived by the person in the income year in which the person receives the refund.

Defined in this Act: apply, Commissioner, income, income year

Compare: 2004 No 35 s EK 13

Section EK 13 heading: amended, on 2 June 2016, by section 31(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 13 list of defined terms **apply**: inserted, on 2 June 2016, by section 31(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 14 Application for transfer

Who may apply

(1) A person may apply to the Commissioner for a transfer under section EK 15 from the amount in the person's environmental restoration account.

Application

(2) An application for a transfer must—

(a) *[Repealed]*

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

(c) state the amount of the transfer that the applicant wants.

Defined in this Act: apply, Commissioner, environmental restoration account

Compare: 2004 No 35 s EK 14

Section EK 14(2)(a): repealed, on 2 June 2016, by section 32(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 14 list of defined terms **apply**: inserted, on 2 June 2016, by section 32(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 15 Transfer on application

When this section applies

(1) This section applies when—

(a) a person applies under section EK 14 for a transfer of some or all of the amount in their environmental restoration account to a person who is nominated in the application; and

(b) the person has transferred to the nominated person the obligations to which the amount relates; and

(c) none of sections EK 9, EK 12, EK 16, and EK 19 applies.

Transfer if application made

(2) The Commissioner must make a transfer under this section to an environmental restoration account of the person nominated in the application.

Transfer treated as payment by nominated person

(3) A transfer under subsection (2) is treated as being a payment by the nominated person to the nominated person's environmental restoration account if the nominated person satisfies the Commissioner that—

(a) the obligations to which the transferred amount relates have been transferred to the nominated person; and

(b) in the absence of the transfer, the nominated person would be entitled to make a payment, of the amount of the transfer, to the nominated person's environmental restoration account.

Commissioner to reverse transfer if requirements of subsection (3) not met

(4) If the nominated person does not meet the requirements of subsection (3) in relation to an amount, the Commissioner must transfer the amount to the environmental restoration account of the person who made the application under subsection (1)(a).

Timing of reversal

(5) The transfer under subsection (4) is treated as taking place at the time of the original transfer under subsection (2).

Defined in this Act: apply, Commissioner, environmental restoration account, pay

Compare: 2004 No 35 s EK 15

Section EK 15 heading: amended, on 2 June 2016, by section 33(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 15(2) heading: amended, on 2 June 2016, by section 33(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 15 list of defined terms **apply**: inserted, on 2 June 2016, by section 33(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 16 Transfer on death, bankruptcy, or liquidation

When this section applies

(1) This section applies when a person—

(a) has an environmental restoration account; and

(b) does 1 of the following:

(i) dies:

(ii) becomes bankrupt:

(iii) is put into liquidation.

Transfer to other person

(2) Subsection (3) applies if the Commissioner is notified, by the administrator of the person's estate, the Official Assignee, or the person's liquidator, that the obligation to which the balance in the person's environmental restoration account relates has been transferred to another person.

Transfer by Commissioner

(3) The Commissioner must transfer the amount referred to in subsection (4) to an environmental restoration account of the person to whom the obligation has been transferred.

Amount of transfer

(4) The Commissioner must transfer under subsection (3) the amount that is in the person's environmental restoration account on the date on which—

(a) the person dies, if subsection (1)(b)(i) applies:

(b) the person becomes bankrupt, if subsection (1)(b)(ii) applies:

(c) the person is put into liquidation, if subsection (1)(b)(iii) applies.

Relationship with section EK 17

(5) Section EK 17 overrides subsection (4).

Transfer treated as payment

(6) A transfer to the environmental account of a person under subsection (3) is treated as a payment by the person to their environmental account.

Year of income

(7) The amount of a transfer under this section is income, under section CB 28 (Environmental restoration accounts), derived by the person on the day before the day on which the amount of the transfer is determined under subsection (4).

Defined in this Act: amount, Commissioner, environmental restoration account, income, liquidation, notify, pay

Compare: 2004 No 35 s EK 16

Section EK 16(2): amended, on 2 June 2016, by section 34(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EK 16 list of defined terms **notify**: inserted, on 2 June 2016, by section 34(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 17 Minimum refund or transfer

The Commissioner must not give a refund or make a transfer under any of sections EK 9, EK 12, EK 15, EK 16, and EK 19 that is less than the lesser of—

(a) $1,000; and

(b) the balance in the person's environmental restoration account on the date on which the refund or transfer is made.

Defined in this Act: Commissioner, environmental restoration account

Compare: 2004 No 35 s EK 17

EK 18 Payments from which refunds come

Each refund to a person is treated as coming from the total amount in the person's environmental restoration account in the order in which the person made the payments into the account.

Defined in this Act: amount, environmental restoration account, pay

Compare: 2004 No 35 s EK 18

EK 19 Environmental restoration account of amalgamating company

If an amalgamating company with an environmental restoration account ends its existence on an amalgamation during an income year,—

(a) the contents of the environmental restoration account of the amalgamating company are transferred to an environmental restoration account of the amalgamated company on the date of the amalgamation:

(b) the amalgamated company is treated as having—

(i) made to the amalgamated company's environmental restoration account the payments that the amalgamating company made before the amalgamation to the amalgamating company's environmental restoration account; and

(ii) made from the amalgamated company's environmental restoration account the transfers that the amalgamating company made before the amalgamation from the amalgamating company's environmental restoration account; and

(iii) received from the amalgamated company's environmental restoration account the refunds that the amalgamating company received

before the amalgamation from the amalgamating company's environmental restoration account.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, environmental restoration account, income year, pay

Compare: 2004 No 35 s EK 19

EK 20 Environmental restoration account of consolidated group company

Company with environmental restoration account

(1) A company that is part of a consolidated group may have an environmental restoration account.

Nominated company for group acting on behalf of company

(2) The nominated company for the consolidated group may act on behalf of the group company under this subpart to—

(a) make payments, applications, and transfers:

(b) receive refunds and transfers.

Use of consolidated financial statements for group

(3) In making payments and applications under this subpart, the nominated company may rely on the audited consolidated financial statements for the consolidated group.

Use of consolidated figures for liabilities anticipated and expenditure incurred

(4) If the nominated company relies on the audited consolidated financial statements for the consolidated group, the consolidated figures for the anticipated liabilities and incurred expenditure of the consolidated group are attributed to the group companies on the basis of the individual obligations of the companies to incur expenditure of a kind listed in schedule 19, part B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise) and not in schedule 19, part C.

Defined in this Act: apply, consolidated group, environmental restoration account, nominated company, pay

Compare: 2004 No 35 s EK 20

Section EK 20(4): amended (with effect on 1 April 2018), on 18 March 2019, by section 173 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EK 20 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 21 Notices in electronic format

The Commissioner may require a person to provide a notice under this subpart in an electronic format that the Commissioner prescribes under section 36BC of the Tax Administration Act 1994.

Defined in this Act: Commissioner, electronic format, notice

Compare: 2004 No 35 s EK 21

Section EK 21 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EK 22 Meaning of maximum payment

Maximum payment

(1) In this subpart, **maximum payment** means the maximum payment that under subsection (2) a person may make to the person's environmental restoration account for an income year.

Amount of maximum payment

(2) The maximum payment that a person may make for an income year is the lesser of—

(a) the amount by which the maximum account balance for the income year for the environmental restoration account is more than the amount in the environmental restoration account at the end of the income year:

(b) the amount, if any, calculated under subsection (3) for the person and the income year.

Maximum payment for first 5 years of environmental restoration funds scheme

(3) If a person has a maximum account balance for the 2005–06 income year that is more than zero, the amount referred to in subsection (2)(b) for the person and for that income year, and for each of the later income years before the 2010–11 income year, is the amount calculated using the formula—

$$\text{level increase} + (\text{year} \times 0.2 \times \text{initial level}) - \text{contents}.$$

Definition of items in formula

(4) In the formula,—

(a) **level increase** is the greater of zero and the amount by which the maximum account balance for the income year is more than the maximum account balance for the 2005–06 income year:

(b) **year** is 1 for the 2005–06 income year and increases by 1 for each successive income year to a maximum of 5 for the 2009–10 income year:

(c) **initial level** is the maximum account balance for the 2005–06 income year:

(d) **contents** is the amount in the environmental restoration account at the end of the income year.

Defined in this Act: amount, business, environmental restoration account, income year, maximum payment, pay

Compare: 2004 No 35 s EK 22

EK 23 Other definitions

Meaning of maximum account balance

(1) In this subpart, **maximum account balance** for a person and an income year means—

(a) if the person does not meet the requirements of section EK 2 for the income year, zero:

(b) if the person meets the requirements of section EK 2 for the income year, the amount calculated using the formula—

provision × tax rate.

Definition of items in formula

(2) In the formula,—

(a) **provision** is the provision in the person's financial statements for future expenditure that—

(i) is of a kind listed in schedule 19, part B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise); and

(ii) is not of a kind listed in schedule 19, part C:

(b) **tax rate** is the highest rate of income tax on taxable income that—

(i) is set out in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits); and

(ii) would apply to the person for the tax year if the person had sufficient taxable income.

Meaning of environmental restoration account

(3) In this subpart, **environmental restoration account**, for a person, means the account that the Commissioner keeps in the person's name under section EK 4.

Defined in this Act: business, Commissioner, environmental restoration account, income tax, income year, taxable income

Compare: 2004 No 35 s EK 23

Section EK 23(2)(a)(i): amended (with effect on 1 April 2018), on 18 March 2019, by section 174 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EK 23(2)(b)(i): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subpart EL—Allocation of deductions for excess residential land expenditure

Subpart EL: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Introductory provisions

Heading: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 1 Outline of subpart: general

General outline

(1) The provisions in this subpart, in general,—

(a) limit a person's deductions for expenditure incurred in relation to residential land to income derived from the land; and

(b) suspend deductions for the excess expenditure for the income year in which the expenditure is incurred; and

(c) provide that the excess amounts are carried forward to later income years in which the person derives residential income; and

(d) release the excess amounts on fully-taxed disposals of land.

Allocation rules

(2) Separate allocation rules apply for—

(a) residential rental property, *see the outline in* section EL 2(1) to (6):

(b) bright-line disposals of residential land, *see the outline in* section EL 2(7).

Defined in this Act: amount, deduction, dispose, income, income year, residential land, residential rental property

Section EL 1: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 2 Outline of subpart: specific provisions

Residential rental property

(1) Sections EL 4 to EL 8 apply when a person owns a residential rental property and has expenditure or loss that relates to the property for which they are allowed a deduction. For this purpose, the expenditure does not include an amount that is a cost of revenue account property.

Application by portfolio or on property-by-property basis

(2) The rules in sections EL 4 to EL 8 apply—

(a) to a person's residential portfolio:

(b) by election, on a property-by-property basis.

Portfolios plus particular properties

(3) A person may choose to apply the rules on a property-by-property basis for an income year to 1 or more properties while applying the rules on a portfolio basis in relation to other properties owned by them.

Use of amounts

(4) If a person has excess expenditure under section EL 4, they may use the amount in later income years in which they derive residential income. In certain cases, the amounts are released from the application of the rules.

Exclusions

(5) The following sections set out the properties to which the deduction allocation rule in section EL 4 does not apply:

(a) section EL 9: the person's main home:

(b) section EL 10: property held by the person on revenue account:

(c) section EL 11: property held by certain persons and entities:

(d) section EL 12: property to which subpart DG (Expenditure related to use of certain assets) applies:

(e) section EL 13: property provided as employee accommodation.

Rules for certain entities

(6) The following sections modify the general rules in this subpart:

(a) section EL 14 relating to the continuity rules for companies:

(b) section EL 15 relating to transfers between companies in wholly-owned groups:

(c) sections EL 16 to EL 19 relating to deductions for interest expenditure when a person borrows to invest in a residential land-rich entity.

Bright-line disposals of residential land

(7) Section EL 20 applies when a person derives income under section CB 6A (Disposal within 2 years: bright-line test for residential land) and has expenditure that relates to the land for which they are allowed a deduction as a cost of revenue account property. The section also provides for the treatment of the expenditure when the sale is made to an associated person.

Defined in this Act: amount, associated person, company, deduction, employee, income year, interest, loss, own, residential income, residential land, residential land-rich entity, residential portfolio, residential rental property, revenue account property, wholly-owned group of companies

Section EL 2: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 2(5): amended (with effect on 1 April 2019), on 30 March 2021, by section 45(1) (and see section 45(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EL 2(7): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EL 3 Definitions for this subpart

In this subpart,—

land sales provisions means sections CB 6A to CB 15 (which relate to amounts derived from disposals of land)

residential income means the following amounts that a person derives for an income year in relation to residential land:

(a) rental income which is the amount of income the person derives under sections CC 1 to CC 2 (which relate to amounts derived from the use of land) for the income year in relation to their residential portfolio:

(ab) income which is the amount that the person derives under section CC 3 (Financial arrangements) for the income year in relation to a loan, denominated in a foreign currency, to the extent to which that loan relates to their residential portfolio:

(b) depreciation recovery income which is the amount that the person derives under section CG 1 (Amount of depreciation recovery income) for the income year in relation to their residential portfolio:

(c) an amount of net income that the person would have for the corresponding tax year if their only income were income under the land sales provisions from a disposal of property in their residential portfolio:

(d) an amount of net income that the person would have for the corresponding tax year if their only income were income referred to in paragraphs (a), (b), and (c) in relation to residential land to which section EL 4 does not apply because it is held on revenue account and falls within the exclusion set out in section EL 10

residential land-rich entity means—

(a) a close company, partnership, or look-through company if more than 50% of its assets by value are residential land, whether the land is owned directly or indirectly, *see* section EL 19:

(b) a trustee of a trust whose property includes residential rental property if more than 50% of the trust's assets by value are residential land, whether the land is owned directly or indirectly, *see* section EL 19

residential portfolio—

(a) means 1 or more residential rental properties that a person holds in a portfolio for an income year; and

(b) includes a residential rental property that the person has included in their portfolio, whether or not they retain ownership of the property, in the period that—

(i) starts at the beginning of the income year in which they first acquire a residential rental property that is included in their portfolio; and

(ii) ends on the last day of the income year in which they dispose of the last of the residential rental properties included in their portfolio; and

(c) does not include a residential rental property in relation to which a person is applying the rules on a property-by-property basis under section EL 6

residential rental property—

(a) means residential land for which a person who owns the land is allowed a deduction relating to the use or disposal of the land; and

(b) includes land that, for a time in an income year, is residential land; and

(c) does not include properties that are excluded from the application of section EL 4 by sections EL 9, EL 10, EL 11, EL 12, and EL 13.

Defined in this Act: acquire, amount, close company, deduction, depreciation recovery income, dispose, income, income year, land sales provisions, look-through company, net income, own, partnership, residential income, residential land, residential land-rich entity, residential portfolio, residential rental property, tax year, trustee

Section EL 3: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 3 **land sales provisions**: amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EL 3 **land sales provisions**: amended (with effect on 27 March 2021), on 30 March 2021, by section 46(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EL 3 **residential income** paragraph (ab): inserted, on 1 April 2022, by section 86(1) (and see section 86(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EL 3 **residential income** paragraph (d): amended (with effect on 1 April 2019), on 23 March 2020, by section 106(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 3 **residential rental property** paragraph (b): amended (with effect on 1 April 2019), on 30 March 2021, by section 46(2)(a) (and see section 46(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EL 3 **residential rental property** paragraph (c): inserted (with effect on 1 April 2019), on 30 March 2021, by section 46(2)(b) (and see section 46(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Allocation rules for residential rental property

Heading: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 4 Allocation of deductions for loss-making residential rental properties

When this section applies

(1) This section applies for an income year when a person is allowed a deduction for expenditure or loss incurred in relation to 1 or more properties in their residential portfolio, excluding any amount of a deduction under section DB 23 (Cost of revenue account property).

Limited allocation

(2) The amount of the deduction that may be allocated to the income year must be no more than the amount of the person's residential income for the income year. An amount identified as a person's residential income may be counted only once in making an allocation under this subpart.

Excess amounts carried forward

(3) To the extent to which the amount of the person's deduction is more than their residential income, the excess amount is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the person derives residential income; and

(c) added to the amount of the deduction for expenditure or loss referred to in subsection (1) for the later income year.

Relationship with sections EL 5, EL 6, and EL 7

(4) The application is modified by—

(a) section EL 6 when a person chooses to apply the rules in this subpart on a property-by-property basis:

(b) sections EL 5 and EL 7 when a person disposes of their residential portfolio or residential rental property, as applicable.

Defined in this Act: amount, deduction, dispose, income year, loss, residential income, residential portfolio, residential rental property

Section EL 4: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 4(2): amended (with effect on 1 April 2019), on 23 March 2020, by section 107 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

EL 5 When residential portfolios sold

When this section applies

(1) This section applies for an income year (the **current income year**) when a person—

(a) disposes of the last of the properties in their residential portfolio; and

(b) has an unused excess amount under section EL 4(3) relating to their portfolio.

Disposal of fully-taxed portfolio: excess amounts released

(2) If the person derives income under the land sales provisions for the current income year or for an earlier income year from the disposal of each of the properties in their residential portfolio, any unused excess amount relating to the portfolio is released from the application of the limited allocation rule in section EL 4(2) for the current income year. However, this subsection does not apply in relation to an unused excess amount transferred from another property, *see* subsections (5) and (6).

Disposal of incompletely-taxed portfolios: excess amounts carried forward

(3) If the person does not derive income under the land sales provisions for the current income year or for an earlier income year from the disposal of each of the properties in their residential portfolio, any unused excess amount relating to the portfolio—

(a) is an amount to which section EL 4(3) continues to apply for income years in which the person derives residential income; and

(b) is treated as a deduction referred to in section EL 4(1) that is transferred to another residential rental property for an income year in which the person derives residential income.

Basis of allocation

(4) For the purposes of subsection (3)(b), it does not matter whether the allocation of the transferred amount is made on a portfolio basis or on a property-by-property basis.

When subsection (6) applies

(5) Subsection (6) applies in relation to a disposal described in subsection (2) when—

(a) an unused excess amount was transferred to the portfolio from another of the person's properties that was not included in the portfolio; and

(b) the person did not derive income from the disposal of the other property.

Reduction and transfer to another residential rental property

(6) An unused excess amount that would otherwise be released under subsection (2) is—

(a) reduced by an amount equal to the total unused excess amount transferred from the other property; and

(b) to the extent of the amount transferred, is a deduction referred to in section EL 4(1) that is transferred to another residential rental property for an income year in which the person derives residential income.

Defined in this Act: amount, deduction, dispose, income, income year, land sales provisions, residential income, residential portfolio, residential rental property

Section EL 5: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 5(2): amended (with effect on 1 April 2019), on 23 March 2020, by section 108(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 5(5) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 108(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 5(5): inserted (with effect on 1 April 2019), on 23 March 2020, by section 108(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 5(6) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 108(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 5(6): inserted (with effect on 1 April 2019), on 23 March 2020, by section 108(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

EL 6 Choosing to apply rules on property-by-property basis

Choosing other basis for calculation

(1) For the purposes of section EL 4, and despite the references there and in the definition of **residential income** in section EL 3 to residential portfolios, a person may choose to determine the amount of the deduction that may be allocated for an income year under section EL 4(2) in relation to a single property (**property A**), whether or not—

(a) they own residential rental properties other than property A:

(b) those other properties are included in a residential portfolio.

Property A: income and expenditure

(2) For the purposes of section EL 4(3), both the income derived by the person and the expenditure or loss to which the deduction relates must relate solely to property A and to no other property of the person.

Property A: excess amounts carried forward

(3) An excess amount arising under section EL 4(3) in relation to property A is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the person derives residential income from property A; and

(c) added to the amount of the deduction for expenditure or loss referred to in section EL 4(1) for the later income year.

Election requirements

(4) A person makes an election under subsection (1) by taking a tax position on that basis in their return of income for the income year in which the property becomes their residential rental property.

Effect of changes in tax positions

(5) The election remains in effect for income years in which the person continues to take the tax position but if the person changes their tax position, property A becomes a property included in a residential portfolio.

Transitional rule for property acquired before 2019–20 income year

(6) For the purposes of subsection (4), for residential rental property held at the start of the 2019–20 income year, the person must make the election referred to in subsection (1) in the return of income for that income year.

Defined in this Act: amount, deduction, income, income year, loss, residential income, residential portfolio, residential rental property, return of income, tax position

Section EL 6: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 7 When property A sold

When this section applies

(1) This section applies for an income year when a person—

(a) has chosen to apply the rules in this subpart on a property-by-property basis under section EL 6 to a particular property (**property A)**; and

(b) disposes of property A, whether or not it is residential rental property for the person at the time of the disposal; and

(c) has an unused excess amount under section EL 4(3) relating to property A.

Taxed disposal of property A: excess amounts released

(2) If the person derives income under the land sales provisions from the disposal of property A, any unused excess amount relating to property A is released from the application of the limited allocation rule in section EL 4(2) for the income year. However, this subsection does not apply in relation to an unused excess amount transferred from another property, *see* subsections (5) and (6).

Non-taxed disposal of property A: excess amounts carried forward

(3) If the person disposes of property A but does not derive income under the land sales provisions from the disposal, any unused excess amount relating to property A—

(a) is an amount to which section EL 4(3) continues to apply for income years in which the person derives residential income; and

(b) is treated as a deduction referred to in section EL 4(1) that is transferred to another residential rental property for an income year in which the person derives residential income.

Basis of allocation

(4) For the purposes of subsection (3)(b), it does not matter whether the allocation of the transferred amount is made on a portfolio basis or on a property-by-property basis.

When subsection (6) applies

(5) Subsection (6) applies in relation to a disposal described in subsection (2) when—

(a) an unused excess amount was transferred to property A from another of the person's properties; and

(b) the person did not derive income from the disposal of the other property.

Reduction and transfer to another residential rental property

(6) An unused excess amount that would otherwise be released under subsection (2) is—

(a) reduced by an amount equal to the total unused excess amount transferred from the other property; and

(b) to the extent of the amount transferred, is treated as a deduction referred to in section EL 4(1) that is transferred to another residential rental property for an income year in which the person derives residential income.

Defined in this Act: amount, deduction, dispose, income, income year, land sales provisions, residential income, residential rental property

Section EL 7: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 7(2): amended (with effect on 1 April 2019), on 23 March 2020, by section 109(1)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 7(2): amended (with effect on 1 April 2019), on 23 March 2020, by section 109(1)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 7(5) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 109(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 7(5): inserted (with effect on 1 April 2019), on 23 March 2020, by section 109(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 7(6) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 109(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EL 7(6): inserted (with effect on 1 April 2019), on 23 March 2020, by section 109(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

EL 8 Treatment of previously transferred amounts on fully-taxed disposals

[Repealed]

Section EL 8: repealed (with effect on 1 April 2019), on 23 March 2020, by section 110 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Exclusions from rules

Heading: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 9 Main home exclusion

General rule

(1) Section EL 4 does not apply to residential land of a person for an income year if more than 50% of the land is used for most of the income year by the person as their main home.

Beneficiaries

(2) Subsection (1) applies to trust property when—

(a) more than 50% of the land is used for most of the income year by a beneficiary of the trust as their main home; and

(b) a principal settlor of the trust does not have a separate main home.

Defined in this Act: income year, principal settlor, residential land

Section EL 9: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 10 Exclusion for land held on revenue account

Land acquired for purposes of business relating to land

(1) Section EL 4 does not apply to residential land of a person that, when disposed of, will give rise to income of the person under section CB 7 (Disposal: land acquired for purposes of business relating to land).

Income under land sales rules

(2) Section EL 4 does not apply to residential land of a person that, when disposed of, will give rise to income of the person under the land sales provisions other than section CB 7, regardless of when the disposal occurs.

Notification

(3) In order for land to be excluded under subsection (2), the person must—

(a) notify the Commissioner that the land is held on revenue account by the date for filing their return of income for the later of—

(i) the income year in which they acquire the land:

(ii) the income year in which the land becomes land that, when disposed of, will give rise to income under the land sales provisions:

(iii) for land that is held at the start of the 2019–20 income year and is land that, when disposed of, will give rise to income under the land sales provisions, the 2019–20 income year:

(b) be able to identify separately the deductions relating to the land.

When separate identification not required

(4) Subsection (3)(b) does not apply to a person if all of their residential land, other than land excluded under subsection (1) and sections EL 9, EL 12, and EL 13,—

(a) has given rise to income of the person under the land sales provisions:

(b) will give rise to income under the land sales provisions, regardless of when the disposal occurs, and they have notified the Commissioner as described in subsection (3)(a).

Defined in this Act: acquire, Commissioner, deduction, dispose, income, income year, land sales provisions, notify, residential land

Section EL 10: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 11 Exclusion for property held by certain persons and entities

Section EL 4 does not apply to residential land owned by—

(a) a company other than a close company:

(b) a person or entity listed in schedule 36 (Government enterprises).

Defined in this Act: close company, company, residential land

Section EL 11: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 12 Exclusion for mixed-use assets

Section EL 4 does not apply to residential land of a person for an income year when the land is an asset referred to in section DG 3 (Meaning of asset for this subpart).

Defined in this Act: asset, income year, residential land

Section EL 12: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 13 Exclusion for property provided as employee accommodation

Accommodation connected with employment or service

(1) Section EL 4 does not apply to residential land of a person that is property that a person provides to their employees or other workers for accommodation in connection with their employment or service.

Associated employees or workers

(2) Subsection (1) does not apply if the employees or other workers are associated with the person, unless it is necessary for the person to provide the accommodation because of the nature or remoteness of a business carried on by them.

Defined in this Act: associated person, business, employee, employment, residential land

Section EL 13: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Application of rules by certain entities

Heading: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 14 Continuity rules for companies

Despite sections EL 4, EL 5, EL 7, and EL 16, a company may not allocate an unused excess amount to a later income year if sections IA 5, IB 3, IP 3, and IP 3B (which relate to tax losses carried forward) would apply to restrict the carrying forward of the amount to the later income year, treating the amount as if it were an unused tax loss component.

Defined in this Act: amount, company, income year, tax loss component

Section EL 14: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 14: amended (with effect on 1 April 2020), on 30 March 2022, by section 87 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EL 14: amended (with effect on 1 April 2020), on 30 March 2021, by section 47 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EL 15 Transfers between companies in wholly-owned groups

Transferring unused amounts

(1) If a company (**company A**) that is part of a wholly-owned group of companies has an unused excess amount under section EL 4(3), EL 5(3), or EL 7(3) for an income year, the company may transfer some or all of the excess amount to another company (**company B**) in the group.

Company B's deduction

(2) The amount transferred is treated as a deduction for expenditure or loss referred to in section EL 4(1) of company B in relation to a residential rental property of company B for an income year in which company B derives residential income.

When transfers made

(3) The transfer of an excess amount is treated as made when both company A and company B take tax positions on that basis in their returns of income for the relevant income year.

Defined in this Act: amount, company, deduction, income year, residential income, residential rental property, return of income, wholly-owned group of companies

Section EL 15: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 15(1): amended (with effect on 1 April 2019), on 23 March 2020, by section 111 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Interposed entities

Heading: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 16 Interests in residential land-rich entities

When this section applies

(1) This section applies when a person—

(a) has borrowed money and used it to acquire an interest in an entity that is, for an income year, a residential land-rich entity; and

(b) has interest expenditure for the income year in relation to the amount borrowed for which they are allowed a deduction.

Excess amounts carried forward

(2) To the extent to which the portion of the person's interest expenditure calculated under section EL 17(1) is more than their share of net residential income calculated under section EL 17(3), the excess amount is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the entity derives residential income; and

(c) added to the amount of the interest expenditure referred to in subsection (1)(b) for the later income year.

Modifications

(3) The application of this section and section EL 17 is modified by section EL 18 when the entity is a partnership or a look-through company.

Defined in this Act: acquire, amount, deduction, income, income year, interest, look-through company, partnership, residential income, residential land, residential land-rich entity

Section EL 16: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 16(2)(b): replaced (with effect on 1 April 2019), on 23 March 2020, by section 112 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

EL 17 Calculations for section EL 16

Calculation of interest expenditure

(1) For the purposes of section EL 16(2), the person's interest expenditure is calculated using the formula—

applied capital percentage × interest on borrowings.

Definition of items

(2) In the formula in subsection (1),—

(a) **applied capital percentage** is the percentage of the entity's capital, as at the end of the income year, that it has used to acquire residential rental property:

(b) **interest on borrowings** is the amount of expenditure on interest that the person has incurred for the income year in relation to the amount borrowed.

Calculation of share of net residential income

(3) For the purposes of section EL 16(2), the person's share of net residential income is calculated using the formula—

person's interest × entity's net residential income.

Definition of items

(4) In the formula in subsection (3),—

(a) **person's interest** is, as applicable,—

(i) when the entity is a company, the person's voting interest in the company measured at the end of the income year:

(ii) when the entity is the trustee of a trust, the value of the person's interest in residential rental property that is trust property as a percentage of the trust's assets, measured at the end of the income year:

(b) **entity's net residential income** is the amount of the net income for the corresponding tax year that the entity would have in the absence of section EL 4, if the only income derived by the entity were residential income.

Defined in this Act: acquire, amount, company, income, income year, interest, net income, residential income, residential rental property, tax year, trustee, voting interest

Section EL 17: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 18 Modifications when entities transparent

For the purposes of sections EL 16 and EL 17, if the entity is a partnership or a look-through company,—

(a) the person's residential income for the income year from property held by the entity is treated as their share of net residential income under section EL 17(3) unless paragraph (b)(ii) applies to modify the calculation of net residential income:

(b) when the entity has chosen under section EL 6 to apply the rules in this subpart on a property-by-property basis for a particular property (**property A**), the formulas in section EL 17 are modified as follows:

(i) the item **applied capital percentage** in section EL 17(2)(a) is read as if the residential rental property were property A; and

(ii) the residential income derived by the person for the income year from property A is treated as their share of net residential income under section EL 17(3).

Defined in this Act: income year, look-through company, partnership, residential income, residential rental property

Section EL 18: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 18(a): amended (with effect on 1 April 2019), on 23 March 2020, by section 113 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

EL 19 Valuation of assets

Methods of valuation

(1) For the purposes of section EL 17 and the definition of **residential land-rich entity** in section EL 3, an asset of a person or entity is valued at the end of an income year using,—

(a) for land, including an improvement to land, the amount set out in subsection (2):

(b) for property with an adjusted tax value, its adjusted tax value:

(c) for other property, its market value.

Valuation of land

(2) For the purposes of subsection (1)(a), the value of land is the following amount, as applicable:

(a) the amount established by the later of—

(i) the land's most recent capital value or annual value as set by a local authority; or

(ii) either the cost of the land on acquisition or, if the transaction involves an associated person, its market value:

(b) for a leasehold estate in land, the market value of the land which the person may establish through a valuation made by a registered valuer no more than 3 years before the end of the income year.

Defined in this Act: adjusted tax value, amount, associated person, income year, land, leasehold estate, local authority, residential land-rich entity

Section EL 19: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Allocation rules for bright-line disposals of land

Heading: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EL 20 Allocation of deductions related to bright-line disposals of residential land

When this section applies

(1) This section applies for an income year when a person—

(a) derives income under section CB 6A (Disposal within 2 years: bright-line test for residential land); and

(b) is allowed a deduction under section DB 23 (Cost of revenue account property) in relation to the land.

Limited allocation

(2) The amount of the deduction that may be allocated to the income year must be no more than the amount calculated using the formula—

bright-line income + net income from land.

Definition of items in formula

(3) In the formula,—

(a) **bright-line income** is the amount of income that the person derives for the income year under section CB 6A:

(b) **net income from land** is the amount of net income that the person would have for the corresponding tax year if their only income were income under sections CB 6 to CB 14 (which relate to amounts derived from the disposals of land).

Excess amounts carried forward

(4) To the extent to which the amount of the person's deduction is more than the amount calculated under subsection (2), the excess amount is—

(a) suspended as a deduction for the income year; and

(b) carried forward to a later income year in which the person derives—

(i) income referred to in subsection (1)(a):

(ii) income under sections CB 6 to CB 14; and

(c) added to the amount of the deduction referred to in subsection (1)(b) for the later income year.

Disposals to associated persons

(5) Subsections (6) and (7) apply when a person disposes of land described in subsection (1)(a) to an associated person.

Limited allocation for associated disposals

(6) Despite subsection (2), the amount of the person's deduction for the income year of the disposal must be no more than the amount of the bright-line income referred to in subsection (3)(a) that they derive from the disposal.

Expenditure of associated persons

(7) To the extent to which the amount of the person's deduction under subsection (6) is more than the bright-line income derived by the person, the excess amount is treated as expenditure of the associated person incurred in acquiring the land.

Defined in this Act: amount, associated person, deduction, dispose, income, income year, net income, residential land, tax year

Section EL 20: inserted (with effect on 1 April 2019), on 26 June 2019, by section 62(1) (and see section 62(2) and (3) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EL 20(1)(a): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EL 20(1)(a): amended (with effect on 27 March 2021), on 30 March 2021, by section 48(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EL 20(3)(a): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EL 20(3)(a): amended (with effect on 27 March 2021), on 30 March 2021, by section 48(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Subpart EM—Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests

Subpart EM: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

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EM 1 Australian non-attributing shares and attributing FDR method interests

Application of this subpart

(1) This subpart applies to determine the income and expenditure for a person's hedges, to the extent to which their hedges have a fair dividend rate hedge portion (*see*: subsection (2) below, and sections EM 5 to EM 7), and their hedges hedge—

(a) Australian non-attributing shares for which—

(i) amounts derived from disposal would be either excluded income of the person under section CX 55 (Proceeds from disposal of investment shares), or the person's capital receipt; and

(ii) the person determines the market value for each of a number of periods making up the income year:

(b) attributing interests in a FIF for which the person—

(i) calculates FIF income using the fair dividend rate method; and

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

Specific rules

(2) In this subpart,—

(a) section EM 2 provides rules for who this subpart applies to:

(b) section EM 3 provides rules for what hedges this subpart applies to:

(c) section EM 4 provides rules for elections to choose that eligible hedges are subject to this subpart by applying either a hedge-by-hedge method or the portfolio method:

(d) section EM 5 provides the hedge-by-hedge methods to calculate fair dividend rate hedge portions for a person's eligible hedges:

(db) section EM 5B provides the portfolio method to calculate fair dividend rate hedge portions for a person's eligible hedges:

(e) section EM 6 provides the calculation to determine the income and expenditure for a person's fair dividend rate hedge portions:

(f) section EM 7 provides a quarterly test of the person's fair dividend rate hedge portions, and provides rules that apply if the value of hedge portions to eligible hedged assets exceeds 1.05, including a rule to not apply this subpart:

(g) section EM 8 provides some definitions for this subpart.

Relationship with financial arrangements rules

(3) This subpart, and not subpart EW (Financial arrangements rules), determines a person's income and expenditure for their fair dividend rate hedge portions. However, subpart EW determines a person's income and expenditure for the portion of a hedge that is not a fair dividend rate hedge portion.

Defined in this Act: attributing interests, Australian non-attributing shares, eligible hedge, excluded income, fair dividend rate hedge portion, fair dividend rate method, FIF, hedge, income

Section EM 1: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EM 1(1)(b)(ii): replaced, on 1 April 2016, by section 129 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EM 1(2)(c): replaced, on 1 April 2022, by section 88(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 1(2)(d): replaced, on 1 April 2022, by section 88(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 1(2)(db): inserted, on 1 April 2022, by section 88(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 1(3): amended, on 1 April 2022, by section 88(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EM 2 Who does this subpart apply to?

Who does this subpart apply to?

(1) This subpart applies to a person if section EM 1 applies to the person, to the extent to which the person—

(a) is listed in schedule 29, part A or B (Portfolio investment entities: listed investors), but is not a life insurer:

(b) is a separate identifiable fund forming part of a life insurer that holds investment subject to life insurance policies under which benefits are directly linked to the value of the investments held in the fund:

(c) is a fund that is equivalent to an investor class described in section HM 22(1) (Exceptions for certain funds):

(d) is a group investment fund, superannuation fund, or unit trust in which—

(i) 20 or more people hold an investor interest, and each person who holds an investor interest has 20% or less of the total investor interests for the fund or trust:

(ii) a person described in paragraph (a) or (b) (a **listed person**) or a person whose only income is charitable income (a **charitable person**) holds an investor interest, and each person who is not a listed person or a charitable person holds an investor interest of 20% or less of the total investor interests for the fund or trust.

Combining people and investor interests

(2) For the purposes of applying subsection (1)(d)(i) and (ii), if a person is associated with another person, they are treated as 1 person who holds their com-

bined investor interests, if their combined investor interests total 5% or more of the total investor interests for the fund or trust. Subsection (3) overrides this subsection.

Exception to combining people and investor interests

(3) Subsection (2) does not apply to make 2 associated people into 1 person, or to combine investor interests of 2 associated persons, if 1 of them is a listed person.

Defined in this Act: associated person, exempt income, group investment fund, income, investor class, investor interest, life insurance policies, life insurer, superannuation fund, unit trust

Section EM 2: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EM 3 What hedges does this subpart apply to?

General rule

(1) This subpart applies to a person's hedge (an **eligible hedge**) if section EM 1 applies to the hedge, and the hedge—

(a) is a contract to conditionally or unconditionally acquire or dispose of foreign exchange in return for New Zealand currency, or is a swap with one leg denominated in a foreign currency and the other leg denominated in New Zealand currency; and

(b) is not an option; and

(c) is not entered into with an associated person; and

(d) has, under IFRSs, a fair value of zero when it is first entered into or is acquired at its fair value; and

(e) is subject to an election under section EM 4.

Exception

(2) Despite subsection (1), this subpart applies and a person's hedge is an **eligible hedge**, if section EM 1 applies to the hedge, the person has not chosen to use section EM 5(4) and (5) for the hedge, and the hedge—

(a) is a contract to conditionally or unconditionally acquire or dispose of any currency in return for any other currency, or is a swap with legs denominated in any currency; and

(b) meets the requirements of subsection (1)(b) to (e); and

(c) is entered into only to rebalance currency exposures for the person's other eligible hedges.

Defined in this Act: associated person, eligible hedge, hedge, IFRS

Section EM 3: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EM 3(1) heading: inserted, on 1 April 2022, by section 89(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 3(1)(d): amended, on 1 April 2022, by section 89(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 3(2) heading: inserted, on 1 April 2022, by section 89(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 3(2): inserted, on 1 April 2022, by section 89(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EM 4 Elections

Elections

(1) This subpart applies to a person's eligible hedges, to the extent to which the hedges have fair dividend rate hedge portions as a result of an election under this section. The portion of a person's eligible hedge that is not a fair dividend rate hedge portion does not give rise to income or expenditure under this subpart, despite any election under this section for the eligible hedge. To the extent to which this subpart does apply to calculate income and expenditure (*see*: section EM 6), the fair dividend rate hedge portion does not give rise to income or expenditure under any other subpart of this Act.

Hedge-by-hedge: specific

(2) A person may choose to use a hedge-by-hedge method under section EM 5 for an eligible hedge, if the election under this subsection is made before the hedge and any hedge of the hedge is first entered into or acquired by the person.

Hedge-by-hedge: general

(3) A person may choose to use a hedge-by-hedge method under section EM 5 for all eligible hedges if the election under this subsection is made before the hedge and any hedge of the hedge is first entered into or acquired by the person. The choice applies for all eligible hedges post-election.

Specific: effect

(4) An election under subsection (2) is irrevocable for the life of the relevant hedge, unless the person may choose and does choose, under subsection (6), to use the portfolio method.

General: effect

(5) An election under subsection (3) may be changed before the relevant hedge and any hedge of the hedge is first entered into or acquired by the person, but is irrevocable for the life of the relevant hedge, unless the person may choose and does choose, under subsection (6), to use the portfolio method.

Portfolio

(6) A person that uses a **unit valuation period**, under section EX 53 (Fair dividend rate periodic method), of 1 month or less may choose the portfolio method under section EM 5B.

Portfolio: effect

(7) An election under subsection (6) is irrevocable for 2 years unless the Commissioner notifies the person that the person may revoke earlier. An election applies for all eligible hedges post-election, but does not have to be made before a relevant hedge is entered into. Also, a new election under subsection (6) cannot be made until 12 months after the end of an old election under subsection (6), unless the Commissioner notifies the person that the person may make a new election earlier.

Defined in this Act: Commissioner, eligible hedge, fair dividend rate hedge portion, income

Section EM 4: replaced, on 1 April 2022, by section 90 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EM 5 Fair dividend rate hedge portions: hedge-by-hedge methods

Fair dividend rate hedge portions

(1) This section calculates the maximum fair dividend rate hedge portions for a person's eligible hedges on a hedge-by-hedge basis under an election provided by section EM 4, or the minimum fair dividend rate hedge portions for hedges that are a hedge of a hedge.

Choice of fair dividend rate hedge portion: cannot be changed

[Repealed]

(2) *[Repealed]*

Choice of methods

(3) A person may choose to use either the method in subsections (4) and (5), or the method in subsections (9) to (10D), to calculate the maximum or minimum, as the case may be, fair dividend rate hedge portions for all of the person's eligible hedges when the relevant hedge is first entered into or acquired. They may not choose to use, for example, the method in subsections (4) and (5) for some hedges and the method in subsections (9) to (10D) for other hedges.

First method

(4) The maximum or minimum, as the case may be, fair dividend rate hedge portion for a person's eligible hedge (the **calculation hedge**) is the lesser of 100% and the amount, expressed as a percentage, calculated, using the formula in this subsection, when the hedge is first entered into or acquired. Subsection (8) overrides this subsection. The formula is—

(1.05 × (eligible currency assets + proxied currency assets)
− FDR hedges amount) ÷ calculation hedge amount.

Definition of items in formula

(5) In the formula in subsection (4), all items are expressed in the calculation currency (*see*: **eligible currency assets**), and—

(a) **eligible currency assets** is the total market value of,—

(i) a person's assets described in section EM 1(1)(a) and (b) that are denominated in the same currency (the **calculation currency**) that the calculation hedge hedges; and

(ii) if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by a multi-rate PIE, described in section EM 1(1)(a) and (b), and denominated in the calculation currency:

(b) **proxied currency assets** is,—

(i) unless subparagraph (ii) or (iii) applies, the total market value of a person's assets described in section EM 1(1)(a) and (b) that are denominated in a currency (the **proxied currency**) other than the calculation currency, if an eligible hedge that is denominated in the calculation currency acts like hedging for the assets due to a relationship between exchange rate movements in the proxied currency and the calculation currency:

(ii) zero, if the person has hedges denominated in the proxied currency:

(iii) zero, if the person has a hedge, denominated in a currency other than the proxied currency or the calculation currency, that acts like hedging for the assets due to a relationship between exchange rate movements in the proxied currency and that other currency:

(c) **FDR hedges amount** is the amount of calculation currency hedged by a person's fair dividend rate hedge portions, but excluding the portion for the calculation hedge:

(d) **calculation hedge amount** is the amount of foreign currency that is hedged by the calculation hedge.

Second formula

[Repealed]

(6) *[Repealed]*

Definition of items in formula

[Repealed]

(7) *[Repealed]*

Exception for more than 100% non-eligible currency asset hedges

(8) If the amount calculated under subsection (4) or (9) is less than zero, then the maximum or minimum, as the case may be, fair dividend rate hedge portion for the relevant calculation hedge is zero.

Second method

(9) The maximum or minimum, as the case may be, fair dividend rate hedge portion for a person's eligible hedge (the **calculation hedge**) is the amount,

expressed as a percentage, calculated using the following formula when the hedge is first entered into or acquired:

FDR gross amount × apportioned current hedge amount ÷ calculation hedge amount.

Definition of items in formula

(10) In the formula in subsection (9), all items are expressed in New Zealand currency, and—

(a) **FDR gross amount** is the amount given by subsection (10B):

(b) **apportioned current hedge amount** is the amount given by subsection (10D):

(c) **calculation hedge amount** is the amount of foreign currency that is hedged by the calculation hedge.

FDR gross amount

(10B) For the purposes of subsection (10), the **FDR gross amount** is either—

(a) zero if the formula in this subsection does not calculate, when the hedge is first entered into or acquired, an amount; or

(b) the lesser of 1 and the amount calculated using the following formula when the hedge is first entered into or acquired:

(1.05 × eligible currency assets − FDR hedges amount) ÷ apportioned current hedge amount.

Definition of items in FDR gross formula

(10C) In the formula in subsection (10B)(b), all items are expressed in New Zealand currency, and—

(a) **eligible currency assets** is the total market value of a person's assets described in section EM 1(1)(a) and (b) and, if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by the relevant multi-rate PIE and described in section EM 1(1)(a) and (b):

(b) **FDR hedges amount** is the amount of foreign currency hedged by a person's fair dividend rate hedge portions, but excluding the portion for the calculation hedge:

(c) **apportioned current hedge amount** is the amount given by subsection (10D).

Apportioned current hedge amount

(10D) The **apportioned current hedge amount** for the purposes of subsections (10) and (10C) is 1 of the following amounts, expressed in New Zealand currency:

(a) if the calculation hedge is not a hedge of a hedge, or is a hedge of a hedge and paragraph (b) does not apply, the amount is the lesser of the following amounts:

(i) the amount of foreign currency hedged by the calculation hedge:

(ii) the amount of foreign currency that is hedged by a person's hedges including the calculation hedge *less* the amount of foreign currency that is hedged by a person's FDR hedge portions excluding the calculation hedge *less* the total market value of a person's non-eligible assets, treating a negative result as zero:

(b) the negative of the amount of foreign currency that is hedged by a person's FDR hedge portions excluding the calculation hedge, if—

(i) the calculation hedge is a hedge of a hedge; and

(ii) the amount of foreign currency that is hedged by a person's FDR hedge portions excluding the calculation hedge *plus* the calculation hedge *equals* less than zero.

Relationship with subject matter

(11) Section EM 7 overrides this section.

Defined in this Act: eligible hedge, fair dividend rate hedge portion, hedge, income, non-eligible assets

Section EM 5: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EM 5 heading: amended, on 1 April 2022, by section 91(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(1) heading: replaced, on 1 April 2022, by section 91(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(1): replaced, on 1 April 2022, by section 91(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(2) heading: repealed, on 1 April 2022, pursuant to section 91(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(2): repealed, on 1 April 2022, by section 91(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(3) heading: replaced, on 1 April 2022, by section 91(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(3): replaced, on 1 April 2022, by section 91(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(4) heading: amended, on 1 April 2022, by section 91(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(4): amended, on 1 April 2022, by section 91(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(4): amended, on 1 April 2022, by section 91(7) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(5)(a): replaced, on 1 April 2022, by section 91(8) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(6) heading: repealed, on 1 April 2022, pursuant to section 91(9) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(6): repealed, on 1 April 2022, by section 91(9) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(7) heading: repealed, on 1 April 2022, pursuant to section 91(9) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(7): repealed, on 1 April 2022, by section 91(9) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(8): replaced, on 1 April 2022, by section 91(10) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(9) heading: replaced, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(9): replaced, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10) heading: replaced, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10): replaced, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10B) heading: inserted, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10B): inserted, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10C) heading: inserted, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10C): inserted, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10D) heading: inserted, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5(10D): inserted, on 1 April 2022, by section 91(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 5 list of defined terms **non-eligible assets**: inserted, on 1 April 2022, by section 91(12) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EM 5B Fair dividend rate hedge portions: portfolio method

Fair dividend rate hedge portions

(1) This section calculates the fair dividend rate hedge portions for a person's eligible hedges on a portfolio basis under an election provided by section EM 4.

Lowest amount

(2) The fair dividend rate hedge portion is the lowest of the amounts described in subsections (4) and (6).

Period calculation

(3) The fair dividend rate hedge portion is applied for a period of 1 month or less, as chosen by the person, for all of their eligible hedges. The fair dividend rate hedge portion is calculated before the start of the elected period, and the elected period is irrevocable, and is applied for all of their eligible hedges post-election, for the income year.

First formula

(4) For the purposes of subsection (2), the amount is calculated using formula—

$$1 - (\text{non-eligible assets} \div \text{portfolio hedges amount}).$$

Definition of items in formula

(5) In the formula in subsection (4), all items are expressed in New Zealand currency, and—

(a) **non-eligible assets** is the total market value of non-eligible assets:

(b) **portfolio hedges amount** is the total amount of foreign currency that is hedged by a person's hedges.

Second formula

(6) For the purposes of subsection (2), the amount is calculated using the formula—

(1.05 × eligible assets) ÷ portfolio hedges amount.

Definition of items in formula

(7) In the formula in subsection (6), all items are expressed in New Zealand currency, and—

(a) **eligible assets** is the total market value of assets described in section EM 1(1)(a) and (b) that the person owns directly, and, if the person chooses and is a qualifying hedge fund, their interests in assets that are owned by the relevant multi-rate PIE and described in section EM 1(1)(a) and (b):

(b) **portfolio hedges amount** is the total amount of foreign currency that is hedged by a person's hedges.

Defined in this Act: eligible hedge, fair dividend rate hedge portion, hedge, non-eligible assets, qualifying hedge fund

Section EM 5B: inserted, on 1 April 2022, by section 92 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EM 6 Income and expenditure for fair dividend rate hedge portions

Using the formula to calculate income and expenditure

(1) A person uses the formula in subsection (2) for each valuation period described in subsection (3)(b) that this subpart applies to them. A positive amount from the formula is a person's income for their fair dividend rate hedge portions. A negative amount from the formula is a person's expenditure for their fair dividend rate hedge portions.

Formula

(2) The formula for determining a person's income and expenditure for their fair dividend rate hedge portions is—

(FDR portions' value + period gain − period loss) × 0.05 × valuation period ÷ days in the year.

Definition of items in formula

(3) In the formula,—

(a) **FDR portions' value** is the market value of a person's fair dividend rate hedge portions at the start of a relevant valuation period in New Zealand currency:

(ab) **period gain** is the net gain multiplied by the FDR hedge portion for relevant eligible hedges that are entered into and settled within the preceding valuation period:

(ac) **period loss** is the net loss multiplied by the FDR hedge portion for relevant eligible hedges that are entered into and settled within the preceding valuation period:

(b) **valuation period** is the number of days in whichever of the following periods is relevant:

(i) the period described in section EM 1(1)(a)(ii):

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

(c) **days in the year** is the number of days in the income year in which the relevant period falls.

Defined in this Act: amount, fair dividend rate hedge portion, income, income year

Section EM 6: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EM 6(2) formula: amended, on 1 April 2022, by section 93(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 6(3)(ab): inserted, on 1 April 2022, by section 93(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 6(3)(ac): inserted, on 1 April 2022, by section 93(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 6(3)(b)(ii): replaced, on 1 April 2016, by section 130 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EM 7 Quarterly test of fair dividend rate hedge portions

Quarterly FDR hedging ratio

(1) A person must use the first formula, in subsection (2), on a day (the **calculation day**) they choose within a quarter of an income year, to calculate their quarterly FDR hedging ratio. The calculation day must be the same day for each quarter within the income year.

First formula

(2) The formula for calculating the person's quarterly FDR hedging ratio is—

FDR hedges amount ÷ eligible currency assets.

Definition of items in formula

(3) In the formula in subsection (2), all items are expressed in New Zealand currency, and—

(a) **FDR hedges amount** is the total amount of foreign currency that is hedged by a person's fair dividend rate hedge portions:

(b) **eligible currency assets** is the total market value of a person's assets described in section EM 1(1)(a) and (b).

Second formula

(4) If a person's quarterly FDR hedging ratio for a quarter is greater than 1.05 and subsection (6) does not apply, then, despite section EM 5, the fair dividend rate hedge portion of each eligible hedge, from 5 working days after the calculation day of the quarter, is calculated using the formula—

$$(0.85 \div \text{quarterly FDR hedging ratio}) \times \text{FDR hedge portion}.$$

Definition of items in second formula

(5) In the formula in subsection (4),—

(a) **FDR hedge portion** is the fair dividend rate hedge portion of the relevant eligible hedge:

(b) **quarterly FDR hedging ratio** is the person's quarterly FDR hedging ratio for the relevant quarter.

Relationship with subject matter

(5B) This section overrides section EM 5, but does not apply if and to the extent to which section EM 5B applies.

Subpart not applied for over-hedging

(6) If a person's quarterly FDR hedging ratio is greater than 1.05 on the calculation day of 2 consecutive quarters, then this subpart will not apply to the person for the next 2 quarters. Subpart EW (Financial arrangements rules) applies.

Defined in this Act: eligible hedge, fair dividend rate hedge portion, hedge, income year, person, quarterly FDR hedging ratio

Section EM 7: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EM 7(1): replaced, on 1 April 2022, by section 94(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 7(4): amended, on 1 April 2022, by section 94(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 7(5B) heading: inserted, on 1 April 2022, by section 94(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 7(5B): inserted, on 1 April 2022, by section 94(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 7(6): amended, on 1 April 2022, by section 94(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EM 8 Some definitions

In this subpart,—

Australian non-attributing shares means a person's rights in a FIF in an income year if the rights—

(a) are a share in a company resident in Australia at all times in the year when the person holds a right in the company; and

(b) are not an attributing interest, because of the application of section EX 31 (Exemption for ASX-listed Australian companies)

eligible hedge means a hedge described in section EM 3

fair dividend rate hedge portion means the percentage portion of the hedging of the foreign currency exchange rate movements in the value of a person's assets for an eligible hedge under this subpart

hedge—

(a) means 1 or more related financial arrangements that a person enters into with the sole purpose and net effect of offsetting exposure to foreign currency exchange rate movements in the value of their assets, and **hedging** is the effect of holding a hedge for that purpose; and

(b) includes, in a hedge described in paragraph (a), a hedge of that hedge

investor interest means—

(a) if the relevant entity is a company, a shareholding that gives the holder an entitlement to a distribution of the proceeds from the entity's investments; or

(b) if the relevant entity is not a company, an interest that, under the rules of the entity, gives the holder an entitlement to a proportion of the funds available for distribution of the proceeds from the entity's investments, and that distribution is the same as if the entity were a company and the holder were a shareholder in that company

non-eligible assets—

(a) means assets that are denominated in a foreign currency and not described in section EM 1(1)(a) and (b); but

(b) does not include—

(i) cash assets totalling less than 5% of the total market value of a person's assets described in section EM 1(1)(a) and (b), or, at the election of the person, foreign cash assets that relate directly to assets described in section EM 1(1)(a) and (b) and to FDR hedge portions:

(ii) eligible hedges:

(iii) New Zealand securities listed on a recognised exchange and denominated in a foreign currency to the extent to which the securities are unhedged as to foreign currency

qualifying hedge fund means a person that is an investor in a multi-rate PIE, either directly or indirectly through 1 or more multi-rate PIEs, if and to the

extent to which income of the multi-rate PIE from an asset described in section EM 1(1)(a) and (b) is attributed to the person

quarterly FDR hedging ratio means the ratio calculated using the formula in section EM 7(2).

Section EM 8: inserted, on 17 July 2013, by section 49 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EM 8 **non-eligible assets**: inserted, on 1 April 2022, by section 95 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EM 8 **qualifying hedge fund**: inserted, on 1 April 2022, by section 95 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Subpart EW—Financial arrangements rules

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Introductory provisions

EW 1 What this subpart does

Financial arrangements rules

(1) This subpart contains most of the financial arrangements rules.

Meaning of financial arrangements rules

(2) **Financial arrangements rules** means—

(a) the sections in this subpart; and

(b) sections CC 3 (Financial arrangements), DB 11 to DB 15 (which relate to financial arrangements adjustments), EZ 51 (Transitional adjustment when changing to financial arrangements rules), FB 9 (Financial arrangements rules), GB 21 (Dealing that defeats intention of financial arrangements rules), RA 11 and RA 12 (which relate to adjustments to correct errors); and

(c) sections 90AA to 90AD of the Tax Administration Act 1994.

Purposes of financial arrangements rules

(3) The purposes of the financial arrangements rules are—

(a) to require the parties to a financial arrangement to accrue over the term of the arrangement a fair and reasonable amount of income derived or expenditure incurred under the arrangement, and so to prevent the deferral of income or the advancement of expenditure; and

(b) to require the parties to a financial arrangement to disregard any distinction between capital and revenue amounts; and

(c) to require a party to a financial arrangement to calculate a base price adjustment when the rights and obligations of the party under the arrangement cease.

Defined in this Act: amount, financial arrangement, financial arrangements rules, income

Compare: 2004 No 35 s EW 1

EW 2 Relationship of financial arrangements rules with other provisions

Financial arrangements rules override other provisions

(1) The financial arrangements rules prevail over any other provision in relation to the timing and quantifying of income and expenditure under a financial arrangement to which the financial arrangements rules apply, unless the other provision expressly or by necessary implication requires otherwise.

Interest excluded from certain valuations

(2) Expenditure under a financial arrangement to which the financial arrangements rules apply is not included in—

(a) the cost of trading stock for low-turnover traders under subpart EB (Valuation of trading stock (including dealer's livestock)):

(b) the cost of livestock under subpart EC (Valuation of livestock):

(c) the cost of bloodstock under subpart EC:

(d) the cost of revenue account property:

(e) the cost of timber:

(f) the cost of acquiring a film or a film right:

(g) film production expenditure:

(h) petroleum development expenditure:

(i) petroleum exploration expenditure.

Defined in this Act: bloodstock, film, film production expenditure, film right, financial arrangement, financial arrangements rules, income, low-turnover trader, petroleum development expenditure, petroleum exploration expenditure, revenue account property, trading stock

Compare: 2004 No 35 s EW 2

Meaning of financial arrangement and excepted financial arrangement

EW 3 What is a financial arrangement?

Meaning

(1) **Financial arrangement** means an arrangement described in any of subsections (2) to (4).

Money received for money provided

(2) A financial arrangement is an arrangement under which a person receives money in consideration for that person, or another person, providing money to any person—

(a) at a future time; or

(b) on the occurrence or non-occurrence of a future event, whether or not the event occurs because notice is given or not given.

Examples of money received for money provided

(3) Without limiting subsection (2), each of the following is a financial arrangement:

(a) a debt, including a debt that arises by law:

(b) a debt instrument:

(c) the deferral of the payment of some or all of the consideration for an absolute assignment of some or all of a person's rights under another financial arrangement or under an excepted financial arrangement:

(d) the deferral of the payment of some or all of the consideration for a legal defeasance releasing a person from some or all of their obligations under another financial arrangement or under an excepted financial arrangement.

Excepted financial arrangement ceasing to be excepted

(4) For sections EW 7 and EW 8,—

(a) an excepted financial arrangement that ceases to be an excepted financial arrangement through the operation of section EW 7 is a financial arrangement:

(b) an excepted financial arrangement that ceases to be an excepted financial arrangement for a party through the operation of section EW 8 is a financial arrangement for the party.

Defined in this Act: consideration, excepted financial arrangement, financial arrangement, legal defeasance, money, notice, pay

Compare: 2004 No 35 s EW 3

Section EW 3 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EW 4 What is not a financial arrangement?

Absolute assignment

(1) An absolute assignment of some or all of a person's rights under another financial arrangement or under an excepted financial arrangement is not a financial arrangement, except to the extent described in section EW 3(3)(c).

Legal defeasance

(2) A legal defeasance releasing a person from some or all of their obligations under another financial arrangement or under an excepted financial arrangement is not a financial arrangement, except to the extent described in section EW 3(3)(d).

Excepted financial arrangement

(3) An excepted financial arrangement is not a financial arrangement. The relationship between financial arrangements and excepted financial arrangements is dealt with in section EW 6.

Defined in this Act: excepted financial arrangement, financial arrangement, legal defeasance

Compare: 2004 No 35 s EW 4

EW 5 What is an excepted financial arrangement?

Meaning

(1) **Excepted financial arrangement** means an arrangement described in any of subsections (2) to (25). However,—

(a) an arrangement described in any of subsections (18) to (20) may cease to be an excepted financial arrangement through the operation of section EW 7:

(b) an arrangement described in any of subsections (21) to (25) may cease to be an excepted financial arrangement for a party who makes an election under section EW 8.

Annuity

(2) Each of the following is an excepted financial arrangement to the extent to which it is not life financial reinsurance:

(a) an annuity for a term contingent on human life:

(b) an annuity for a term not contingent on human life to which section EY 8(2)(c) (Meaning of life insurance) applies.

Bet

(3) A bet on any of the following is an excepted financial arrangement:

(a) a race, as defined in section 5(1) of the Racing Industry Act 2020:

(b) a sporting event under a sports betting system administered under Part 4 of the Racing Industry Act 2020:

(c) gambling, including a New Zealand lottery, as those terms are defined in section 4(1) of the Gambling Act 2003.

Cryptocurrency

(3BA) A cryptocurrency is an excepted financial arrangement if the cryptocurrency does not meet the requirements of subsection (3BAB).

Exception: cryptocurrency producing specified returns on purchase price

(3BAB) A cryptocurrency is not an excepted financial arrangement if a consequence of ownership of the cryptocurrency is that the owner receives or is entitled to receive, during the period of ownership, amounts that are determined—

(a) by reference to the quantity or value of the cryptocurrency; and

(b) on a basis that is known by the owner in advance; and

(c) not by reference to the profits of a business activity.

Emissions unit

(3B) An emissions unit is an excepted financial arrangement.

Greenhouse gas unit

(3C) A greenhouse gas unit that is not an emissions unit is an excepted financial arrangement.

Research and development agreement

(3D) An agreement between a person and another person (the **provider**) that the provider will provide property or services to the person in consideration for a payment to the provider by a public authority under a research and development growth grant for the benefit of the person is an excepted financial arrangement for the person.

Employment contract

(4) An employment contract is an excepted financial arrangement.

Farm-out arrangement

(5) A farm-out arrangement is an excepted financial arrangement.

Group investment fund

(6) An interest in a group investment fund is an excepted financial arrangement.

Hire purchase: livestock or bloodstock

(7) A hire purchase agreement for livestock or bloodstock is an excepted financial arrangement.

Insurance contract

(8) An insurance contract to the extent to which it is not life financial reinsurance is an excepted financial arrangement.

Lease not finance lease

(9) A lease that is not a finance lease is an excepted financial arrangement.

Loan in New Zealand currency

(10) A loan to which all the following apply is an excepted financial arrangement for the lender:

(a) the loan is in New Zealand currency; and

(b) the loan is interest-free; and

(c) the loan is repayable on demand.

Partnership or joint venture

(11) An interest in a partnership or a joint venture is an excepted financial arrangement.

Look-through companies

(11B) A look-through interest for a look-through company is an excepted financial arrangement.

Assignment and return of emissions units as part of loan

(11C) An arrangement for the assignment of a pre-1990 forest land emissions unit by the holder to a person who is not an associated person (the **lender**) and for the later assignment of the same or another New Zealand emissions unit by the lender to the holder, as part of a financial arrangement that is a loan to the holder by the lender, is an excepted financial arrangement that is subject to section EW 52B.

Share-lending arrangement

(12) A share-lending arrangement is an excepted financial arrangement.

Share or option

(13) A share, or an option to acquire or to dispose of shares, is an excepted financial arrangement, if the share is acquired, or the person becomes a party to the option, on or after 20 May 1999. This subsection does not apply to a withdrawable share or to an option to acquire or to dispose of withdrawable shares.

Option over cryptocurrency

(13B) An option to acquire or to dispose of cryptocurrency is an excepted financial arrangement.

Specified preference share

(14) A specified preference share to which section FZ 1 (Deduction for dividends paid on certain preference shares) of the Income Tax Act 2004 applies is an excepted financial arrangement.

Superannuation

(15) A membership of a superannuation scheme is an excepted financial arrangement.

Warranty

(16) A warranty for goods or services is an excepted financial arrangement.

Certain arrangements to which transitional resident is party

(17) An arrangement to which a transitional resident is a party is an excepted financial arrangement for the transitional resident if—

(a) no other party to the arrangement is a New Zealand resident; and

(b) the arrangement is not for a purpose of a business carried on in New Zealand by a party to the arrangement.

Loan in foreign currency: private or domestic purpose

(18) A loan to which all the following apply is an excepted financial arrangement for the borrower:

(a) the loan is in foreign currency; and

(b) the borrower is a cash basis person; and

(c) the borrower uses the loan for a private or a domestic purpose.

Option: private or domestic purpose

(19) An option to acquire or dispose of property, other than an interest in a financial arrangement, is an excepted financial arrangement for a person who becomes a party to the option for a private or a domestic purpose.

Private or domestic agreement for the sale and purchase of property or services

(20) An agreement for the sale and purchase of property or services entered into by a person, or a specified option granted to or by a person, is an excepted financial arrangement for the person if,—

(a) first,—

(i) the agreement is entered into by the person for a private or a domestic purpose; or

(ii) the option is granted to or by the person for a private or a domestic purpose; and

(b) second, the subject matter of the agreement or option is—

(i) real property whose purchase price is less than $1,000,000; or

(ii) any other property whose purchase price is less than $400,000; or

(iii) services whose purchase price is less than $400,000; and

(c) third,—

(i) the agreement requires settlement of the property, or performance of the services, to take place on or before the 365th day after the date on which the agreement is entered into; or

(ii) the option requires settlement of the property, or performance of the services, if an agreement is entered into as a result of the exercise of the option, to take place on or before the 365th day after the date on which the option is granted.

Agreement for the sale and purchase of property or services

(21) An agreement for the sale and purchase of property or services is an excepted financial arrangement, except for a party who makes an election under section EW 8, if—

(a) all a party's sales or purchases under the agreement are prepaid; and

(b) for all the party's agreements under which all sales and purchases are prepaid, the total value of prepayments, on every day in an income year, is $50,000 or less.

Short-term agreement for sale and purchase

(22) A short-term agreement for sale and purchase is an excepted financial arrangement, except for a party who makes an election under section EW 8.

Short-term option

(23) A short-term option is an excepted financial arrangement, except for a party who makes an election under section EW 8.

Travellers' cheques

(24) Travellers' cheques are excepted financial arrangements, except for a party who makes an election under section EW 8.

Variable principal debt instrument

(25) A variable principal debt instrument is an excepted financial arrangement, except for a party who makes an election under section EW 8, if the total value on every day in an income year of all variable principal debt instruments to which a person is a party is $50,000 or less.

Defined in this Act: agreement for the sale and purchase of property or services, arrangement, bloodstock, cash basis person, emissions unit, excepted financial arrangement, farm-out arrangement, finance lease, greenhouse gas unit, group investment fund, hire purchase agreement, income year, insurance contract, lease, life financial reinsurance, look-through company, look-through interest, New Zealand, New Zealand resident, non-resident, pay, property, public authority, share, share-lending arrangement, short-term agreement for sale and purchase, short-term option, superannuation scheme, transitional resident, variable principal debt instrument, withdrawable share

Compare: 2004 No 35 s EW 5

Section EW 5(2): amended, on 1 July 2010, by section 132(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 5(3)(a): amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

Section EW 5(3)(b): amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

Section EW 5(3BA) heading: inserted (with effect on 1 January 2009), on 30 March 2022, by section 96(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 5(3BA): inserted (with effect on 1 January 2009), on 30 March 2022, by section 96(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 5(3BAB) heading: inserted (with effect on 1 January 2009), on 30 March 2022, by section 96(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 5(3BAB): inserted (with effect on 1 January 2009), on 30 March 2022, by section 96(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 5(3B) heading: substituted (with effect on 1 January 2009), on 6 October 2009, by section 132(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 5(3B): substituted (with effect on 1 January 2009), on 6 October 2009, by section 132(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 5(3C) heading: replaced, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EW 5(3C): replaced, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EW 5(3D) heading: inserted (with effect on 1 October 2010), on 21 December 2010, by section 56(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EW 5(3D): inserted (with effect on 1 October 2010), on 21 December 2010, by section 56(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EW 5(3D): amended, on 30 March 2017, by section 70 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EW 5(8): amended, on 1 July 2010, by section 132(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 5(11B) heading: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 56(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EW 5(11B): inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 56(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EW 5(11C) heading: inserted (with effect on 1 April 2018), on 26 June 2019, by section 63(1) (and see section 63(2) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EW 5(11C): inserted (with effect on 1 April 2018), on 26 June 2019, by section 63(1) (and see section 63(2) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EW 5(13B) heading: inserted (with effect on 1 January 2009), on 30 March 2022, by section 96(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 5(13B): inserted (with effect on 1 January 2009), on 30 March 2022, by section 96(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 5 list of defined terms **emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 132(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 5 list of defined terms **ETS unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 132(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 5 list of defined terms **greenhouse gas unit**: inserted, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EW 5 list of defined terms **life financial reinsurance**: inserted, on 1 July 2010, by section 132(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 5 list of defined terms **look-through company**: inserted, on 1 April 2011, by section 56(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EW 5 list of defined terms **look-through interest**: inserted, on 1 April 2011, by section 56(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EW 5 list of defined terms **non-Kyoto greenhouse gas unit**: repealed, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section EW 5 list of defined terms **public authority**: inserted (with effect on 1 October 2010), on 21 December 2010, by section 56(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

EW 6 Relationship between financial arrangements and excepted financial arrangements

Part of financial arrangement

(1) An excepted financial arrangement may be part of a financial arrangement.

Income or expenditure under specific excepted financial arrangements

(2) If an excepted financial arrangement described in any of section EW 5(2) to (16) is part of a financial arrangement, an amount solely attributable to the excepted financial arrangement is not an amount taken into account under the financial arrangements rules.

Income or expenditure under remaining excepted financial arrangements

(3) If an excepted financial arrangement described in any of section EW 5(17) to (25) is part of a financial arrangement, an amount solely attributable to the excepted financial arrangement is an amount taken into account under the financial arrangements rules.

Binding rulings

(4) The Commissioner may make a binding ruling under section 91CC(1)(a) of the Tax Administration Act 1994 on how a taxation law applies, or would apply, to a person and an arrangement on whether an amount is solely attributable to an excepted financial arrangement.

Defined in this Act: amount, binding ruling, excepted financial arrangement, financial arrangement, financial arrangements rules, income

Compare: 2004 No 35 s EW 6

Section EW 6(4) heading: inserted, on 18 March 2019, by section 175(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 6(4): inserted, on 18 March 2019, by section 175(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 6 list of defined terms **binding ruling**: inserted, on 18 March 2019, by section 175(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EW 7 Change from private or domestic purpose

When this section applies

(1) This section applies when a person who is a party to an excepted financial arrangement described in any of section EW 5(18) to (20) stops using it for a private or a domestic purpose.

Excepted financial arrangement becomes financial arrangement

(2) On and after the date on which the person stops using the excepted financial arrangement for a private or a domestic purpose,—

(a) it ceases to be an excepted financial arrangement for the person; and

(b) the person becomes a party to a financial arrangement.

Defined in this Act: excepted financial arrangement, financial arrangement

Compare: 2004 No 35 s EW 7

EW 8 Election to treat certain excepted financial arrangements as financial arrangements

Election

(1) A person may choose to treat as financial arrangements—

(a) all the excepted financial arrangements to which the person is a party that are described in any of section EW 5(21) to (25), if the expenditure under the agreements satisfies the general permission and is not denied by the general limitation as a deduction for the person:

(b) any excepted financial arrangement to which the person is a party that is described in section EW 5(10).

Election for class of short-term agreements

(2) A person may choose to treat as financial arrangements a class of short-term agreements for sale and purchase if the expenditure under the agreements satisfies the general permission and is not denied by a general limitation as a deduction for the person. The person must identify the class by—

(a) the currency that applies to the agreements:

(b) the term of the agreements.

How election made

(3) The person makes an election by returning income derived or expenditure incurred under the chosen arrangements under the financial arrangements rules in their return of income.

How election revoked

(4) The person revokes the election by giving notice to the Commissioner with their return of income and within the time that the return must be filed under section 37 of the Tax Administration Act 1994.

Effect of revocation

(5) The revocation applies to excepted financial arrangements the person enters into after the income year in which the notice is given.

Defined in this Act: Commissioner, excepted financial arrangement, financial arrangement, financial arrangements rules, income, income year, notice, return of income, short-term agreement for sale and purchase

Compare: 2004 No 35 s EW 8

Section EW 8 heading: replaced (with effect on 27 September 2012), on 30 June 2014, by section 75(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(1) heading: replaced (with effect on 27 September 2012 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement, relying on an election made under section EW 8

as amended by section 50 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 and before its amendment by section 75(2) and (4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014: (i) in a return of income received by the Commissioner before 14 April 2014; (ii) under a determination or binding ruling made by the Commissioner before 14 April 2014; and chooses after 14 April 2014 to continue taking the tax position), on 30 June 2014, by section 75(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(1) heading: replaced (with effect on 17 July 2013 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement referred to in section 75(5)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 and chooses under section 75(5)(b) of that Act to continue taking the tax position), on 30 June 2014, by section 75(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(1): replaced (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 30 March 2017, by section 71(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EW 8(2) heading: replaced (with effect on 27 September 2012 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement, relying on an election made under section EW 8 as amended by section 50 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 and before its amendment by section 75(2) and (4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014: (i) in a return of income received by the Commissioner before 14 April 2014; (ii) under a determination or binding ruling made by the Commissioner before 14 April 2014; and chooses after 14 April 2014 to continue taking the tax position), on 30 June 2014, by section 75(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(2) heading: replaced (with effect on 17 July 2013 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement referred to in section 75(5)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 and chooses under section 75(5)(b) of that Act to continue taking the tax position), on 30 June 2014, by section 75(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(2): replaced (with effect on 27 September 2012 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement, relying on an election made under section EW 8 as amended by section 50 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 and before its amendment by section 75(2) and (4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014: (i) in a return of income received by the Commissioner before 14 April 2014; (ii) under a determination or binding ruling made by the Commissioner before 14 April 2014; and chooses after 14 April 2014 to continue taking the tax position), on 30 June 2014, by section 75(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(2): replaced (with effect on 17 July 2013 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement referred to in section 75(5)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 and chooses under section 75(5)(b) of that Act to continue taking the tax position), on 30 June 2014, by section 75(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(3): amended (with effect on 27 September 2012 and applying for a person and an excepted financial arrangement on and after that date, except if the person takes a tax position for the excepted financial arrangement, relying on an election made under section EW 8 as amended by section 50 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 and before its amendment by section 75(2) and (4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014: (i) in a return of income received by the Commis-

sioner before 14 April 2014; (ii) under a determination or binding ruling made by the Commissioner before 14 April 2014; and chooses after 14 April 2014 to continue taking the tax position), on 30 June 2014, by section 75(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 8(5): amended (with effect on 1 April 2008), on 17 July 2013, by section 50(4) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Application of financial arrangements rules

EW 9 Persons to whom financial arrangements rules apply

Residents

(1) A person who is a party to a financial arrangement must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules, if the arrangement is one to which the rules apply under section EW 10. This subsection is overridden by subsection (2).

Non-residents

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

Non-resident with New Zealand fixed establishment

(3) Subsection (1) applies to a person who is not resident in New Zealand to the extent to which the person is a party to a financial arrangement for the purpose of a business carried on by the person through a fixed establishment in New Zealand.

Non-resident trustee for New Zealand settlor

(4) Subsection (1) applies to a person who is not resident in New Zealand if—

(a) the person is a trustee for a settlor who is resident in New Zealand; and

(b) the person as trustee—

(i) meets the requirements of section HC 25(2)(a) (Foreign-sourced amounts: non-resident trustees) for the derivation of assessable income from a foreign-sourced amount; and

(ii) meets the requirements of neither of the exceptions, to section HC 25(2), in section HC 25(3) and (4).

Defined in this Act: financial arrangement, financial arrangements rules, fixed establishment, income, New Zealand, resident in New Zealand, settlor, trustee

Compare: 2004 No 35 s EW 9

Section EW 9(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 131(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 9(4)(b): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 131(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 9 list of defined terms **settlor**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EW 10 Financial arrangements to which financial arrangements rules apply

Entered into on or after 20 May 1999

(1) The financial arrangements rules apply to a financial arrangement that all its parties enter into on or after 20 May 1999.

Existing immediately before 20 May 1999

(2) The financial arrangements rules apply to a financial arrangement existing immediately before 20 May 1999 to the extent to which a person becomes a party to the arrangement on or after 20 May 1999.

Rollover, extension, or advance on or after 20 May 1999

(3) The financial arrangements rules apply to a financial arrangement that is rolled over or extended, or under which an advance is made, on or after 20 May 1999, under a binding contract entered into before 20 May 1999.

Binding contract before 20 May 1999

(4) However, the financial arrangements rules do not apply to a financial arrangement if—

(a) all its parties enter into it on or after 20 May 1999; and

(b) they enter into it under a binding contract entered into before 20 May 1999.

Transferred under relationship agreement

(5) The financial arrangements rules apply to a financial arrangement to which all the following apply, to the extent to which the transferee becomes a party to it:

(a) the transferor is a party to it before 20 May 1999; and

(b) it is rolled over or extended, or an advance is made under it, on or after 20 May 1999, under a binding contract entered into before 20 May 1999; and

(c) it is transferred under a relationship agreement on or after 20 May 1999.

Binding contract before 20 May 1999 and transfer under relationship agreement

(6) However, the financial arrangements rules do not apply to a financial arrangement if—

(a) all its parties enter into it on or after 20 May 1999; and

(b) they enter into it under a binding contract entered into before 20 May 1999; and

(c) it is transferred under a relationship agreement on or after 20 May 1999.

Defined in this Act: financial arrangement, financial arrangements rules, relationship agreement

Compare: 2004 No 35 s EW 10

EW 11 What financial arrangements rules do not apply to

The financial arrangements rules do not apply to—

(a) the calculation of resident passive income:

(b) the calculation of non-resident passive income, other than—

(i) non-resident financial arrangement income; or

(ii) income derived under a notional loan under section FG 3 (Notional interest):

(c) interest paid by the Commissioner under Part 7 of the Tax Administration Act 1994 for an overpayment of income tax:

(d) interest payable to the Commissioner under Part 7 of the Tax Administration Act 1994 for an underpayment of income tax.

Defined in this Act: Commissioner, financial arrangements rules, income tax, interest, non-resident financial arrangement income, non-resident passive income, pay, resident passive income

Compare: 2004 No 35 s EW 11

Section EW 11(b): replaced, on 30 March 2017, by section 72(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EW 11 list of defined terms **non-resident financial arrangement income**: inserted, on 30 March 2017, by section 72(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Calculation and allocation of income and expenditure over financial arrangement's term

EW 12 When use of spreading method required

A party to a financial arrangement must use 1 of the spreading methods to calculate an amount of income or expenditure under the arrangement for each income year over the arrangement's term, and to allocate it to the income year, unless section EW 13 applies.

Defined in this Act: amount, financial arrangement, income, income year, spreading method

Compare: 2004 No 35 s EW 12

EW 13 When use of spreading method not required

Base price adjustment year

(1) A person does not use any of the spreading methods for a financial arrangement in the income year in which section EW 29 requires them to calculate a base price adjustment for it.

Trustee of personal injury compensation trust

(2) A trustee who holds a financial arrangement in trust to manage compensation paid for personal injury under the Accident Compensation Act 2001, the Accident Insurance Act 1998, any of the former Acts as defined in section 13 of the Accident Insurance Act 1998, the Workers' Compensation Act 1956, or a court order does not use any of the spreading methods for the financial arrangement if the trustee is a cash basis person.

Cash basis person

(3) A cash basis person is not required to use any of the spreading methods, but may choose to do so under section EW 61.

Defined in this Act: cash basis person, financial arrangement, income year, pay, spreading method, trustee

Compare: 2004 No 35 s EW 13

Section EW 13(2): substituted, on 1 April 2009, by section 6(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 13(2): amended, on 29 March 2018 (with effect on 1 April 2009), by section 77 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 13(2): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

EW 14 What spreading methods do

Description

(1) The spreading methods are methods of calculating and allocating income and expenditure under a financial arrangement over the arrangement's term.

Methods

(2) A **spreading method** is 1 of the following:

(aa) a method for IFRS, to which sections EW 15B to EW 15I relate; or

(a) the yield to maturity method or an alternative, to which sections EW 16, EW 19, and EW 23 are relevant; or

(b) the straight-line method, to which sections EW 17 and EW 19 are relevant; or

(c) a market valuation method, to which sections EW 18, EW 19, and EW 23 are relevant; or

(d) a determination method or an alternative, to which sections EW 20 and EW 23 are relevant; or

(e) a financial reporting method, to which sections EW 21 and EW 23 are relevant; or

(f) a default method, to which section EW 22 is relevant.

Result

(3) The amount calculated for and allocated to the income year under a spreading method is—

(a) income, under section CC 3 (Financial arrangements), derived by the person in the income year; or

(b) expenditure incurred by the person in the income year.

Binding rulings

(4) The Commissioner may make a binding ruling under section 91CC(1)(b) of the Tax Administration Act 1994 on the use of a spreading method described in subsection (2)(aa) to (e) for the purposes of sections EW 15E and EW 15I.

Defined in this Act: amount, binding ruling, financial arrangement, income, income year, spreading method

Compare: 2004 No 35 s EW 14

Section EW 14(2)(aa): inserted, on 1 April 2008, by section 364(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 14(2)(e): substituted (with effect on 1 April 2008), on 6 October 2009, by section 133 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 14(4) heading: inserted, on 18 March 2019, by section 176(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 14(4): inserted, on 18 March 2019, by section 176(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 14 list of defined terms **binding ruling**: inserted, on 18 March 2019, by section 176(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EW 15 What is included when spreading methods used

Consideration and amounts

(1) A person using a spreading method must include, for the purpose of calculating and allocating income and expenditure under the financial arrangement,—

(a) all consideration that has been paid, and all consideration that is or will be payable, to the person for or under the financial arrangement, ignoring—

(i) non-contingent fees, if the relevant method is not the IFRS financial reporting method in section EW 15D:

(ii) non-integral fees, if the relevant method is the IFRS financial reporting method in section EW 15D or the modified fair value method in section EW 15G; and

(b) all consideration that has been paid, and all consideration that is or will be payable, by the person for or under the financial arrangement, ignoring—

(i) non-contingent fees, if the relevant method is not the IFRS financial reporting method in section EW 15D:

(ii) non-integral fees, if the relevant method is the IFRS financial reporting method in section EW 15D or the modified fair value method in section EW 15G; and

(c) all amounts that have been remitted, and all amounts that are to be remitted, by the person under the financial arrangement; and

(d) all amounts that would have been payable to the person under the financial arrangement if the amounts had not been remitted by law.

Consideration in particular cases

(2) If any of sections EW 32 to EW 48 applies, the consideration referred to in subsection (1)(a) and (b) is adjusted under the relevant section.

Defined in this Act: amount, consideration, financial arrangement, IFRS, income, non-contingent fee, non-integral fee, pay, spreading method

Compare: 2004 No 35 s EW 15

Section EW 15(1)(a): amended, on 1 April 2008, by section 365(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15(1)(a)(i): inserted, on 1 April 2008, by section 365(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15(1)(a)(ii): amended (with effect on 1 April 2008), on 29 August 2011, by section 31(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EW 15(1)(b): amended, on 1 April 2008, by section 365(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15(1)(b)(i): inserted, on 1 April 2008, by section 365(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15(1)(b)(ii): amended (with effect on 1 April 2008), on 29 August 2011, by section 31(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EW 15 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 365(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15 list of defined terms **non-integral fee**: inserted, on 1 April 2008, by section 365(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 15B Applying IFRSs to financial arrangements

When sections EW 15C to EW 15I apply

(1) Sections EW 15C to EW 15I apply when a person who is a party to a financial arrangement uses IFRSs to prepare financial statements and to report for financial arrangements.

Certain methods available for use and certain mandatory

(2) Sections EW 15C to EW 15I set out—

(a) the methods available to the person to use for calculating and allocating income and expenditure under a financial arrangement:

(b) the circumstances in which a person must use certain other methods.

Functional currency

(3) Even if another currency may be used as the functional currency under IFRSs, the methods must be applied using New Zealand dollars.

Financial statements

(4) Unless the context otherwise requires, references to IFRSs in sections EW 15D to EW 15I are references to IFRS rules used to prepare the person's financial statements.

Agreed spreading methods for life financial reinsurance

(5) A life insurer who, in an income year, is a party to a life financial reinsurance contract (the **reinsurance contract**) and to a deed of settlement under section 6A of the Tax Administration Act 1994 with the Commissioner that meets the requirements of subsection (6), must use the agreed spreading method referred to in subsection (6)(b) for the reinsurance contract and the income year.

Deed of settlement requirements

(6) The deed of settlement must—

(a) be entered into by the life insurer and the Commissioner before 1 January 2023; and

(b) require the life insurer to use for the income year a method (the **agreed spreading method**) for spreading the income or expenditure under life financial reinsurance that differs from the treatment of life financial reinsurance that would otherwise be required under the IFRS used by the life insurer for the income year.

Defined in this Act: Commissioner, expenditure, financial arrangement, financial statements, IFRS, income, income year, life financial reinsurance, life insurer, reinsurance contract

Compare: 2004 No 35 s EW 15B

Section EW 15B: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15B(3) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 134 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15B(3): added (with effect on 1 April 2008), on 6 October 2009, by section 134 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15B(4) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 134 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15B(4): added (with effect on 1 April 2008), on 6 October 2009, by section 134 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15B(5) heading: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(1) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B(5): inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(1) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B(6) heading: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(1) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B(6): inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(1) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B list of defined terms **Commissioner**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(2) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B list of defined terms **expenditure**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(2) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B list of defined terms **income year**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(2) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B list of defined terms **life financial reinsurance**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(2) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B list of defined terms **life insurer**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(2) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15B list of defined terms **reinsurance contract**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 53(2) (and see section 53(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

EW 15C Preparing and reporting methods

Who this section applies to

(1) A person who uses IFRSs to prepare financial statements and to report for financial arrangements must use 1 of the following methods for the financial arrangement:

(a) the IFRS financial reporting method in section EW 15D:

(b) a determination alternative in section EW 15E:

(c) the expected value method in section EW 15F:

(d) the modified fair value method in section EW 15G.

Exclusions

(2) Subsection (1) does not apply in the circumstances set out in sections EW 15H and EW 15I.

Defined in this Act: fair value method, financial arrangement, financial statements, IFRS

Compare: 2004 No 35 s EW 15B(6)

Section EW 15C: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 15D IFRS financial reporting method

General IFRS rules

(1) Under the IFRS financial reporting method, a person must allocate an amount to an income year under IFRS rules modified, as applicable, under subsection (2).

Modifications

(2) The allocation is modified as follows:

(a) if the financial arrangement is a financial asset, an amount arising from an impaired credit adjustment under IFRSs is not allocated to an income year. However, when the fair value method is used, adjustments for

financial arrangements held by the person are excluded from this paragraph, if the financial arrangements are not derivative instruments and the person's business includes dealing in those financial arrangements:

(ab) borrowing costs are not capitalised under NZIAS 23:

(ac) if the financial arrangement is an interest-free loan, no amount is allocated to equity, equity reserves, other comprehensive income, or profit or loss when the loan is initially entered into, and no interest is allocated subsequent to the initial entry:

(ad) if the financial arrangement is a loan with a fair value (the **loan initial value**) when the loan is initially entered into that, because of the loan's interest rate, is less than the face value (the **consideration initial value**) at that time, then no amount is allocated to equity, equity reserves, other comprehensive income, or profit or loss, to the extent to which the amount relates solely to the difference, because of interest rates, between the consideration initial value and the loan initial value. Also, no interest is allocated subsequent to the initial entry on account of a movement in the fair value of the loan, to the extent to which the movement relates solely to the difference, because of interest rates, between the consideration initial value and the loan initial value:

(ae) if the financial arrangement is a foreign ASAP, or is an IFRS designated FX hedge for a foreign ASAP, sections EW 32 and EW 33B apply to value, for IFRS rules, the relevant property or service. Section EW 33B also provides rules for subsequently adjusting the treatment of the relevant hedge:

(b) even though an amount may be allocated to equity, equity reserves, or other comprehensive income under IFRSs, the amount must be allocated to an income year for tax purposes.

Fair value method not used for certain financial arrangements

(2B) A person must not use the fair value method for a financial arrangement if—

(a) the financial arrangement is treated under IFRSs by the person as a hedge of another financial arrangement; and

(b) the person uses for the other financial arrangement a method that is not the IFRS financial reporting method.

Meaning of impaired credit adjustment

(3) For the purposes of this section, **impaired credit adjustment** means—

(a) for a financial arrangement accounted for under the fair value method, a movement in fair value—

(i) through a decline in the credit quality of the arrangement; or

(ii) through an improvement in the credit quality of the arrangement to the extent to which it offsets earlier movements in fair value described in subparagraph (i):

(b) for a financial arrangement not accounted for under the fair value method, credit impairment adjustments made under IFRSs.

Defined in this Act: amount, derivative instrument, fair value method, foreign ASAP, FX hedge, IFRS, impaired credit adjustment, income year, NZIAS 23, tax

Compare: 2004 No 35 s EW 15C

Section EW 15D: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15D(2)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 135(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15D(2)(ab): inserted (with effect on 1 April 2008), on 6 October 2009, by section 135(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15D(2)(ac): inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 51(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EW 15D(2)(ac): amended (with effect on 1 April 2014), on 24 February 2016, by section 132(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 15D(2)(ad): inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 51(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EW 15D(2)(ad): amended (with effect on 1 April 2014), on 24 February 2016, by section 132(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 15D(2)(ae): inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 76(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15D(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 132(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 15D(2B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 135(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15D(2B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 135(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15D(2B)(b): replaced (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the

2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 76(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15D(3)(a): replaced (with effect on 1 April 2008), on 31 March 2023, by section 54 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 15D list of defined terms **derivative instrument**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 135(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15D list of defined terms **foreign ASAP**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 76(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15D list of defined terms **FX hedge**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 76(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15D list of defined terms **NZIAS 23**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 135(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EW 15E Determination alternatives

When this section applies

(1) This section applies when—

(a) a person chooses in a return of income to use a determination alternative to IFRS for a financial arrangement; and

(b) the method is available under its terms for the person to use; and

(c) the financial arrangement—

(i) is not treated under IFRSs by the person as a hedge; or

(ii) is treated under IFRSs by the person as a hedge of other financial arrangements, for each of which the person does not use the fair value method; or

(iii) is treated under IFRSs by the person as a hedge of something that is not a financial arrangement.

General IFRS rules

(2) The person must use 1 of the following methods modified, as applicable, under subsection (3) or (3B):

(aa) *Determination G3: Yield to maturity*, but only if the financial arrangement is denominated in New Zealand currency and is not a derivative instrument. When applying *Determination G3*, *Determination G25: Variation in the terms of a financial arrangement* must be used:

(a) *Determination G9C: Financial arrangements that are denominated in a currency other than New Zealand dollars: an expected value approach:*

(b) *Determination G14B: Forward contracts for foreign exchange and commodities: an expected value approach:*

(c) *Determination G27: Swaps:*

(d) a determination made by the Commissioner under section 90AC(1)(bb) of the Tax Administration Act 1994 or a binding ruling made under section 91CC(1)(b) of that Act:

(e) a method other than those set out in paragraphs (aa) to (d) if the alternative—

(i) has regard to the purposes of the financial arrangements rules under section EW 1(3); and

(ii) is for a financial arrangement similar to 1 to which the methods set out in paragraphs (aa) to (d) may apply; and

(iii) results in the allocation to each income year of amounts that are not materially different from those that would have been allocated using 1 of the methods set out in paragraphs (aa) to (d).

Modifications

(3) For a determination alternative that is *Determination G9C or G14B*, the allocation is modified as follows:

(a) the term **forward contract** is treated as including a conditional or unconditional agreement to pay or be paid an amount calculated by reference to the price of property or services, without the property being delivered or the services being performed:

(b) a requirement that all companies in a group of companies to which the person belongs choose to use the determination alternative is treated as met if—

(i) all companies in the group notify the Commissioner that they choose *Determination G9C or G14B* on or before the 63rd day after the person entered into the financial arrangement, or a later time as the Commissioner allows; and

(ii) the financial arrangement is the first financial arrangement of the group for which *Determination G9C or G14B* may be used.

Modifications

(3B) For a determination alternative that is *Determination G27*, the allocation is modified as follows:

(a) method C must be used, and not methods A, B, or D:

(b) for method C, if relevant, *Determination G9C* and not *Determination G9A* must be used.

Succeeding determinations

(4) For the purposes of this section, the determinations set out in subsection (2)(a) to (c) include a determination that succeeds the determination.

Defined in this Act: amount, binding ruling, Commissioner, company, derivative instrument, financial arrangement, financial arrangements rules, group of companies, IFRS, income year, New Zealand, notify, pay, return of income

Compare: 2004 No 35 s EW 15D

Section EW 15E: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15E(1)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 136(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15E(1)(c)(ii): amended (with effect on 1 April 2008), on 7 September 2010, by section 36 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 15E(1)(c)(iii): added (with effect on 1 April 2008), on 7 September 2010, by section 36 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 15E(2): amended (with effect on 1 April 2009), on 6 October 2009, by section 136(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15E(2)(aa): inserted (with effect on 1 April 2008), on 6 October 2009, by section 136(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15E(2)(d): replaced, on 18 March 2019, by section 177(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 15E(2)(e): amended (with effect on 1 April 2009), on 7 December 2009, by section 19(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 15E(2)(e)(ii): amended (with effect on 1 April 2009), on 7 December 2009, by section 19(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 15E(2)(e)(iii): amended (with effect on 1 April 2009), on 7 December 2009, by section 19(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 15E(3)(b)(i): replaced, on 2 June 2016, by section 35(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 15E(3B) heading: inserted (with effect on 1 April 2009), on 6 October 2009, by section 136(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15E(3B): inserted (with effect on 1 April 2009), on 6 October 2009, by section 136(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15E list of defined terms **binding ruling**: inserted, on 18 March 2019, by section 177(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 15E list of defined terms **Commissioner**: inserted, on 2 June 2016, by section 35(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 15E list of defined terms **derivative instrument**: inserted (with effect on 1 April 2009), on 6 October 2009, by section 136(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15E list of defined terms **New Zealand**: inserted (with effect on 1 April 2009), on 6 October 2009, by section 136(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15E list of defined terms **notify**: inserted, on 2 June 2016, by section 35(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EW 15F Expected value method

When this section applies

(1) This section applies when—

(a) a person has entered into a financial arrangement in the ordinary course of their business and the person is not in the business of dealing in relation to the financial arrangement; and

(b) the financial arrangement is denominated in a currency other than New Zealand dollars or is a derivative instrument; and

(bb) the financial arrangement is not a foreign ASAP; and

(c) the financial arrangement—

(i) is not treated under IFRSs by the person as a hedge; or

(ii) is treated under IFRSs by the person as a hedge of other financial arrangements, for each of which the person does not use the fair value method; or

(iii) is treated under IFRSs by the person as a hedge of something that is not a financial arrangement; and

(d) the person and all companies in a group of companies to which the person belongs have chosen to use the expected value method and have notified the Commissioner at the time of filing a return of income.

Exception for some group members and financial arrangements

(1B) A person who is a member of a group of companies and has notified an election under subsection (1)(d) is not required under this section to use the expected value method for a financial arrangement if—

(a) the person does not have a business of a substantially similar nature to a business of another company in the group; and

(b) the financial arrangement is with other parties, of which—

(i) none are associated with the person or a member of the group; or

(ii) all are associated with the person and use the method used by the person for the arrangement.

Method chosen

(2) The person must use a method that—

(a) has the features of an expected value approach described in *Determinations G9C and G14B*; and

(b) allocates a reasonable amount for each income year of the term of the financial arrangement, having regard to the purposes of the financial arrangements rules under section EW 1(3).

Meaning of derivative instrument

[Repealed]

(3) *[Repealed]*

Defined in this Act: amount, associated person, business, Commissioner, company, derivative instrument, financial arrangement, financial arrangements rules, foreign ASAP, group of companies, IFRS, notify, return of income

Compare: 2004 No 35 s EW 15E(1), (2)

Section EW 15F: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15F(1)(bb): inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 77(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15F(1)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 137(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15F(1)(c)(ii): amended (with effect on 1 April 2008), on 7 September 2010, by section 37 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 15F(1)(c)(iii): added (with effect on 1 April 2008), on 7 September 2010, by section 37 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 15F(1)(d): substituted (with effect on 1 April 2008), on 6 October 2009, by section 137(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15F(1B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 137(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15F(1B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 137(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15F(3) heading: repealed (with effect on 1 October 2008), on 6 October 2009, pursuant to section 137(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15F(3): repealed (with effect on 1 October 2008), on 6 October 2009, by section 137(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15F list of defined terms **associated person**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 137(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15F list of defined terms **foreign ASAP**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 77(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15F list of defined terms **NZIAS 39**: repealed, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EW 15G Modified fair value method

When this section applies

(1) This section applies when—

(a) a person has entered into a financial arrangement in the ordinary course of their business and the person is not in the business of dealing in relation to the financial arrangement; and

(b) the financial arrangement is denominated in a currency other than New Zealand dollars or is a derivative instrument; and

(bb) the financial arrangement is not a foreign ASAP; and

(c) the financial arrangement—

(i) is not treated under IFRSs by the person as a hedge; or

(ii) is treated under IFRSs by the person as a hedge of other financial arrangements, for each of which the person does not use the fair value method; or

(iii) is treated under IFRSs by the person as a hedge of something that is not a financial arrangement; and

(d) the person and all companies in a group of companies to which the person belongs have chosen to use the modified fair value method and have notified the Commissioner at the time of filing a return of income.

Exception for some group members and financial arrangements

(1B) A person who is a member of a group of companies and has notified an election under subsection (1)(d) is not required under this section to use the modified fair value method for a financial arrangement if—

(a) the person does not have a business of a substantially similar nature to a business of another company in the group; and

(b) the financial arrangement is with other parties, of which—

(i) none are associated with the person or a member of the group; or

(ii) all are associated with the person and use the method used by the person for the arrangement; and

(c) subsection (3) does not require the person to use the modified fair value for the financial arrangement.

Method chosen

(2) The person must use the fair value method, modified so that the following are not required to be allocated to an income year:

(a) an amount allocated by the person to equity, equity reserves, or other comprehensive income under IFRSs for the financial arrangement:

(b) an amount not allocated by the person to equity, equity reserves, or other comprehensive income under IFRSs for the financial arrangement, if—

(i) the person and another person (the **other person**) are members of the same wholly-owned group; and

(ii) the person and the other person are members of the same group consolidated under IFRSs; and

(iii) the financial arrangement is related to an arrangement (the **other arrangement**) of the other person; and

(iv) the other person does not use the fair value method for the other arrangement; and

(v) the group consolidated under IFRSs makes an allocation, to equity, equity reserves, or other comprehensive income under IFRSs, corresponding to the amount.

Some financial arrangements with amounts allocated to equity reserves

(3) A person who is a member of a wholly-owned group and of a group consolidated under IFRSs (the **consolidated group**) must use the modified fair value method for a financial arrangement if—

(a) the person or the consolidated group allocates an amount to equity, equity reserves, or other comprehensive income under IFRSs for the financial arrangement; and

(b) a member of the consolidated group, under subsection (2)(b), does not allocate to the income year an amount for a financial arrangement.

Defined in this Act: amount, business, Commissioner, company, derivative instrument, fair value method, financial arrangement, foreign ASAP, group of companies, IFRS, notify, return of income, wholly-owned group

Compare: 2004 No 35 s EW 15E(1), (3)

Section EW 15G: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15G(1)(bb): inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the

2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 78(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15G(1)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 138(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15G(1)(c)(ii): amended (with effect on 1 April 2008), on 7 September 2010, by section 38 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 15G(1)(c)(iii): added (with effect on 1 April 2008), on 7 September 2010, by section 38 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 15G(1)(d): substituted (with effect on 1 April 2008), on 6 October 2009, by section 138(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15G(1B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 138(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15G(1B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 138(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15G(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 138(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15G(2)(a): amended, on 24 February 2016, by section 133(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 15G(2)(b): amended, on 24 February 2016, by section 133(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 15G(2)(b)(v): amended, on 24 February 2016, by section 133(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 15G(3) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 138(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15G(3): added (with effect on 1 April 2008), on 6 October 2009, by section 138(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15G(3)(a): amended, on 24 February 2016, by section 133(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 15G list of defined terms **foreign ASAP**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 78(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15G list of defined terms **wholly-owned group**: added (with effect on 1 April 2008), on 6 October 2009, by section 138(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EW 15H Mandatory use of some determinations

Required methods

(1) Section EW 15C(1) does not apply when any of the following determinations apply to a person and a financial arrangement:

(a) *Determination G5C: Mandatory conversion convertible notes:*

(b) *Determination G22: Optional conversion convertible notes denominated in New Zealand dollars convertible at the option of the holder:*

(c) *Determination G22A: Optional convertible notes denominated in New Zealand dollars:*

(d) *[Repealed]*

(e) a method other than those set out in paragraphs (a) to (c) if the alternative—

(i) has regard to the purposes of the financial arrangements rules under section EW 1(3); and

(ii) is for a financial arrangement similar to 1 to which the methods set out in paragraphs (a) to (c) may apply; and

(iii) results in the allocation to each income year of amounts that are not materially different from those that would have been allocated using 1 of the methods set out in paragraphs (a) to (c).

Succeeding determinations

(2) For the purposes of this section, the determinations set out in subsection (1)(a) and (c) include a determination that succeeds the determination.

Defined in this Act: amount, financial arrangement, financial arrangements rules, income year

Compare: 2004 No 35 s EW 15B(3)

Section EW 15H: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15H(1)(d): repealed (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 79(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15H(1)(e): amended, on 29 March 2018 (with effect on 1 April 2011), by section 78(1) (and see section 78(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 15H(1)(e)(ii): amended, on 29 March 2018 (with effect on 1 April 2011), by section 78(1) (and see section 78(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 15H(1)(e)(iii): amended, on 29 March 2018 (with effect on 1 April 2011), by section 78(1) (and see section 78(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 15H(2): amended, on 29 March 2018 (with effect on 1 April 2011), by section 78(2) (and see section 78(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EW 15I Mandatory use of yield to maturity method for some arrangements

When this section applies

(1) This section applies and section EW 15C(1) does not apply when—

(a) a person is not required to use a method under section EW 15H for a financial arrangement; and

(b) the financial arrangement—

(i) includes in part an excepted financial arrangement; or

(ii) is treated by the person or its issuer, all or in part, as an equity instrument under IFRSs; or

(iib) is, under NZ IFRS 16 and in the person's financial statements, classified as an operating lease; or

(iii) is a foreign ASAP that is life financial reinsurance; or

(iv) is an agreement for the sale and purchase of property or services that is not a foreign ASAP.

Methods

(2) The person must use 1 of the following methods to allocate an amount to an income year if the method is available under its terms for the person to use:

(a) the yield to maturity method:

(b) *Determination G26: Variable rate financial arrangements* or a determination that succeeds it:

(c) a determination made by the Commissioner under section 90AC(1)(bb) of the Tax Administration Act 1994 or a binding ruling made under section 91CC(1)(b) of that Act:

(d) a method other than those set out in paragraphs (a) to (c) if the alternative—

(i) has regard to the purposes of the financial arrangements rules under section EW 1(3); and

(ii) is for a financial arrangement similar to 1 to which the methods set out in paragraphs (a) to (c) may apply; and

(iii) results in the allocation to each income year of amounts that are not materially different from those that would have been allocated using 1 of the methods set out in paragraphs (a) to (c).

Meaning of equity instrument

(3) For the purposes of this section, **equity instrument** has the same meaning as in NZIAS 32.

Defined in this Act: agreement for the sale and purchase of property or services, amount, binding ruling, Commissioner, equity instrument, excepted financial arrangement, financial arrangement, financial arrangements rules, foreign ASAP, IFRS, income year, issue, life financial reinsurance, NZ IFRS 16, NZIAS 32

Compare: 2004 No 35 s EW 15B(4)

Section EW 15I: inserted, on 1 April 2008, by section 366 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 15I(1)(b)(iib): inserted (with effect on 1 April 2008), on 6 October 2009, by section 140(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 15I(1)(b)(iib): amended (with effect on 1 January 2019), on 30 March 2021, by section 49(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EW 15I(1)(b)(iii): replaced (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 80(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15I(1)(b)(iv): inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 80(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15I(2)(c): replaced, on 18 March 2019, by section 178(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 15I list of defined terms **binding ruling**: inserted, on 18 March 2019, by section 178(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 15I list of defined terms **foreign ASAP**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 80(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15I list of defined terms **life financial reinsurance**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis

that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 80(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 15I list of defined terms **NZ IFRS 16**: inserted (with effect on 1 January 2019), on 30 March 2021, by section 49(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EW 15I list of defined terms **NZIAS 17**: repealed (with effect on 1 January 2019), on 30 March 2021, by section 49(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EW 15I list of defined terms **NZIAS 32**: added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

EW 16 Yield to maturity method or alternative

Who may use yield to maturity method

(1) A person who is a party to a financial arrangement may use the yield to maturity method, if the person is not required to use a method under section EW 15B.

Who may use alternative

(2) A person who is a party to a financial arrangement may use an alternative to the yield to maturity method, if the person is not required to use a method under section EW 15B, but may do so only if the alternative—

(a) has regard to the principles of accrual accounting; and

(b) conforms with commercially acceptable practice; and

(c) results in the allocation to each income year of amounts that are not materially different from those that would have been allocated using the yield to maturity method; and

(d) is also used by the person for financial reporting purposes for financial arrangements that are the same as, or similar to, the arrangements, although section EW 23 may apply if the alternative is not used in this way.

Defined in this Act: amount, financial arrangement, IFRS, income year

Compare: 2004 No 35 s EW 16

Section EW 16(1): amended, on 1 April 2008, by section 367(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 16(2): amended, on 1 April 2008, by section 367(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 16 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 367(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 17 Straight-line method

Who may use straight-line method

(1) A person who is a party to a financial arrangement may use the straight-line method if—

(a) the total value of all the financial arrangements to which the person is a party in an income year has been $1,850,000 or less on every day in the income year; and

(b) the person complies with section EW 25(1); and

(c) the person is not required to use a method under section EW 15B.

Calculation of total value of financial arrangements

(2) When calculating total value, the person must—

(a) include every one of their financial arrangements, whether the financial arrangements rules or the old financial arrangements rules apply to it; and

(b) use the following values:

(i) for a fixed principal financial arrangement, its face value:

(ii) for a variable principal debt instrument, the amount owing by or to the person under the financial arrangement on the relevant day:

(iii) for a financial arrangement to which the old financial arrangements rules apply, the value determined under those rules.

Increase in specified sum

(3) The Governor-General may make an Order in Council increasing the sum specified in subsection (1).

Secondary legislation

(4) An Order in Council under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, financial arrangement, financial arrangements rules, fixed principal financial arrangement, IFRS, income year, old financial arrangements rules, variable principal debt instrument

Compare: 2004 No 35 s EW 17

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EW 17(1)(a): amended, on 1 April 2009, by section 7(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 17(1)(b): amended, on 1 April 2008, by section 368(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 17(1)(c): added, on 1 April 2008, by section 368(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 17(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EW 17(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EW 17 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 368(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 18 Market valuation method

Who may use market valuation method

(1) A person who is a party to a financial arrangement may use, for the arrangement, a market valuation method if—

(a) either—

(i) the person's business includes dealing in financial arrangements of the class to which the arrangement belongs; or

(ii) the financial arrangement is an exchange-traded option, a forward contract for foreign exchange, or a futures contract; and

(b) the parties to the financial arrangement are not associated persons; and

(c) either—

(i) the Commissioner has approved the market, the method, and the source of information used to determine market values by a determination under section 90AC(1)(c) of the Tax Administration Act 1994; or

(ii) the person can demonstrate market prices that are reliable; and

(d) the method conforms with commercially acceptable practice; and

(e) the person complies with section EW 25(4); and

(f) the method is also used by the person for financial reporting purposes for financial arrangements that are the same as, or similar to, the arrangements, although section EW 23 may apply if the method is not used in this way; and

(g) the person is not required to use a method under section EW 15B.

Application of Tax Administration Act 1994

(2) Section 22A(1) of the Tax Administration Act 1994 applies to a person to whom subsection (1)(c)(ii) applies.

Defined in this Act: associated person, business, Commissioner, financial arrangement, forward contract, futures contract, IFRS

Compare: 2004 No 35 s EW 18

Section EW 18(1)(f): amended, on 1 April 2008, by section 369(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 18(1)(g): added, on 1 April 2008, by section 369(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 18 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 369(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 19 Choice among some spreading methods

A person who is not required to use a method under section EW 15B and who may use the yield to maturity method or an alternative, the straight-line method, or a market valuation method for a financial arrangement may choose to use whichever of those methods the person can use for the arrangement.

Defined in this Act: financial arrangement, IFRS, spreading method

Compare: 2004 No 35 s EW 19

Section EW 19 heading: amended, on 1 April 2008, by section 370(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 19: amended, on 1 April 2008, by section 370(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 19 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 370(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 20 Determination method or alternative

Who may use determination method

(1) A person who is a party to a financial arrangement may use a determination method, that is, a method in a determination made by the Commissioner under section 90AC(1)(d) of the Tax Administration Act 1994 and applying to the arrangement, if—

(a) the person cannot use the yield to maturity method or an alternative; and

(b) the person—

(i) may not use the straight-line method or a market valuation method; or

(ii) may use the straight-line method or a market valuation method but chooses not to do so; and

(c) the person is not required to use a method under section EW 15B.

Who may use alternative

(2) A person who is a party to a financial arrangement may use an alternative to a determination method, but may do so only if—

(a) the person cannot use the yield to maturity method or an alternative; and

(b) the person—

(i) may not use the straight-line method or a market valuation method; or

(ii) may use the straight-line method or a market valuation method but chooses not to do so; and

(bb) the person is not required to use a method under section EW 15B; and

(c) the alternative has regard to the principles of accrual accounting; and

(d) the alternative conforms with commercially acceptable practice; and

(e) the alternative results in the allocation to each income year of amounts that are not materially different from those that would have been allocated using the determination method; and

(f) the alternative is also used by the person for financial reporting purposes for financial arrangements that are the same as, or similar to, the arrangements although section EW 23 may apply if the alternative is not used in this way.

Defined in this Act: amount, Commissioner, financial arrangement, IFRS

Compare: 2004 No 35 s EW 20

Section EW 20(1)(b)(ii): amended, on 1 April 2008, by section 371(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 20(1)(c): added, on 1 April 2008, by section 371(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 20(2)(bb): inserted, on 1 April 2008, by section 371(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 20 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 371(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 21 Financial reporting method

A person who is a party to a financial arrangement may use a financial reporting method if—

(a) the person cannot use the yield to maturity method or an alternative; and

(b) the person—

(i) may not use the straight-line method or a market valuation method; or

(ii) may use the straight-line method or a market valuation method but chooses not to do so; and

(c) the person is not required to use a method under section EW 15B; and

(d) the Commissioner has not made a determination for the financial arrangement under section 90AC(1)(d) of the Tax Administration Act 1994; and

(e) the method conforms with commercially acceptable practice; and

(f) the method is also used by the person for financial reporting purposes for financial arrangements that are the same as, or similar to, the arrangement (although section EW 23 may apply if the method is not used in this way); and

(g) the method allocates a reasonable amount to each income year over the financial arrangement's term.

Defined in this Act: amount, Commissioner, financial arrangement, income year

Section EW 21: substituted (with effect on 1 April 2008), on 6 October 2009, by section 141 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EW 22 Default method

A person who is a party to a financial arrangement may use a default method if—

(a) the person cannot use the yield to maturity method or an alternative; and

(b) the person—

(i) may not use the straight-line method or a market valuation method; or

(ii) may use the straight-line method or a market valuation method but chooses not to do so; and

(c) the person may not use a determination method or an alternative, or a financial reporting method; and

(d) *[Repealed]*

(e) the method conforms with commercially acceptable practice; and

(f) the method allocates a reasonable amount to each income year over the financial arrangement's term.

Defined in this Act: amount, financial arrangement, income, income year

Compare: 2004 No 35 s EW 22

Section EW 22(c): amended (with effect on 1 April 2008), on 6 October 2009, by section 142 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 22(c): amended, on 1 April 2008, by section 373(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 22(d): repealed, on 1 April 2008, by section 373(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 23 Failure to use method for financial reporting purposes

When this section applies

(1) This section applies when a person would be allowed to use a method but for the fact that the person does not comply with whichever is relevant of sections EW 16(2)(d), EW 18(1)(f), EW 20(2)(f) and EW 21(f).

Person treated as complying

(2) The person is treated as complying with whichever is relevant of sections EW 16(2)(d), EW 18(1)(f), EW 20(2)(f) and EW 21(f) if the method that the person uses for each financial arrangement—

(a) is used for the financial arrangement, and each financial arrangement that is the same as, or similar to, the arrangements, for every income year over its term for the purposes of the financial arrangements rules; and

(b) appropriately reflects the dominant purpose for which the person entered into the financial arrangement; and

(c) is not used for the purpose of tax avoidance; and

(d) has been approved for use in circumstances applying to the person by the Commissioner, either by giving notice to the person or by making a determination under section 90AC(1)(f) of the Tax Administration Act 1994.

Qualification on subsection (2)(a)

(3) A method complies with subsection (2)(a), even if it is a change from a previous method, as long as the Commissioner approves the change in method under the circumstances or conditions specified in a determination under section 90AC(1)(g) of the Tax Administration Act 1994.

IFRS financial reporting

(4) This section is modified by section EZ 32B (Transitional rule for IFRS reporting).

Defined in this Act: Commissioner, financial arrangement, financial arrangements rules, IFRS, income year, notice, tax avoidance

Compare: 2004 No 35 s EW 23

Section EW 23(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 143(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 23(1): amended, on 1 April 2008, by section 374(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 23(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 143(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 23(2): amended, on 1 April 2008, by section 374(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 23(4) heading: added, on 1 April 2008, by section 374(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 23(4): added, on 1 April 2008, by section 374(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 23 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 374(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 24 Consistency of use of spreading method

Consistency required

(1) A person must use the same spreading method for financial arrangements that are the same as, or similar to, the arrangements for every income year. This subsection is overridden by subsection (3).

Straight-line method and market valuation method

(2) Section EW 25 sets out particular consistency requirements for the straight-line method and a market valuation method.

IFRS method

(2B) Section EW 25B sets out a particular consistency requirement for a method for IFRS preparers.

Change of spreading method

(3) Sections EW 26 and HM 35(8)(c) (Determining net amounts and taxable amounts) set out the circumstances in which a person may change their spreading method.

Defined in this Act: financial arrangement, IFRS, income year, spreading method

Compare: 2004 No 35 s EW 24

Section EW 24(2B) heading: inserted, on 1 April 2008, by section 375(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 24(2B): inserted, on 1 April 2008, by section 375(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 24(3): amended, on 1 April 2023, by section 55(1) (and see section 55(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 24 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 375(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 25 Consistency of use of straight-line method and market valuation method

Straight-line method for all financial arrangements

(1) A person using the straight-line method in an income year for a financial arrangement must use it for all financial arrangements—

(a) to which the person is a party at the end of the income year; and

(b) for which the person can use it.

Straight-line method for every income year of term

(2) A person who starts to use the straight-line method for a financial arrangement must use it over the arrangement's remaining term until section EW 29 requires them to calculate a base price adjustment for the arrangement, unless section EW 26(1) applies.

Total value may be over $1,850,000

(3) Subsection (2) applies even if the total value of all the financial arrangements to which the person is a party is over $1,850,000 at any time in the arrangement's remaining term.

Market valuation method

(4) A person who starts to use a market valuation method for a financial arrangement must use it over the arrangement's remaining term until section EW 29 requires them to calculate a base price adjustment for the arrangement, unless section EW 6(1) applies.

Increase in specified sum

(5) The Governor-General may make an Order in Council under section EW 17(3) increasing the sum specified in subsection (3).

Defined in this Act: financial arrangement, income year

Compare: 2004 No 35 s EW 25

Section EW 25(3) heading: amended, on 1 April 2009, by section 8(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 25(3): amended, on 1 April 2009, by section 8(2) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

EW 25B Consistency of use of IFRS method

Consistency

(1) A person who uses a method for IFRS under section EW 15C for a financial arrangement must use the method for—

(a) the remaining term of the arrangement until section EW 29 requires them to calculate a base price adjustment for the arrangement:

(b) other financial arrangements that are the same as, or similar to, the arrangement unless a different accounting treatment under IFRSs is used.

Exception

(2) Despite subsection (1)(a), a person may change a method for IFRS if—

(a) the new method is available to them to use; and

(b) the accounting treatment for the financial arrangement under IFRSs is changed in the same income year in which the method is changed for tax purposes.

Spreading method adjustment

(3) For the purposes of subsection (2), section EW 26(3), (4), and EW 27 apply as if the change in method were a change under section EW 26(2). However, those sections do not apply if the change—

(a) is from the fair value method; and

(b) relates to a financial arrangement that is not subject to a creditor work-out.

Modification

(4) Section EZ 52B (Consistency of use of IFRS method: *Determination G3* change allowed) modifies subsection (2).

Defined in this Act: creditor workout, fair value method, financial arrangement, IFRS, income year

Compare: 2004 No 35 s EW 25B

Section EW 25B: inserted, on 1 April 2008, by section 376 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 25B(3): amended (with effect on 1 April 2008), on 7 December 2009, by section 20 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 25B(3): amended (with effect on 1 April 2008), on 6 October 2009, by section 144(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 25B(3)(a): substituted (with effect on 1 April 2008), on 7 December 2009, by section 20 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 25B(3)(b): substituted (with effect on 1 April 2008), on 7 December 2009, by section 20 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 25B(4) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 144(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 25B(4): added (with effect on 1 April 2008), on 6 October 2009, by section 144(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 25B list of defined terms **creditor workout**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 144(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EW 26 Change of spreading method

Requirements for change from straight-line and market value method

(1) A person may change from the straight-line method or the market value method if they change to a method that is not a method for IFRS under section EW 15B, and the Commissioner has authorised the change and notified the person of the authorisation.

Change of other method

(2) A person may change from any spreading method to any other method if the Commissioner's notification under subsection (1) is not required for the change, and they have a sound commercial reason for the change. The advancement, deferral, or reduction of an income tax liability is not a sound commercial reason.

Spreading method adjustment

(3) When a person changes their spreading method under subsection (2),—

(a) they must use the formula in section EW 27 to calculate a spreading method adjustment for the income year in which they change the method; and

(b) their only income or expenditure under the financial arrangement for the income year to which the formula is applied is the spreading method adjustment.

Positive or negative spreading method adjustment

(4) A spreading method adjustment calculated under section EW 27 is,—

(a) if positive, income, under section CC 3 (Financial arrangements), derived by the person in the income year for which the calculation is made:

(b) if negative, expenditure incurred by the person in the income year for which the calculation is made.

Application of Tax Administration Act 1994

(5) Section 22A(2) of the Tax Administration Act 1994 applies to a person to whom subsection (2) applies.

Exception for fair value method

(6) Section EW 29(13) applies, and subsections (3) and (4) do not apply, to a financial arrangement, if the person's change of spreading method involves a change—

(a) from the fair value method and the financial arrangement is not subject to a creditor workout:

(b) from the market value method to a method for IFRS under section EW 15B.

Meaning of sound commercial reason

(7) In this section, **sound commercial reason** includes—

(a) starting or stopping the use of IFRSs to prepare financial statements at the same time as starting or stopping the use of a method for IFRS under section EW 15B:

(b) starting to use a method for IFRS under section EW 15B for a financial arrangement for the first time.

Modification

(8) Section EZ 52C (Change of spreading method: *Determination G22* to *Determination G22A*) modifies this section.

Defined in this Act: Commissioner, creditor workout, fair value method, financial arrangement, financial statements, IFRS, income, income tax liability, income year, notify, sound commercial reason, spreading method

Compare: 2004 No 35 s EW 26

Section EW 26(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 145(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 26(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 145(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 26(1): amended, on 2 June 2016, by section 36(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 26(2): amended, on 2 June 2016, by section 36(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 26(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 145(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 26(6) heading: added, on 1 April 2008, by section 377(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 26(6): substituted (with effect on 1 April 2008), on 6 October 2009, by section 145(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 26(7) heading: added, on 1 April 2008, by section 377(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 26(7): added, on 1 April 2008, by section 377(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 26(7)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 145(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 26(8) heading: added, on 26 September 2010, by section 39 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 26(8): added, on 26 September 2010, by section 39 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 26 list of defined terms **creditor workout**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 145(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 26 list of defined terms **fair value method**: inserted, on 1 April 2008, by section 377(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 26 list of defined terms **financial statements**: inserted, on 1 April 2008, by section 377(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 26 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 377(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 26 list of defined terms **notify**: inserted, on 2 June 2016, by section 36(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 26 list of defined terms **sound commercial reason**: inserted, on 1 April 2008, by section 377(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EW 27 Spreading method adjustment formula

Calculation of spreading method adjustment

(1) A person calculates a spreading method adjustment using the formula in subsection (3).

What formula applies to

(2) The person must apply the formula to each financial arrangement to which they—

(a) are a party at the end of the income year in which they change their spreading method; and

(b) were a party at the end of the previous income year.

Formula

(3) The formula is—

income (new method) − expenditure (new method)
− income (old method) + expenditure (old method).

Definition of items in formula

(4) The items in the formula are defined in subsections (5) to (8).

Income (new method)

(5) **Income (new method)** is the amount that would have been income derived by the person under the financial arrangement if the new method had been used for the arrangement in the period starting on the date on which the person became a party to the arrangement and ending on the last day of the income year for which the calculation is made.

Expenditure (new method)

(6) **Expenditure (new method)** is the amount that would have been expenditure incurred by the person under the financial arrangement if the new method had been used for the arrangement in the period starting on the date on which the person became a party to the arrangement and ending on the last day of the income year for which the calculation is made.

Income (old method)

(7) **Income (old method)** is income, under section CC 3 (Financial arrangements), derived by the person under the financial arrangement in earlier income years.

Expenditure (old method)

(8) **Expenditure (old method)** is expenditure incurred by the person under the financial arrangement in earlier income years.

Modification

(9) Section EZ 52C (Change of spreading method: *Determination G22* to *Determination G22A*) modifies this section.

Defined in this Act: amount, financial arrangement, income, income year, spreading method

Compare: 2004 No 35 s EW 27

Section EW 27(9) heading: added, on 26 September 2010, by section 40 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 27(9): added, on 26 September 2010, by section 40 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Calculation and allocation of income and expenditure when rights and obligations under financial arrangement cease

EW 28 How base price adjustment calculated

A party to a financial arrangement who must calculate a base price adjustment, as described in sections EW 29 and EW 30, calculates it using the formula in section EW 31.

Defined in this Act: financial arrangement

Compare: 2004 No 35 s EW 28

EW 29 When calculation of base price adjustment required

Ceasing to be New Zealand resident

(1) A party to a financial arrangement who ceases to be a New Zealand resident must calculate a base price adjustment as at the date of the party's ceasing to be a New Zealand resident. This subsection is overridden by section EW 30(1) and (2).

Ceasing to be party for purpose of New Zealand business

(2) A person who is not a New Zealand resident and who is a party to a financial arrangement for the purpose of a business the party carries on through a fixed

establishment in New Zealand must calculate a base price adjustment as at the date of the party's ceasing to be a party to the arrangement for that purpose.

Maturity

(3) A party to a financial arrangement must calculate a base price adjustment as at the date on which the arrangement matures.

Treated as maturity

(4) A financial arrangement that has not matured because an amount has not been paid is treated as if it had matured if—

(a) the amount not paid is immaterial; and

(b) the arrangement has been structured to avoid the application of section EW 31.

Disposal

(5) A party to a financial arrangement who disposes of the arrangement must calculate a base price adjustment as at the date of the disposal.

Absolute assignment

(6) A party to a financial arrangement who makes an absolute assignment of all the party's rights under the arrangement must calculate a base price adjustment as at the date of the absolute assignment.

Defeasance

(7) A party to a financial arrangement who makes a legal defeasance of all the party's obligations under the arrangement must calculate a base price adjustment as at the date of the legal defeasance.

Disposal at discount to associated person

(8) A party to a financial arrangement that is a debt must calculate a base price adjustment as at the date on which the creditor disposes of the debt to a person associated with the debtor and at a discount in the circumstances described in section EW 43.

Discharge without consideration

(9) A party to a financial arrangement must calculate a base price adjustment as at the date on which a party to the arrangement is discharged from making all remaining payments under the arrangement without fully adequate consideration.

Operation of law

(10) A party to a financial arrangement must calculate a base price adjustment as at the date on which a party to the arrangement is released from making all remaining payments under the arrangement under the Insolvency Act 2006 or the Companies Act 1993 or the laws of a country or territory other than New Zealand.

Composition with creditors

(11) A party to a financial arrangement must calculate a base price adjustment as at the date on which a party to the arrangement is released from making all remaining payments under the arrangement by a deed or agreement of composition with the party's creditors.

Lapse of time

(12) A party to a financial arrangement must calculate a base price adjustment as at the date on which all remaining payments under the arrangement become irrecoverable or unenforceable through the lapse of time.

Changing from fair value method

(13) A party to a financial arrangement must calculate a base price adjustment, for the first income year for which a changed method is used for the financial arrangement, where the change in method is—

(a) from the fair value method and the financial arrangement is not subject to a creditor workout:

(b) from the market value method to a method for IFRS under section EW 15B.

Cessation of LTCs and dissolution of partnerships

(14) A person that is party to a financial arrangement in their capacity as owner or partner of a look-through company or a partnership must calculate a base price adjustment as at the date of disposal of the financial arrangement under section HB 4(3) or (6) or HG 4 (which relate to cessation of LTCs and dissolution of partnerships) if they are also a party in a capacity other than as owner or partner (**private capacity**). They calculate the base price adjustment under this subsection in their private capacity.

Defined in this Act: amount, associated person, business, consideration, creditor workout, fair value method, financial arrangement, fixed establishment, legal defeasance, look-through company, maturity, New Zealand, New Zealand resident, partner, partnership, pay

Compare: 2004 No 35 s EW 29

Section EW 29(8) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 29(8): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 29(13) heading: added, on 1 April 2008, by section 378(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 29(13): amended (with effect on 1 April 2008), on 29 August 2011, by section 33 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EW 29(13): substituted (with effect on 1 April 2008), on 6 October 2009, by section 146(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 29(14) heading: inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 79(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 29(14): inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 79(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 29 list of defined terms **creditor workout**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 146(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 29 list of defined terms **fair value method**: inserted, on 1 April 2008, by section 378(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 29 list of defined terms **look-through company**: inserted, on 29 March 2018 (with effect on 1 April 2011), by section 79(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 29 list of defined terms **partner**: inserted, on 29 March 2018 (with effect on 1 April 2011), by section 79(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 29 list of defined terms **partnership**: inserted, on 29 March 2018 (with effect on 1 April 2011), by section 79(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EW 30 When calculation of base price adjustment not required

Cash basis person who ceases to be temporary New Zealand resident

(1) A cash basis person who ceases to be a New Zealand resident before the first day of the fourth income year following the income year in which they first became a New Zealand resident does not calculate a base price adjustment for a financial arrangement to which they—

(a) were a party before first becoming a New Zealand resident; and

(b) are a party on the date on which they cease to be a New Zealand resident.

Other party who ceases to be New Zealand resident

(2) A party to a financial arrangement who ceases to be a New Zealand resident does not calculate a base price adjustment to the extent to which the arrangement relates to a business the party carries on through a fixed establishment in New Zealand.

Creditor when legal defeasance occurs

(3) A party who has a right to receive money under a financial arrangement the obligations of which are the subject of a legal defeasance does not calculate a base price adjustment on the date of the defeasance if the defeasance requires another person to meet the remaining obligations of the arrangement.

Debtor when legal defeasance occurs

(4) A party to a financial arrangement does not calculate a base price adjustment if—

(a) their obligations under the arrangement are the subject of an absolute legal defeasance; and

(b) some or all of the consideration for the defeasance is deferred.

Creditor when assignment occurs

(5) A party to a financial arrangement does not calculate a base price adjustment if—

(a) their rights under the arrangement are the subject of an absolute assignment; and

(b) some or all of the consideration for the assignment is deferred.

Defined in this Act: business, cash basis person, consideration, financial arrangement, fixed establishment, income year, legal defeasance, money, New Zealand, New Zealand resident

Compare: 2004 No 35 s EW 30

EW 31 Base price adjustment formula

Calculation of base price adjustment

(1) A person calculates a base price adjustment using the formula in subsection (5).

When formula applies

(2) The person calculates the base price adjustment for the income year in which section EW 29 applies to them.

Positive base price adjustment

(3) A base price adjustment, if positive, is income, under section CC 3 (Financial arrangements), derived by the person in the income year for which the calculation is made. However, it is not income to the extent to which it arises from expenditure incurred by the person under the financial arrangement in earlier income years and for which a deduction was denied in those income years.

Negative base price adjustment

(4) A base price adjustment, if negative, is expenditure incurred by the person in the income year for which the calculation is made. The person is allowed a deduction for the expenditure under sections DB 6 to DB 8 (which relate to deductions for interest) or, if none of those sections applies, under section DB 11 (Negative base price adjustment).

Formula

(5) The formula is—

consideration − income + expenditure + amount remitted.

Definition of items in formula

(6) The items in the formula are defined in subsections (7) to (11).

Consideration

(7) **Consideration** is all consideration that has been paid, and all consideration that is or will be payable, to the person for or under the financial arrangement, minus all consideration that has been paid, and all consideration that is or will be payable, by the person for or under the financial arrangement. For the purposes of this subsection, the following are ignored:

(a) non-contingent fees, if the relevant method is not the IFRS financial reporting method in section EW 15D:

(b) non-integral fees, if the relevant method is—

(i) the IFRS financial reporting method in section EW 15D:

(ii) the modified fair value method in section EW 15G.

Consideration in particular cases

(8) If any of sections EW 32 to EW 48, or EZ 52D applies, the consideration referred to in subsection (7) is adjusted under the relevant section.

Income

(9) **Income** is—

(a) income derived by the person under the financial arrangement in earlier income years; and

(b) dividends derived by the person from the release of the obligation to repay the amount lent; and

(c) income derived under section CF 2(2) and (3) (Remission of specified suspensory loans).

Expenditure

(10) **Expenditure** is expenditure incurred by the person under the financial arrangement in earlier income years.

Amount remitted

(11) **Amount remitted**—

(a) is an amount (a **remission**) that is not included in the consideration paid or payable to the person because it has been remitted—

(i) by the person; or

(ii) by law; but

(b) does not include a remission that is self-remission.

Defined in this Act: amount, consideration, deduction, dividend, fair value method, financial arrangement, IFRS, income, income year, non-contingent fee, non-integral fee, pay, self-remission

Compare: 2004 No 35 s EW 31

Section EW 31(4): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 34(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EW 31(7): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EW 31(7): amended (with effect on 1 April 2008), on 6 October 2009, by section 147(1)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 31(7): amended (with effect on 1 April 2008), on 6 October 2009, by section 147(1)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 31(7): amended, on 1 April 2008, by section 379(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 31(7)(a): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EW 31(7)(b): replaced, on 29 March 2018 (with effect on 1 April 2008), by section 80(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 31(8): amended, on 26 September 2010, by section 41 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EW 31(9)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 147(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EW 31(11): replaced (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 30 March 2017, by section 73(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EW 31 list of defined terms **fair value method**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 80(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 31 list of defined terms **IFRS**: inserted, on 1 April 2008, by section 379(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 31 list of defined terms **non-integral fee**: inserted, on 1 April 2008, by section 379(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 31 list of defined terms **self-remission**: inserted (with effect on 1 April 2011), on 30 March 2017, by section 73(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Consideration

Consideration when financial arrangement involves property or services

EW 32 Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease

When this section applies

(1) This section applies when an original party to an agreement for the sale and purchase of property or services, a hire purchase agreement, a specified option,

or a finance lease pays or is paid consideration that includes property or services.

Value of property or services

(2) The value of the property or services is determined by applying, as modified by sections EW 33B, EW 33C, EW 33D, and EW 34 (which relate to certain agreements), subsections (2B) to (6) in numerical order until a subsection applies.

IFRS foreign ASAPs

(2B) If the person uses IFRSs to prepare financial statements or to report for financial arrangements, and the relevant financial arrangement is a foreign ASAP, the value of the property or services is the value under IFRS rules, modified on account of FX hedges as provided by section EW 33B. Section EW 33D applies.

Future or discounted value: foreign ASAPs

(2C) If the relevant financial arrangement is a foreign ASAP, the value of the property or services is the value of the amounts paid or payable under the foreign ASAP for the property or services, but ignoring amounts that are expressly provided in the agreement as paid or payable on account of the future value, or the discounted value, or a combination of both the future and discounted values, on the rights date, of amounts paid or payable. Section EW 33B may apply in relation to FX hedges, and sections EW 33C and EW 33D apply.

Future or discounted value: foreign ASAPs subject to 12 month ASAP

(2D) If the relevant financial arrangement is a foreign ASAP that is a 12 month ASAP, the value of the property or services is the future value, or the discounted value, or a combination of both the future and discounted values, on the rights date, of the amounts paid or payable under the 12 month ASAP for the property or services. Section EW 33B may apply in relation to FX hedges, and sections EW 33C and EW 33D apply.

Express value: foreign ASAPs not subject to 12 month ASAP

(2E) If the relevant financial arrangement is a foreign ASAP that is not a 12 month ASAP, the value of the property or services on the rights date is the value expressly provided in the agreement as paid or payable for the property or services. Section EW 33B may apply in relation to FX hedges, and sections EW 33C and EW 33D apply.

Lowest price

(3) The value of the property or services is the lowest price the parties would have agreed on for the property or services, on the date the agreement, option, or lease was entered into, if payment had been required in full at the time the first right in the property was transferred or the services provided. Two qualifications are—

(a) this subsection does not apply to an agreement for the sale and purchase of property or services that is part of another financial arrangement:

(b) section EW 34 applies if the consideration is in a foreign currency.

Cash price

(4) The value of the property or services is the cash price of the property or services to which the agreement, option, or lease relates, as determined by section 5 of the Credit Contracts and Consumer Finance Act 2003, if that Act applies to the agreement, option, or lease.

Future or discounted value

(5) The value of the property or services is the future value, or the discounted value, or a combination of both the future and discounted values, of the amounts paid or payable on the date on which the first right in the property is transferred or the services are provided, as determined by the Commissioner under a determination under section 90AC(1)(i) of the Tax Administration Act 1994.

Determined by Commissioner

(6) The value of the property or services is the amount determined by the Commissioner when either party to the arrangement applies to the Commissioner for a specific determination or binding ruling under section 91CC(1)(c) of the Tax Administration Act 1994. Both parties must use this amount.

Exclusion

(7) This section does not apply if the agreement, option, or lease has lapsed or does not proceed.

Relationship with subject matter

(8) Sections EZ 75 and EZ 76 (which relate to some ASAPs before the 2014–15 income year) override this section.

Defined in this Act: 12 month ASAP, agreement for the sale and purchase of property or services, amount, apply, binding ruling, Commissioner, consideration, finance lease, financial arrangement, foreign ASAP, FX hedge, hire purchase agreement, IFRS, pay, property, right, rights date, specified option

Compare: 2004 No 35 s EW 32

Section EW 32 heading: amended (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2): amended, on 18 March 2019, by section 179(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32(2): amended (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph

(b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2B) heading: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2B): inserted (with effect on 1 April 2011), on 30 June 2014 (applying for a financial arrangement entered into by a person— (a) in the 2014–15 income year and later income years, unless paragraph (b) applies: (b) in an income year (the first income year) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2B): amended, on 18 March 2019, by section 179(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32(2C) heading: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2C): inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2C): amended, on 18 March 2019, by section 179(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32(2D) heading: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2D): inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2D): amended, on 18 March 2019, by section 179(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32(2E) heading: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2E): inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(2E): amended, on 18 March 2019, by section 179(5) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32(2E): amended, on 18 March 2019, by section 179(6) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32(6): amended, on 18 March 2019, by section 179(7) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32(8) heading: inserted (with effect on 1 April 2008), on 30 June 2014, by section 81(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32(8): inserted (with effect on 1 April 2008), on 30 June 2014, by section 81(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32 list of defined terms **12 month ASAP**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 32 list of defined terms **binding ruling**: inserted, on 18 March 2019, by section 179(8) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 32 list of defined terms **foreign ASAP**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32 list of defined terms **FX hedge**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32 list of defined terms **IFRS**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 32 list of defined terms **rights date**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 81(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EW 33 Consideration for hire purchase agreement or finance lease

When this section applies

(1) This section applies when a party to a hire purchase agreement or a finance lease pays or is paid consideration for the agreement or lease.

Consideration

(2) The consideration for a hire purchase agreement or a finance lease includes expenditure or loss incurred by the lessor in preparing and installing the hire purchase asset or personal property lease asset for use to the extent to which it is not taken into account under section EW 32.

Defined in this Act: consideration, finance lease, hire purchase agreement, hire purchase asset, pay, personal property lease asset, lessor

Compare: 2004 No 35 s EW 33

EW 33B Foreign ASAPs: designated FX hedges

When this section applies

(1) This section applies when, for a person's financial arrangement, section EW 32(2B) applies, and—

(a) the financial arrangement is a foreign ASAP that relates to:

(i) property that is or will be depreciable property or revenue account property; or

(ii) services, the sale or purchase of which, as relevant for the person, gives rise to assessable income or deductions under this Act outside of the financial arrangements rules; and

(b) the person holds an IFRS designated FX hedge in relation to the financial arrangement.

When this section applies

(2) This section applies when, for a person's financial arrangement, section EW 32(2C), (2D), or (2E) applies, and—

(a) the financial arrangement is a foreign ASAP that relates to:

(i) property that is or will be depreciable property or revenue account property; or

(ii) services, the sale or purchase of which, as relevant for the person, gives rise to assessable income or deductions under this Act outside of the financial arrangements rules; and

(b) the person notifies the Commissioner that they have made an irrevocable election to apply this section to all financial arrangements for property and services described in paragraph (a)(i) and (ii), at the time of—

(i) filing a return of income for the income year in which they enter into the financial arrangement; or

(ii) filing a return of income for an earlier income year; and

(c) the person holds a non-IFRS designated FX hedge in relation to the financial arrangement.

Value: IFRS

(3) For a financial arrangement described in subsection (1) the value under section EW 32 of the relevant property or services is modified by the amount attributed under IFRS rules to that value on account of the relevant IFRS designated FX hedge.

Value: non-IFRS

(4) For a financial arrangement described in subsection (2) the value under section EW 32 of the relevant property or services is modified by the amount that would be the base price adjustment for the relevant non-IFRS designated FX hedge in the absence of this section.

FX hedge amounts attributed to value: No double-counting, no separate spreading or base price adjustment

(5) When applying a spreading method to, or calculating a base price adjustment for, amounts under an IFRS designated FX hedge or a non-IFRS designated FX hedge, to the extent to which an amount is attributed to the value of the property or services under this section, that amount is excluded from the spreading method or base price adjustment.

Relationship with subject matter

(6) Sections EZ 75 and EZ 76 (which relate to some ASAPs before the 2014–15 income year) override this section.

Defined in this Act: Commissioner, depreciable property, financial arrangement, foreign ASAP, IFRS, IFRS designated FX hedge, non-IFRS designated FX hedge, notify, revenue account property, spreading method

Section EW 33B: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 82(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 33B(2)(b): replaced, on 2 June 2016, by section 37(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 33B list of defined terms **Commissioner**: inserted, on 2 June 2016, by section 37(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EW 33B list of defined terms **notify**: inserted, on 2 June 2016, by section 37(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EW 33C Consideration in foreign currency: some agreements for sale and purchase

When this section applies

(1) This section applies when the consideration paid or payable under a financial arrangement to which section EW 32(2C), (2D), or (2E) applies is in a foreign currency.

Spot rates

(2) The spot rate on the date an amount of consideration is paid or payable is used to convert to New Zealand dollars for consideration in a foreign currency.

Spot rates unavailable

(3) If no spot rate is available for an amount under the financial arrangement, because the amount is deferred into an income year after a person's current income year and that deferral is for a day after the person is required to file a return of income for the current income year, then the person may use for the amount—

(a) the spot rate at the end of the current income year; or

(b) the spot rate on the date an amount of consideration is paid or payable, if it is paid or payable within 93 days of the end of the current income year.

Defined in this Act: amount, consideration, financial arrangement, income year, New Zealand, person, return of income

Section EW 33C: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person: (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 82(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 33C(3) heading: inserted (with effect on 1 April 2011), on 24 February 2016, by section 134 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EW 33D Foreign ASAPs: contingencies for business combinations

Assets and liabilities

(1) For a foreign ASAP, in relation to the sale and purchase of a business combination by way of sale and purchase of the combination's assets and liabilities, an amount of contingent consideration under the ASAP is credited or debited, as applicable, against goodwill to the extent to which—

(a) section EW 32(2B) applies to the ASAP and the amount of contingent consideration is realised and has not been accounted for initially:

(b) section EW 32(2B) applies to the ASAP and the amount of contingent consideration is never realised and the initial accounting for contingent consideration is reversed:

(c) section EW 32(2C), (2D), or (2E) applies to the ASAP and the amount of contingent consideration is realised and has not been included in the value of the property or services at the rights date:

(d) section EW 32(2C), (2D), or (2E) applies to the ASAP and the amount of contingent consideration is never realised and the amount included in the value of the property or services at the rights date is reversed.

Shares

(2) For a foreign ASAP, in relation to the sale and purchase of a business combination by way of sale and purchase of the combination's shares, an amount of contingent consideration under the ASAP is credited or debited, as applicable, against the shares if—

(a) section EW 32(2B) applies to the ASAP and the amount of contingent consideration is realised and has not been accounted for initially:

(b) section EW 32(2B) applies to the ASAP and the amount of contingent consideration is never realised and the initial accounting for contingent consideration is reversed:

(c) section EW 32(2C), (2D), or (2E) applies to the ASAP and the amount of contingent consideration is realised and has not been included in the value of the property or services at the rights date:

(d) section EW 32(2C), (2D), or (2E) applies to the ASAP and the amount of contingent consideration is never realised and the amount included in the value of the property or services at the rights date is reversed.

Defined in this Act: amount, foreign ASAP, share

Section EW 33D: inserted, on 18 March 2019, by section 180 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EW 34 Consideration in foreign currency

When this section applies

(1) This section applies when the consideration payable under a financial arrangement to which section EW 32(3) applies is in a foreign currency.

Lowest price

(2) The lowest price referred to in section EW 32(3) is the lowest price the parties would have agreed on in the foreign currency, converted into New Zealand dollars using the rate that the original party applying section EW 32(3) selects from the rates in subsection (4). The party may select the rate in subsection (4)(b) only if the period between the date on which the first right in the property is to be transferred and the date on which final payment is to be made is 5 years or less.

Consistent application of rate

(3) The party must apply the selected rate to the financial arrangement for every income year over its term.

Rates

(4) The rates are—

(a) the rate, on the date on which the parties enter into the financial arrangement, available to the party from a New Zealand registered bank for the exchange of New Zealand dollars for the foreign currency for 1 of the following dates:

(i) the date on which the first right in the property is to be transferred; or

(ii) if that date is uncertain on the date on which the parties enter into the financial arrangement, the date on which the parties reasonably expect, when entering into the arrangement, that the first right in the property will be transferred; or

(b) the rate, on the date on which the parties enter into the financial arrangement, available to the party from a New Zealand registered bank for the exchange of New Zealand dollars for the foreign currency for 1 of the following dates:

(i) the date on which final payment is to be made; or

(ii) if that date is uncertain on the date on which the parties enter into the financial arrangement, the date on which the parties reasonably expect, when entering into the arrangement, that final payment will be made; or

(c) an exchange rate approved by the Commissioner for this subsection in the circumstances applicable to the party in a determination under section 90AC(1)(k) of the Tax Administration Act 1994.

Defined in this Act: Commissioner, consideration, financial arrangement, income year, New Zealand, pay, property, registered bank, right, year

Compare: 2004 No 35 s EW 34

EW 35 Value relevant for non-financial arrangements rule

When this section applies

(1) This section applies when the value of property or services acquired or disposed of under a financial arrangement, or the consideration for it, is relevant in determining a person's income or deductions under any provision of this Act that is not a financial arrangements rule.

Value

(2) The person is treated as having acquired or disposed of the property or services for a value determined by applying section EW 32(2).

Defined in this Act: consideration, deduction, financial arrangement, financial arrangements rules, income, property

Compare: 2004 No 35 s EW 35

Section EW 35(1): amended (with effect on 1 April 2008), on 30 June 2014, by section 83(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EW 35(2): amended (with effect on 1 April 2008), on 30 June 2014, by section 83(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Consideration treated as paid to person

EW 36 Consideration when person exits from rules: accrued entitlement

When this section applies

(1) This section applies when—

(a) a person is a party to a financial arrangement; and

(b) 1 of the following situations arises:

(i) the person ceases to be resident in New Zealand and is not a party to the arrangement for the purpose of a business carried on by them through a fixed establishment in New Zealand; or

(ii) the person, not resident in New Zealand, ceases to be a party to the arrangement for the purpose of a business carried on by them through a fixed establishment in New Zealand; or

(iii) the person starts using the arrangement for a private or domestic purpose and so it becomes an excepted financial arrangement described in any of section EW 5(18) to (20); and

(c) at the time the situation arises, the person has an accrued entitlement to be paid consideration under the arrangement.

Disposal and consideration

(2) The person is treated as having disposed of their accrued entitlement immediately before the situation arose and as having been paid the market value that the accrued entitlement had at that time.

Defined in this Act: accrued entitlement, business, consideration, excepted financial arrangement, financial arrangement, fixed establishment, New Zealand, pay, resident in New Zealand

Compare: 2004 No 35 s EW 36

EW 37 Consideration when person enters rules: accrued obligation

When this section applies

(1) This section applies to a person who is a party to a financial arrangement if, when the person has an accrued obligation to pay consideration under the arrangement, 1 or more of the following situations arise:

(a) the person is a non-resident who becomes a party to the arrangement for the purpose of a business carried on by the person through a fixed establishment in New Zealand:

(ab) the person is a non-resident who—

(i) becomes a party to the arrangement after 1 April 2008; and

(ii) becomes a transitional resident after becoming a party to the arrangement; and

(iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules:

(b) the person is a non-resident who—

(i) becomes a New Zealand resident who is not a transitional resident; and

(ii) is not, immediately before becoming a New Zealand resident, a party to the arrangement for the purpose of a business carried on by the person through a fixed establishment in New Zealand:

(c) the person is a transitional resident for whom the arrangement ceases to be an excepted financial arrangement described in section EW 5(17):

(d) the person is a transitional resident who becomes a New Zealand resident who is not a transitional resident, resulting in the arrangement ceasing to be an excepted financial arrangement described in section EW 5(17):

(e) the person stops using the arrangement for a private or domestic purpose, resulting in the arrangement ceasing to be an excepted financial arrangement described in any of section EW 5(18) to (20).

Assumption and consideration

(2) The person is treated as having assumed the accrued obligation immediately after the situation arose and as having been paid the market value that a contract to assume the obligation had at that time.

Defined in this Act: accrued obligation, business, consideration, excepted financial arrangement, financial arrangement, financial arrangements rules, fixed establishment, New Zealand, New Zealand resident, non-resident, pay, transitional resident

Compare: 2004 No 35 s EW 37

Section EW 37(1)(ab): inserted (with effect on 1 April 2008), on 28 March 2024, by section 63(1) (and see section 63(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 37 list of defined terms **financial arrangements rules**: inserted (with effect on 1 April 2008), on 28 March 2024, by section 63(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EW 38 Consideration when disposal for no, or inadequate, consideration

When this section applies

(1) This section applies when—

(a) a person is a party to a financial arrangement; and

(b) the person has an accrued entitlement under the arrangement; and

(c) the person disposes of the arrangement; and

(d) the disposal of the accrued entitlement—

(i) is not for monetary consideration; or

(ii) is for a consideration that is less than the market value of the entitlement on the date of the disposal.

Consideration is market value

(2) The person is treated as having been paid the market value that the accrued entitlement had on the date of the disposal.

Defined in this Act: accrued entitlement, consideration, financial arrangement, pay

Compare: 2004 No 35 s EW 38

EW 39 Consideration affected by unfavourable factors

When this section applies

(1) This section applies when—

(a) a person is a party to a financial arrangement; and

(b) the person has an accrued entitlement under the arrangement; and

(c) the person disposes of the arrangement; and

(d) the consideration for the disposal is affected by any of the following factors:

(i) a decline in the other party's creditworthiness between the date on which the arrangement was entered into and the date of the disposal; or

(ii) an increase, between the date on which the arrangement was entered into and the date of the disposal, in the possibility that the other party will not meet an obligation under the arrangement; or

(iii) the occurrence of an event reducing or cancelling the other party's obligations under the arrangement.

Exclusion

(2) This section does not apply when—

(a) the person's business includes holding or dealing in financial arrangements of the class disposed of; and

(b) the parties to the arrangement disposed of are not associated persons.

Consideration is market value

(3) The person is treated as having been paid the market value that the accrued entitlement had on the date of the disposal, as if the consideration had not been affected by a factor described in subsection (1)(d).

Consideration is market value: self remission

[Repealed]

(4) *[Repealed]*

Defined in this Act: accrued entitlement, associated person, business, consideration, financial arrangement, pay

Compare: 2004 No 35 s EW 40

Section EW 39(4) heading: repealed, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), pursuant to section 81(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 39(4): repealed, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 81(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EW 39 list of defined terms **self-remission**: repealed, on 29 March 2018 (with effect on 1 April 2011), by section 81(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Consideration treated as paid by person

EW 40 Consideration when person exits from rules: accrued obligation

When this section applies

(1) This section applies when—

(a) a person is a party to a financial arrangement; and

(b) 1 of the following situations arises:

(i) the person ceases to be resident in New Zealand and is not a party to the arrangement for the purpose of a business carried on by them through a fixed establishment in New Zealand; or

(ii) the person, not resident in New Zealand, ceases to be a party to the arrangement for the purpose of a business carried on by them through a fixed establishment in New Zealand; or

(iii) the person starts using the arrangement for a private or domestic purpose and so it becomes an excepted financial arrangement described in any of section EW 5(18) to (20); and

(c) at the time the situation arises, the person has an accrued obligation to pay consideration under the arrangement.

Relief and consideration

(2) The person is treated as having been relieved of the accrued obligation immediately before the situation arose and as having paid the market value that a contract to assume the obligation had at that time.

Defined in this Act: accrued obligation, business, consideration, excepted financial arrangement, financial arrangement, fixed establishment, New Zealand, pay, resident in New Zealand

Compare: 2004 No 35 s EW 41

EW 41 Consideration when person enters rules: accrued entitlement

When this section applies

(1) This section applies to a person who is a party to a financial arrangement if, when the person has an accrued entitlement to receive consideration under the arrangement, 1 or more of the following situations arise:

(a) the person is a non-resident who becomes a party to the arrangement for the purpose of a business carried on by the person through a fixed establishment in New Zealand:

(ab) the person is a non-resident who—

(i) becomes a party to the arrangement after 1 April 2008; and

(ii) becomes a transitional resident after becoming a party to the arrangement; and

(iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules:

(b) the person is a non-resident who—

(i) becomes a New Zealand resident who is not a transitional resident; and

(ii) is not, immediately before becoming a New Zealand resident, a party to the arrangement for the purpose of a business carried on by the person through a fixed establishment in New Zealand:

(c) the person is a transitional resident for whom the arrangement ceases to be an excepted financial arrangement described in section EW 5(17):

(d) the person is a transitional resident who becomes a New Zealand resident who is not a transitional resident, resulting in the arrangement ceasing to be an excepted financial arrangement described in section EW 5(17):

(e) the person stops using the arrangement for a private or domestic purpose, resulting in the arrangement ceasing to be an excepted financial arrangement described in any of section EW 5(18) to (20).

Acquisition and consideration

(2) The person is treated as having acquired the accrued entitlement immediately after the situation arose and as having paid the market value that the accrued entitlement had at that time.

Defined in this Act: accrued entitlement, business, consideration, excepted financial arrangement, financial arrangement, financial arrangements rules, fixed establishment, New Zealand, New Zealand resident, non-resident, pay, transitional resident

Compare: 2004 No 35 s EW 42

Section EW 41(1)(ab): inserted (with effect on 1 April 2008), on 28 March 2024, by section 64(1) (and see section 64(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 41 list of defined terms **financial arrangements rules**: inserted (with effect on 1 April 2008), on 28 March 2024, by section 64(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EW 42 Consideration when acquisition for no, or inadequate, consideration

When this section applies

(1) This section applies when—

(a) a person becomes a party to a financial arrangement; and

(b) the person acquires an entitlement under the arrangement—

(i) not for monetary consideration; or

(ii) for a consideration that is less than the market value of the entitlement on the date of the acquisition.

Consideration is market value

(2) The person is treated as having paid the market value that the entitlement had on the date of the acquisition.

Defined in this Act: consideration, financial arrangement, pay

Compare: 2004 No 35 s EW 43

EW 43 Consideration when debt disposed of at discount to associate of debtor

When this section applies

(1) This section applies when a creditor disposes of a debt on or after 20 May 1999 to a person associated with the debtor and at a discount.

At a discount

(2) A creditor disposes of a debt at a discount if the creditor disposes of it for 80% or less of the market value of the debt.

Market value

(3) The market value of a debt affected by any of the following factors is determined as if its market value were not affected by the factor. The factors are—

(a) the occurrence of an event reducing or cancelling the debtor's obligations under the debt; or

(b) the occurrence of 1 of the following between the date on which the debt was entered into and the date of the disposal:

(i) a decline in the debtor's creditworthiness; or

(ii) an increase in the possibility that the debtor will not meet an obligation under the debt.

Consideration

(4) The debtor is treated as having paid the creditor the amount that the person associated with the debtor pays the creditor.

Defined in this Act: amount, associated person, consideration, pay

Compare: 2004 No 35 s EW 45

Section EW 43 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 43(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 43(1): amended, on 1 April 2010, by section 21 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 43(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 43 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EW 44 Consideration when debt forgiven for natural love and affection

When this section applies: first case

(1) This section applies when—

(a) a person is a debtor; and

(b) the creditor is a natural person; and

(c) the creditor forgives the debtor's debt because of the natural love and affection the creditor has for the debtor.

When this section applies: second case

(2) This section also applies when—

(a) a trust is a debtor; and

(b) the trust was established mainly to benefit 1 or both of the following:

(i) a natural person for whom the creditor has natural love and affection:

(ii) an organisation or a trust whose income is exempt under section CW 41 (Charities: non-business income) or CW 42 (Charities: business income); and

(c) the creditor is a natural person; and

(d) the creditor forgives the debtor's debt.

Two points about subsections (1) and (2)

(3) For the purposes of subsections (1) and (2),—

(a) the debtor's debt includes an amount accrued and unpaid at the time of the forgiveness; and

(b) the means by which the debt is forgiven, whether in a will or otherwise, is immaterial.

Consideration

(4) The debtor is treated as having paid the debt on the date on which the creditor forgives it.

Defined in this Act: amount, consideration, income, pay

Compare: 2004 No 35 s EW 46

EW 45 Consideration when debtor released from obligation

When this section applies

(1) This section applies when—

(a) a person is released from the obligation to pay an amount owing under a financial arrangement; and

(b) the release occurs under—

(i) section 304 of the Insolvency Act 2006; or

(ii) any of the Inland Revenue Acts; or

(iii) a loan described in subsection (2); or

(iv) the terms of a loan under the small business cashflow scheme under section 7AA of the Tax Administration Act 1994.

Social assistance suspensory loan

(2) A loan referred to in subsection (1)(b)(iii) is a loan that—

(a) is made by a department or instrument of the executive government of New Zealand; and

(b) provides for the person's liability to pay to be wholly or partly remitted if they meet conditions intended to promote a social policy objective of the government of New Zealand; and

(c) is of a class declared by the Governor-General by Order in Council to be a social assistance suspensory loan.

Declaration as social assistance suspensory loan

(3) The Governor-General may make an Order in Council declaring a class of loan that meets the criteria in subsection (2) to be a social assistance suspensory loan.

Secondary legislation

(3B) An Order in Council under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Consideration

(4) The person is treated as having paid the amount owing on the date on which they are released from the obligation to pay it.

Defined in this Act: amount, consideration, financial arrangement, Inland Revenue Acts, New Zealand, pay, small business cashflow scheme

Compare: 2004 No 35 s EW 47

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EW 45(1)(b)(iii): amended, on 30 April 2020, by section 6(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section EW 45(1)(b)(iv): inserted, on 30 April 2020, by section 6(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section EW 45(3B) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EW 45(3B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EW 45 list of defined terms **small business cashflow scheme**: inserted, on 30 April 2020, by section 6(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

EW 46 Consideration when debtor released as condition of new start grant

[Repealed]

Section EW 46: repealed, on 24 February 2016, by section 135 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EW 46B Consideration when party changes from fair value method

When this section applies

(1) This section applies when a party to a financial arrangement—

(a) changes from the fair value method to another method; and

(b) is required under section EW 29(13) to calculate a base price adjustment at the end of the first income year for which the replacement method is used for the financial arrangement.

Consideration

(2) The person is treated as having been paid an amount equal to the market value of the financial arrangement at the end of the first income year for which the replacement method is used for the financial arrangement.

Defined in this Act: amount, fair value method, financial arrangement

Compare: 2004 No 35 s EW 48B

Section EW 46B: inserted, on 1 April 2008, by section 380 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EW 46B(1)(b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 35(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EW 46B(2): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 35(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

EW 46C Consideration when debt remitted within economic group

When this section applies

(1) This section applies to the extent to which an amount of debt is remitted and—

(a) the creditor is a member of the same wholly-owned group of companies as the debtor and—

(i) the debtor is a New Zealand resident company:

(ii) the debtor carries on a business in New Zealand through a fixed establishment in New Zealand and the creditor or an associated person cannot deduct, under this Act or a taxation law of a country or territory outside New Zealand, an amount in relation to the remission against income:

(b) the creditor is a member of the same wholly-owned group of companies as the debtor and, for the debtor, a group of persons who are New Zealand resident companies (the **NZ group**) hold, before section YC 4 (Look-through rule for corporate shareholders) is applied to the NZ group in relation to their interests,—

(i) common voting interests that add up to 100%; and

(ii) if a market value circumstance exists for a company that is part of a group of companies to which the debtor belongs, common market value interests that add up to 100%:

(c) if the debtor is a company, the creditor is not a member of the same wholly-owned group of companies as the debtor and the creditor has ownership interests or, as applicable, market value interests in the debtor:

(d) if the debtor is a partnership, the creditor has a partner's interest in the income of the debtor:

(e) if the debtor is a look-through company, the creditor has an effective look-through interest in the debtor.

Some points about this section

(2) For the purposes of this section,—

(a) the means by which an amount of debt is remitted is immaterial:

(ab) the debt includes an amount accrued and unpaid at the time of the remission:

(b) a group of natural persons (the **single creditor group**) who are creditors or who have interests in the debtor are treated as one creditor holding the total debts and interests of the single creditor group, if each person has natural love and affection for the others. However, a trust may join the single creditor group if—

(i) the trust was established mainly to benefit a natural person for whom each person of the single creditor group has natural love and affection; and

(ii) the amount given by dividing the amount of the trust's debt that is remitted for the debtor by the trust's proportional ownership ratio is less than the amount given by dividing the amount of the single creditor group's debt that is remitted for the debtor by the group's proportional ownership ratio (*for example*: $100 remitted by the trust ÷ 40% ownership is greater than $100 remitted by the group ÷ 50% ownership, so the trust may not join the group, even if the required natural love and affection exists):

(c) a group of persons (the **single corporate creditor group**) that are creditors or that have interests in the debtor are treated as 1 creditor holding the total debts and interests of the single corporate creditor group, if—

(i) each person is a member of the same wholly-owned group of companies; and

(ii) the debtor is not a member of the wholly-owned group of companies.

When this section does not apply

(3) This section does not apply if—

(a) the creditor and debtor are members of the same wholly-owned group of companies; and

(b) the creditor is a non-resident; and

(c) the debt has been held by a person that is not a member of the wholly-owned group of companies.

Consideration: debtor

(4) The debtor is treated as having paid the amount of debt on the date on which it is remitted,—

(a) if the relevant debt, creditor, and debtor are described in subsection (1)(a) or (b):

(b) to the extent to which the proportional debt ratio for the amount equals the proportional ownership ratio.

Consideration: creditor

(5) Unless subsection (5C) applies, the creditor is treated as having been paid the amount of debt on the date on which it is remitted,—

(a) if the relevant debt, creditor, and debtor are described in subsection (1)(a) or (b):

(b) to the extent to which the proportional debt ratio for the amount equals the proportional ownership ratio.

When subsection (5C) applies

(5B) Subsection (5C) applies when—

(a) the relevant debt, creditor, and debtor are described in subsection (1)(a) or (b); and

(b) the creditor is a person to which section EW 41 applies in relation to the relevant debt.

Consideration: special case

(5C) The creditor is treated as having been paid, on the date on which the amount of debt is remitted, the lesser of the following 2 amounts, or the first amount if they are the same:

(a) the amount of debt:

(b) the amount calculated by subtracting, from the amount of debt, any impairment of the relevant debt under generally accepted accounting practice at the time the creditor is treated under section EW 41(2) as having acquired their accrued entitlement to receive consideration in relation to the relevant debt.

Some definitions

(6) For the purposes of this section,—

nominal shares are shares held by the trustee of an exempt ESS, or employees or former employees of the debtor, if the total of those shares represent voting interests in the debtor that add up to no more than 3%, or, as applicable, market value interests in the company that add up to no more than 3%

proportional debt ratio means, for a creditor and an amount of debt, the percentage that the creditor's amount bears to the total amounts of debt to which this section applies remitted at the time the creditor's debt is remitted

proportional ownership ratio means the creditor's percentage of the ownership interests or, as applicable, market value interests, total partner's interests, or total effective look-through interests for the debtor, ignoring nominal shares.

Defined in this Act: amount, consideration, employee, exempt ESS, generally accepted accounting practice, group of persons, income, look-through company, look-through interest, market value interest, New Zealand resident, nominal share, non-resident, partnership, partner's interests, pay, proportional debt ratio, proportional ownership ratio, share, trustee, voting interest, wholly-owned group of companies

Section EW 46C: inserted (with effect on 1 April 2008), on 30 March 2017, by section 75(1) (and see section 75(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EW 46C heading: amended (with effect on 1 April 2008), on 30 March 2022, by section 97(1) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(1): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(2) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(1)(a): replaced (with effect on 1 April 2019), on 30 March 2022, by section 97(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(2)(a): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(4) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(2)(ab): inserted, on 1 July 2017, by section 76 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EW 46C(2)(ab): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(5) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(2)(b)(ii): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(6) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(2)(b)(ii): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(7) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(2)(b)(ii): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(8) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(4): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(9) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(4): amended (with effect on 1 April 2008), on 18 March 2019, by section 181(1)(a) (and see section 181(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 46C(4)(a): amended (with effect on 1 April 2008), on 18 March 2019, by section 181(1)(b) (and see section 181(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 46C(4)(b): amended (with effect on 1 April 2008), on 18 March 2019, by section 181(1)(c) (and see section 181(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 46C(5): amended, on 29 March 2024, by section 65(1) (and see section 65(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 46C(5): amended (with effect on 1 April 2008), on 30 March 2022, by section 97(10) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C(5): amended (with effect on 1 April 2008), on 18 March 2019, by section 181(2)(a) (and see section 181(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 46C(5)(a): amended (with effect on 1 April 2008), on 18 March 2019, by section 181(2)(b) (and see section 181(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 46C(5)(b): amended (with effect on 1 April 2008), on 18 March 2019, by section 181(2)(c) (and see section 181(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EW 46C(5B) heading: inserted, on 29 March 2024, by section 65(2) (and see section 65(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 46C(5B): inserted, on 29 March 2024, by section 65(2) (and see section 65(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 46C(5C) heading: inserted, on 29 March 2024, by section 65(2) (and see section 65(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 46C(5C): inserted, on 29 March 2024, by section 65(2) (and see section 65(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 46C(6) **nominal shares**: amended (with effect on 29 March 2018), on 31 March 2023, by section 56(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 46C(6) **proportional debt ratio**: amended (with effect on 1 April 2008), on 30 March 2022, by section 97(11) (and see section 97(12) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EW 46C list of defined terms **exempt ESS**: inserted (with effect on 29 March 2018), on 31 March 2023, by section 56(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 46C list of defined terms **generally accepted accounting practice**: inserted, on 29 March 2024, by section 65(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EW 46D Consideration when insolvent company's debt repaid with consideration received for issuing shares

When this section applies

(1) This section applies when—

(a) a company is a debtor; and

(b) the debtor or a person (**person A**) associated with the debtor enters into an arrangement with another person (**person B**); and

(c) under the arrangement, the debtor or person A issues shares to person B for consideration; and

(cb) the shares are not issued on conversion of a debt instrument that—

(i) was issued when the debtor satisfied the solvency test set out in section 4 of the Companies Act 1993; and

(ii) at the time of its issue, was convertible into shares at a future time; and

(d) the debtor does not satisfy the solvency test set out in section 4 of the Companies Act 1993 at either or both of the following times:

(i) immediately before the arrangement is entered into:

(ii) immediately before the issue of the shares; and

(e) the terms of the arrangement require the debtor or person A to use some or all of the consideration to pay, directly or indirectly, an amount of the debtor's debt to the creditor; and

(f) section EW 46C would not apply if the amount of the debtor's debt is remitted; and

(g) the debtor or person A uses some or all of the consideration to pay, directly or indirectly, the amount of the debtor's debt to the creditor.

Consideration

(2) The debtor or person A, as applicable, is treated as—

(a) not having paid, directly or indirectly, the amount of the debtor's debt to the creditor; and

(b) having made a payment, at the time the shares were issued, of an amount of the debtor's debt to the creditor equal to the amount calculated using the formula in subsection (3).

Formula

(3) The formula is—

shares' market value × repayment ÷ total consideration.

Definition of items in formula

(4) In the formula,—

(a) **shares' market value** is the market value of the shares issued to person B at the time they were issued:

(b) **repayment** is the amount of the debtor's debt to the creditor that is paid, directly or indirectly, using consideration received for the issue of the shares to person B:

(c) **total consideration** is the total amount of consideration paid by person B for the issue of the shares.

Defined in this Act: amount, arrangement, associated person, company, consideration, issue, market value, pay, share

Section EW 46D: inserted, on 1 April 2023, by section 57 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EW 46D(1)(cb): inserted (with effect on 1 April 2023), on 28 March 2024, by section 66(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EW 46D list of defined terms **issue**: inserted (with effect on 1 April 2023), on 28 March 2024, by section 66(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Consideration when legal defeasance has occurred

EW 47 Legal defeasance

When this section applies

(1) This section applies when—

(a) the obligations of a financial arrangement were the subject of a legal defeasance that required another person to meet the remaining obligations of the arrangement; and

(b) the person who has a right to receive money under the arrangement is now required by section EW 29 to calculate a base price adjustment for it.

Consideration

(2) The consideration received by the person who has a right to receive money under the arrangement is the total of—

(a) the amounts received from the original debtor; and

(b) the amounts received from the person required to meet the remaining obligations.

Defined in this Act: amount, consideration, financial arrangement, legal defeasance, money

Compare: 2004 No 35 s EW 48

Consideration for cessation of LTCs and dissolution of partnerships

Heading: inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 82(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EW 47B Cessation of LTCs and dissolution of partnerships

When this section applies

(1) This section applies when—

(a) a person is required to calculate a base price adjustment under section EW 29(14) in their private capacity; and

(b) the person has an accrued entitlement.

Consideration limited to owner's interests

(2) The person is treated as—

(a) having paid all the consideration paid, or that is or will be payable, by them for or under the relevant financial arrangement, multiplied by the proportion of their owner's interests or partner's interests in the financial arrangement in their non-private capacity; and

(b) having been paid the market value, on the date of disposal, of the accrued entitlement, multiplied by the proportion of their owner's interests or partner's interests in the financial arrangement in their non-private capacity.

Defined in this Act: dispose, financial arrangement, owner's interests, partner, partner's interests

Section EW 47B: inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 82(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Consideration when anti-avoidance provision applies

EW 48 Anti-avoidance provisions

When this section applies

(1) This section applies when it is necessary to determine the consideration that is paid to or by a person in a case to which any of the following provisions applies:

(a) section GB 21 (Dealing that defeats intention of financial arrangements rules); or

(b) section GC 7 (Excess amount payable by person); or

(c) section GC 8 (Insufficient amount receivable by person); or

(d) sections GC 20 and GC 21 (which relate to purchase price allocation).

Consideration

(2) The consideration is the amount determined under the relevant provision.

Defined in this Act: amount, consideration, pay

Compare: 2004 No 35 s EW 49

Section EW 48(1)(c): amended, on 30 March 2021, by section 50(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EW 48(1)(d): inserted, on 30 March 2021, by section 50(2) (and see section 50(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Income and deduction provisions specifically related to financial arrangements

EW 49 Income and deduction when debt disposed of at discount to associate of debtor

When this section applies

(1) This section applies when a creditor disposes of a debt on or after 20 May 1999 to a person associated with the debtor and at a discount.

At a discount

(2) A creditor disposes of a debt at a discount if the creditor disposes of it for 80% or less of the market value of the debt.

Market value

(3) The market value of a debt affected by any of the following factors is determined as if its market value were not affected by the factor. The factors are—

(a) the occurrence of an event reducing or cancelling the debtor's obligations under the debt; or

(b) the occurrence of 1 of the following between the date on which the debt was entered into and the date of the disposal:

(i) a decline in the debtor's creditworthiness; or

(ii) an increase in the possibility that the debtor will not meet an obligation under the debt.

Original debt replaced with interest-free loan

(4) The associated person is treated as having provided the debtor with an interest-free loan for the amount paid for the debt.

Repayment: income and deduction

(5) If the debtor later repays the person associated with the debtor more than the amount the associated person paid for the debt, the excess amount paid by the debtor is—

(a) income, under section CC 3(1) (Financial arrangements), of the person associated with the debtor; and

(b) a deduction that the debtor is allowed under section DB 13(1) (Repayment of debt in certain circumstances).

Defined in this Act: amount, associated person, deduction, income, pay

Compare: 2004 No 35 s EW 50

Section EW 49 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 49(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 49(1): amended, on 1 April 2010, by section 22 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EW 49(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EW 49(5)(b): amended, on 1 April 2017, by section 77 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EW 49 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EW 49B Guarantees for associated persons

When this section applies

(1) This section applies when a guarantor pays an amount under a guarantee (a **guarantee payment**) for an associated person's debt (the **debtor**) to the debtor's creditor.

Repayment

(2) For the debtor, the amount of the guarantee payment is treated as consideration paid or payable by the debtor for the debt.

New debt

(3) If the guarantor has recourse to the debtor in relation to the guarantee payment, the guarantor is treated as providing the debtor with an interest-free loan for the amount of the guarantee payment.

No consideration paid

(4) For the guarantor, the guarantee payment is treated as not being consideration paid or payable by the guarantor.

Repayment: income and deduction

(5) If the debtor later repays the guarantor more than the guarantee payment, the excess paid by the debtor is—

(a) income, under section CC 3(1) (Financial arrangements), of the guarantor; and

(b) a deduction that the debtor is allowed under section DB 13(1) (Repayment of debt in certain circumstances).

Defined in this Act: amount, associated person, deduction, income

Section EW 49B: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 78(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EW 50 Income when debt forgiven to trustee

When this section applies

(1) This section applies when—

(a) a trust is a debtor; and

(b) the trust was established mainly to benefit 1 or both of the following:

(i) a natural person for whom the creditor has natural love and affection; or

(ii) an organisation or a trust whose income is exempt under section CW 41 (Charities: non-business income) or CW 42 (Charities: business income); and

(c) the creditor is a natural person; and

(d) the creditor forgives the debtor's debt; and

(e) a trustee of the trust makes a distribution, including a distribution of beneficiary income, to a beneficiary; and

(f) the beneficiary is—

(i) not a natural person for whom the creditor has natural love and affection; and

(ii) not an organisation or a trust whose income is exempt under section CW 41 or CW 42; and

(g) the distribution is made on or after 20 May 1999.

Exclusion

(2) This section does not apply when—

(a) a trust (**trust A**) is a debtor; and

(b) trust A was established mainly to benefit 1 or both of the following:

(i) a natural person for whom the creditor has natural love and affection; or

(ii) an organisation or a trust whose income is exempt under section CW 41 or CW 42; and

(c) the creditor is a natural person; and

(d) the creditor forgives the debtor's debt; and

(e) a trustee of the trust makes a distribution to another trust (**trust B**); and

(f) at the time the distribution is made, trust B is also established mainly to benefit 1 or both of the following:

(i) a natural person for whom the creditor has natural love and affection; or

(ii) an organisation or a trust whose income is exempt under section CW 41 or CW 42.

Two points about subsections (1) and (2)

(3) For the purposes of subsections (1) and (2),—

(a) the debtor's debt includes an amount accrued and unpaid at the time of the forgiveness; and

(b) the means by which the debt is forgiven, whether in a will or otherwise, is immaterial.

Distribution is income of trustee

(4) The distribution is income of the trustee, under section CC 3(2) (Financial arrangements), to the extent to which it is less than or equal to the total amount of the debts of the trust forgiven to it by the creditor.

Distribution subtracted from total amount forgiven

(5) The distribution is subtracted from the total amount of the debts of the trust forgiven to it by the creditor as the total amount stands at the time of the distribution.

Timing

(6) The income is derived by the trustee in the income year in which the distribution is made.

Application of Tax Administration Act 1994

(7) Section 22B of the Tax Administration Act 1994 applies to a trustee to whom this section applies.

Defined in this Act: amount, beneficiary income, distribution, income, income year, pay, trustee

Compare: 2004 No 35 s EW 51

EW 51 Deduction for security payment

When subsection (2) applies: loss generally

(1) Subsection (2) applies when a person is allowed a deduction under section DB 14(2) (Security payment).

Amount of deduction

(2) The person is allowed a deduction no greater than the amount of the security payment.

When subsection (4) applies: share loss

(3) Subsection (4) applies when a person is allowed a deduction under section DB 14(4).

Amount of deduction

(4) The person is allowed a deduction no greater than the amount of the security payment.

Defined in this Act: amount, deduction, pay, security payment

Compare: 2004 No 35 s EW 52

Treatment of original share acquired under financial arrangement

EW 52 Share supplier under share-lending arrangement

When this section applies

(1) This section applies to a person who—

(a) acquires a share under a financial arrangement (the **original financial arrangement**); and

(b) is the share supplier for a share-lending arrangement; and

(c) disposes of the share to the share user as an original share under the share-lending arrangement.

Treatment of reacquisition of original share

(2) If the person reacquires the original share under the share-lending arrangement, for the purposes of applying the financial arrangements rules to the original financial arrangement,—

(a) the person did not dispose of the original share to the share user; and

(b) the person continued to own the original share until the time that the person reacquired the original share.

Treatment of acquisition of replacement share

(3) If the person acquires an identical share under the share-lending arrangement, for the purposes of the financial arrangements rules in relation to the original financial arrangement,—

(a) the identical share is the share that the person acquired under the original financial arrangement; and

(b) the person continued to own the identical share until the time that the person acquired the replacement share.

Defined in this Act: financial arrangement, financial arrangements rules, identical share, original share, share, share-lending arrangement, share supplier, share user

Compare: 2004 No 35 s EW 52B

EW 52B Excepted financial arrangements involving pre-1990 forest land emissions units

When this section applies

(1) This section applies to an arrangement that is an excepted financial arrangement under section EW 5(11C) and under which—

(a) the holder (the **unit holder**) of a pre-1990 forest land emissions unit (the **original unit**) is required to make an assignment of the original unit (the **security assignment**) to a person who is not an associated person (the **lender**); and

(b) the lender is required to make a later assignment (the **security return**) of a New Zealand emissions unit (the **returned unit**) to the unit holder.

Unit holder treated as continuing to hold pre-1990 forest land emissions unit

(2) The unit holder is treated as continuing to hold a pre-1990 forest land emissions unit for the period beginning with the day on which the arrangement begins and ending with the day given by subsection (3) for the security assignment, subject to subsections (4) and (5).

Timely security return

(3) Subsection (4) applies if the security return occurs on or before the day that is the earlier of—

(a) the day on which the security return is required under the arrangement:

(b) the day on which the arrangement comes to an end.

Effect of timely security return

(4) If the unit holder receives a returned unit under the arrangement on or before the day given by subsection (3),—

(a) the returned unit is treated as being the original unit; and

(b) the unit holder is treated as continuing to hold the original unit for the period beginning with the day on which the arrangement begins and ending with the day of the security return; and

(c) the original unit and the returned unit are treated as having a value for the unit holder equal to the cost of the original unit for the unit holder immediately before the arrangement begins; and

(d) the original unit and the returned unit are treated as having a value for the lender of—

(i) the cost of the original unit for the unit holder immediately before the arrangement begins, for the security assignment and the security return:

(ii) zero, for an assignment of the original unit other than the security return.

Effect of failure to make timely security return

(5) If the unit holder does not receive a returned unit under the arrangement on or before the day given by subsection (3),—

(a) the original unit is treated as being assigned to the lender on the day of the security assignment; and

(b) the unit holder is treated as ceasing to hold the original unit from the day of the security assignment; and

(c) the original unit is treated as having a value for the unit holder and the lender at the time of the security assignment equal to the market value of the original unit for the unit holder immediately before the arrangement begins.

Relationship with section ED 1

(6) Subsections (4)(c) and (d) and (5)(c) override sections EA 1(4)(c) and ED 1 (which relate to the valuation of excepted financial arrangements).

Defined in this Act: arrangement, associated person, emissions unit, excepted financial arrangement, New Zealand emissions unit, pre-1990 forest land emissions unit

Section EW 52B: inserted (with effect on 1 April 2018), on 26 June 2019, by section 64(1) (and see section 64(2) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

One kind of avoidance

EW 53 Adjustment required

When this section applies

(1) This section applies when—

(a) the terms of a financial arrangement give either party, both parties, or an associated person the discretion to decide on an amount payable under the arrangement; and

(b) it is not generally accepted commercial practice to make financial arrangements containing such terms; and

(c) a change in the amount brought about by the exercise of the discretion does not reflect changes in commodity, economic, financial, or industrial indices, or in banking or general commercial rates; and

(d) the effect of the financial arrangement is to defeat the intention of the financial arrangements rules.

Parties to calculate adjustment

(2) Each person who is a party to the financial arrangement must calculate an adjustment for the income years specified in subsection (3) by following the steps in subsections (4) to (6).

Income years

(3) The adjustment must be calculated for the following income years:

(a) until the person ceases to be a party, the fifth income year after the income year in which the parties entered into the financial arrangement and every fifth income year after that; and

(b) the income year in which the person ceases to be a party.

First step

(4) The first step the person takes is to calculate income or expenditure under the financial arrangement for each income year using the yield to maturity method in the manner prescribed by the Commissioner in a determination under section 90AC(1)(a) of the Tax Administration Act 1994.

Consideration and amounts to be included at first step

(5) The person must include the following amounts in the calculation:

(a) for every income year for which the calculation is made, as described in subsection (3), the consideration and amounts described in section EW 15 for the period starting on the date on which the person became a party to the financial arrangement and ending on the last day of the income year for which the calculation is made; and

(b) for every fifth income year, as described in subsection (3)(a),—

(i) an amount equal to the financial arrangement's market value on the last day of the income year, as if the person had disposed of the arrangement for that amount; or

(ii) if the financial arrangement has no market value, the amount that might reasonably be expected to be paid on a disposal at arm's length.

Second step

(6) The second step the person takes is to calculate the income tax liability for each income year using the income or expenditure calculated under subsections (4) and (5) in substitution for the income or expenditure previously calculated for the financial arrangement for each income year.

Defined in this Act: amount, associated person, Commissioner, consideration, financial arrangement, financial arrangements rules, income, income tax liability, income year, pay, prescribed

Compare: 2004 No 35 s EW 53

Application of financial arrangements rules to cash basis persons

EW 54 Meaning of cash basis person

Who is cash basis person

(1) A person is a **cash basis person** for an income year if—

(a) 1 of the following applies in the person's case for the income year:

(i) section EW 57(1); or

(ii) section EW 57(2); and

(b) section EW 57(3) applies in the person's case for the income year.

Persons excluded by Commissioner

(2) A person may be excluded under section EW 59 from being a cash basis person for a class of financial arrangements.

Defined in this Act: cash basis person, financial arrangement, income year

Section EW 54: substituted, on 1 April 2009, by section 9(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

EW 55 Effect of being cash basis person

Use of spreading method

(1) A cash basis person is not required to apply any of the spreading methods to any of their financial arrangements, but may choose to do so under section EW 61.

Calculation of base price adjustment

(2) The fact that a cash basis person does not use any of the spreading methods for the financial arrangement does not excuse them from the requirement to calculate a base price adjustment when any of section EW 29(1) to (12) applies to them.

Defined in this Act: cash basis person, financial arrangement, spreading method

Compare: 2004 No 35 s EW 55

EW 56 Natural person

[Repealed]

Section EW 56: repealed, on 1 April 2009, by section 10(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

EW 57 Thresholds

Income and expenditure threshold

(1) For the purposes of section EW 54(1)(a)(i), this subsection applies if the absolute value of the person's income and expenditure in the income year under all financial arrangements to which the person is a party is $100,000 or less.

Absolute value threshold

(2) For the purposes of section EW 54(1)(a)(ii), this subsection applies if, on every day in the income year, the absolute value of all financial arrangements to which the person is a party added together is $1,000,000 or less. The value of each arrangement is,—

(a) for a fixed principal financial arrangement, its face value:

(b) for a variable principal debt instrument, the amount owing by or to the person under the financial arrangement:

(c) for a financial arrangement to which the old financial arrangements rules apply, the value determined under those rules.

Deferral threshold

(3) For the purposes of section EW 54(1)(b), this subsection applies if the result of applying the formula in subsection (4) to each financial arrangement to which the person is a party at the end of the income year and adding the outcomes together is $40,000 or less.

Formula

(4) The formula is—

(accrual income − cash basis income)
+ (cash basis expenditure − accrual expenditure).

Definition of items in formula

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

Accrual income

(6) **Accrual income** is the amount that would have been income derived by the person under the financial arrangement if the person had been required to use a spreading method in the period starting on the date on which they became a party to the arrangement and ending on the last day of the income year for which the calculation is made. It is calculated using 1 of the following methods, as chosen by the person:

(a) the yield to maturity method, whether or not the person may use it, or has chosen to use it, for their financial arrangement; or

(b) the straight-line method, whether or not the person may use it, or has chosen to use it, for their financial arrangement; or

(c) an alternative method approved by the Commissioner.

Cash basis income

(7) **Cash basis income** is the amount that would have been income derived by the person under the financial arrangement if the person had been a cash basis person in the period starting on the date on which they became a party to the arrangement and ending on the last day of the income year for which the calculation is made.

Cash basis expenditure

(8) **Cash basis expenditure** is the amount that would have been expenditure incurred by the person under the financial arrangement if the person had been a cash basis person in the period starting on the date on which they became a party to the arrangement and ending on the last day of the income year for which the calculation is made.

Accrual expenditure

(9) **Accrual expenditure** is the amount that would have been expenditure incurred under the financial arrangement if the person had been required to use a spreading method in the period starting on the date on which they became a party to the arrangement and ending on the last day of the income year for which

the calculation is made. It is calculated using 1 of the following methods, as chosen by the person:

(a) the yield to maturity method, whether or not the person may use it, or has chosen to use it, for their financial arrangement; or

(b) the straight-line method, whether or not the person may use it, or has chosen to use it, for their financial arrangement; or

(c) an alternative method approved by the Commissioner.

Increase in specified sums

(10) The Governor-General may make an Order in Council increasing a sum specified in any of subsections (1) to (3).

Secondary legislation

(11) An Order in Council under subsection (10) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: absolute value, amount, cash basis person, Commissioner, financial arrangement, fixed principal financial arrangement, income, income year, old financial arrangements rules, spreading method, variable principal debt instrument

Compare: 2004 No 35 s EW 57

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EW 57(1): amended, on 1 April 2009, by section 11(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 57(2): amended, on 1 April 2009, by section 11(2) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 57(3): amended, on 1 April 2009, by section 11(3) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 57(10) heading: added, on 1 April 2009, by section 11(4) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 57(10): added, on 1 April 2009, by section 11(4) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 57(11) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EW 57(11): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EW 58 Financial arrangements, income, and expenditure relevant to criteria

Inclusions in and exclusions from thresholds

(1) The calculations required by section EW 57(1) to (3) are done for every financial arrangement to which the person is a party or, as the relevant subsection requires, to income and expenditure under such an arrangement, whether the

financial arrangements rules or the old financial arrangements rules apply to the arrangement. Two qualifications are—

(a) the calculations include an arrangement, or income and expenditure, to which subsection (2) or (3) applies only to the extent of the person's interest in it, as described in each subsection; and

(b) the calculations exclude the value of an arrangement, and income and expenditure, in which the person has the interest described in subsection (4) or (5).

Natural person who is partner

[Repealed]

(2) *[Repealed]*

Beneficiary of bare trust

(3) This subsection applies when the trustee of a bare trust is a party to a financial arrangement. A person who is a beneficiary of the bare trust—

(a) is treated as a party to the arrangement to the extent of the beneficiary's share of the beneficial interest in the arrangement; and

(b) is treated as deriving income or incurring expenditure under the arrangement to the extent of the beneficiary's share of the beneficial interest in the arrangement.

Beneficiary of trust other than bare trust

(4) This subsection applies when a person is a beneficiary of a trust, other than a bare trust, whose trustee is a party to a financial arrangement. The following are excluded from the calculations required by section EW 57(1) to (3):

(a) the value of the arrangement, if it produces trustee income or beneficiary income under the trust rules; and

(b) income under the arrangement that is trustee income or beneficiary income under the trust rules.

Trustee

(5) This subsection applies when a person is a party to a financial arrangement as a trustee. The following are excluded from the calculations required by section EW 57(1) to (3):

(a) the value of the arrangement, if it produces trustee income or beneficiary income under the trust rules; and

(b) income under the arrangement that is trustee income or beneficiary income under the trust rules; and

(c) the value of the arrangement, if expenditure is incurred under it; and

(d) expenditure incurred under the arrangement.

Defined in this Act: beneficiary income, financial arrangement, financial arrangements rules, income, old financial arrangements rules, return of income, trust rules, trustee, trustee income

Compare: 2004 No 35 s EW 58

Section EW 58(1): amended, on 1 April 2009, by section 12(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 58(2) heading: repealed, on 1 April 2008, by section 13(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section EW 58(2): repealed, on 1 April 2008, by section 13(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section EW 58(3) heading: substituted, on 1 April 2009, by section 12(2)(a) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 58(3): amended, on 1 April 2009, by section 12(2)(b) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 58(4) heading: substituted, on 1 April 2009, by section 12(3)(a) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 58(4): amended, on 1 April 2009, by section 12(3)(b) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 58(5) heading: substituted, on 1 April 2009, by section 12(4)(a) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 58(5): amended, on 1 April 2009, by section 12(4)(b) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

EW 59 Exclusion by Commissioner

The Commissioner may treat a person who would otherwise be a cash basis person for a class of financial arrangements as not being a cash basis person for the class if—

(a) the person, or any other person, has structured and promoted the class to defer an income tax liability:

(b) the parties to a financial arrangement are associated, and the person's calculation of income and expenditure under the financial arrangement differs from that used by the associated person.

Defined in this Act: associated person, cash basis person, Commissioner, financial arrangement, income, income tax liability

Section EW 59: substituted, on 1 April 2009, by section 13(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

EW 60 Trustee of deceased's estate

When trustee of estate is cash basis person

(1) A trustee of a deceased's estate is a cash basis person for financial arrangements in the estate in the circumstances described in subsection (2) for the period described in subsection (3).

Circumstances

(2) The circumstances are that, at the time of the deceased's death,—

(a) the deceased is a cash basis person; and

(b) the financial arrangements in the deceased's estate meet the requirements of section EW 54(1)(a) and (b).

Period

(3) The period is the income year in which the deceased dies and in each of the 4 following income years. However, if at any time in those 5 income years the financial arrangements in the deceased's estate cease to meet the requirements of section EW 54(1)(a) and (b), the trustee ceases to be a cash basis person for financial arrangements in the estate and cannot again be a cash basis person for them.

Modifications to be read in

(4) For the purposes of this section, sections EW 54 and EW 55 are read with the modifications necessary to make them refer to the case of a deceased estate.

Defined in this Act: cash basis person, financial arrangement, income year, trustee

Compare: 2004 No 35 s EW 60

Section EW 60(2)(b): amended, on 1 April 2009, by section 14(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 60(3): amended, on 1 April 2009, by section 14(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section EW 60(4): amended, on 1 April 2009, by section 14(2) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

EW 61 Election to use spreading method

Election of spreading method

(1) A cash basis person may choose to use a spreading method, unless subsection (2) applies.

Election not allowed

(2) A cash basis person may not choose to use a spreading method for a financial arrangement in the income year in which section EW 29 requires them to calculate a base price adjustment for the arrangement.

How election made

(3) The person makes the election by calculating a cash basis adjustment under section EW 62(1).

Effect of election

(4) The person must use a spreading method for—

(a) all financial arrangements to which the person is a party at the time of making the election; and

(b) all financial arrangements the person enters into after the income year in which they make the election.

How election revoked

(5) The person revokes the election by giving notice to the Commissioner with a return of income and within the time that the return must be filed under section 37 of the Tax Administration Act 1994.

Effect of revocation

(6) The revocation applies to all financial arrangements the person enters into after the income year in which the notice is given.

Defined in this Act: cash basis person, Commissioner, financial arrangement, income year, notice, return of income, spreading method

Compare: 2004 No 35 s EW 61

EW 62 When and how calculation of cash basis adjustment required

Choosing spreading method

(1) A cash basis person who chooses to use a spreading method must calculate a cash basis adjustment for the income year in which they choose to use a spreading method as if they had ceased to be a cash basis person.

Person becoming cash basis person

(2) A person who becomes a cash basis person in an income year must calculate a cash basis adjustment for a financial arrangement to which they—

(a) are a party at the end of the income year; and

(b) were a party at the end of the previous income year.

Exclusions

(3) However,—

(a) a person who becomes a cash basis person in an income year and who chooses to continue using a spreading method in the income year must not calculate a cash basis adjustment; and

(b) a person who becomes a cash basis person in an income year must not calculate a cash basis adjustment for a financial arrangement that is already being accounted for on a cash basis.

Person ceasing to be cash basis person

(4) A person who ceases to be a cash basis person in an income year must calculate a cash basis adjustment for a financial arrangement to which they—

(a) are a party at the end of the income year; and

(b) were a party at the end of the previous income year.

Exclusion

(5) However, a person who ceases to be a cash basis person must not calculate a cash basis adjustment for a financial arrangement that is already subject to a spreading method.

Person not cash basis person if adjustment not made

(6) A person who would be a cash basis person for a financial arrangement if they calculated a cash basis adjustment for it, and who does not calculate the adjustment, is not a cash basis person for the arrangement.

Cash basis adjustment

(7) A person calculates a cash basis adjustment using the formula in section EW 63.

Adjustment is income or expenditure

(8) The only income or expenditure under the financial arrangement for the income year to which the formula is applied is the cash basis adjustment.

Positive or negative cash basis adjustment

(9) A cash basis adjustment is,—

(a) if positive, income, under section CC 3(1) (Financial arrangements), derived by the person in the income year for which the calculation is made:

(b) if negative, expenditure incurred by the person in the income year for which the calculation is made.

Defined in this Act: cash basis person, financial arrangement, income, income year, spreading method

Compare: 2004 No 35 s EW 62

EW 63 Cash basis adjustment formula

Formula

(1) A person calculates a cash basis adjustment using the formula—

$$\text{adjusted income} - \text{adjusted expenditure} - \text{previous income} + \text{previous expenditure}.$$

Definition of items in formula

(2) The items in the formula are defined in subsections (3) to (6).

Adjusted income

(3) **Adjusted income** is,—

(a) for a person who becomes a cash basis person, the amount that would have been income derived by the person under the financial arrangement if the person had been a cash basis person in the period starting on the date on which they became a party to the arrangement and ending on the last day of the income year for which the calculation is made; and

(b) for a person who ceases to be a cash basis person, the amount that would have been income derived by the person under the financial arrangement if the person had been required to use a spreading method in the period starting on the date on which they became a party to the arrangement and

ending on the last day of the income year for which the calculation is made.

Adjusted expenditure

(4) **Adjusted expenditure** is,—

(a) for a person who becomes a cash basis person, the amount that would have been expenditure incurred by the person under the financial arrangement if they had been a cash basis person in the period starting on the date on which they became a party to the arrangement and ending on the last day of the income year for which the calculation is made; and

(b) for a person who ceases to be a cash basis person, the amount that would have been expenditure incurred by the person under the financial arrangement if the person had been required to use a spreading method in the period starting on the date on which they became a party to the arrangement and ending on the last day of the income year for which the calculation is made.

Previous income

(5) **Previous income** is income derived by the person under the financial arrangement in earlier income years.

Previous expenditure

(6) **Previous expenditure** is expenditure incurred by the person under the financial arrangement in earlier income years.

Defined in this Act: amount, cash basis person, financial arrangement, income, income year, spreading method

Compare: 2004 No 35 s EW 63

Subpart EX—Controlled foreign company and foreign investment fund rules

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Controlled foreign company (CFC) rules

When is a company a controlled foreign company?

EX 1 Meaning of controlled foreign company

Tests of control

(1) A foreign company is a **controlled foreign company (CFC)** if any of the following tests is met:

(a) there is a group of 5 or fewer New Zealand residents whose total control interests in the company are more than 50% in any one of the control interest categories:

(b) a single New Zealand resident holds a control interest of 40% or more unless at the same time—

(i) the person's control interest is less than or equal to a control interest in the same category held by another person; and

(ii) the other person is not a New Zealand resident; and

(iii) the other person is not associated with the New Zealand resident:

(c) there is a group of 5 or fewer New Zealand residents who can control the exercise of the shareholder decision-making rights for the company and, as a result, control the company's affairs.

Exception

(2) Even if a test in subsection (1) is met, a foreign company is not a CFC if—

(a) the foreign company is a foreign PIE equivalent; and

(b) 1 of the New Zealand residents is—

(i) a portfolio investment entity:

(ii) an entity that qualifies for PIE status:

(iii) a life insurance company.

Status applies for whole accounting period

(3) If any of the tests in subsection (1) is met at any time in a foreign company's accounting period and the exception in subsection (2) does not apply at the time, the company is treated as a CFC for the whole of the accounting period.

Defined in this Act: accounting period, associated person, CFC, company, control interest, control interest category, foreign company, foreign investment vehicle, life insurance, New Zealand resident, portfolio investment entity, shareholder decision-making right

Compare: 2004 No 35 s EX 1

Section EX 1(1)(b)(i): substituted (with effect on 1 April 2008), on 7 September 2010, by section 42(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EX 1(2): amended, on 1 April 2008, by section 381 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 1(2)(a): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 149(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 1(2)(b)(ii): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 149(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 1 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Calculation of person's control interest

EX 2 Four categories for calculating control interests

Separate categories

(1) Under section EX 5(1), a direct **control interest** in a foreign company can arise in each of 4 separate categories of rights.

List of categories

(2) The 4 categories are—

(a) shareholding in the foreign company:

(b) shareholder decision-making rights for the foreign company:

(c) rights to receive income from the foreign company:

(d) rights to receive distributions of the company's net assets.

Detailed calculation rules

(3) In each category, more detailed calculation rules appear in section EX 5.

Four categories of control interests

(4) Accordingly, the rules in section EX 3 for calculating control interests by totalling various direct and indirect control interests and associated parties' interests are applied on a category by category basis, by reference to those categories of direct control interest.

Defined in this Act: associated person, control interest, direct control interest, foreign company, income, shareholder decision-making right

Compare: 2004 No 35 s EX 2

EX 3 Control interest: total of direct, indirect, and associated person interests

Calculation of control interest

(1) A New Zealand resident's control interest in a foreign company at any time is the total of the following for the relevant control interest category:

(a) any direct control interest that the New Zealand resident holds in the company:

(b) any direct control interests in the company held by persons associated with the New Zealand resident:

(c) any indirect control interests that the New Zealand resident holds in the company:

(d) any indirect control interests in the company held by persons associated with the New Zealand resident.

Avoidance arrangements: first kind

(2) Section GB 7 (Arrangements involving CFC control interests) may apply to treat a control interest as being held by a group of New Zealand residents in equal proportions.

Avoidance arrangements: other kinds

(3) Any of the following sections may apply to the calculation of a person's control interest:

(a) section GB 9 (Temporary disposals of direct control or income interests):

(b) section GB 10 (Temporary acquisitions of direct control or income interests):

(c) section GB 11 (Temporary increases in totals for control interest categories):

(d) section GB 12 (Temporary reductions in totals for control interest categories):

(e) section GB 13 (When combination of changes reduces income):

(f) section GB 14 (When combination of changes increases loss).

Defined in this Act: associated person, control interest, direct control interest, foreign company, New Zealand resident

Compare: 2004 No 35 ss EX 3, GC 7, GC 9

EX 4 Limits to requirement to include associated person interests

Non-resident relatives

(1) For the purposes of section EX 3, a New Zealand resident is associated with a non-resident relative only if the New Zealand resident holds a direct control interest or indirect control interest in the foreign company.

No double counting

(2) Despite section EX 3(1)(b) and (d), for the purposes of determining whether a foreign company is a CFC, a direct control interest or indirect control interest may be counted only once.

Defined in this Act: associated person, CFC, control interest, direct control interest, foreign company, New Zealand resident, non-resident, relative

Compare: 2004 No 35 s EX 4

EX 5 Direct control interests

Categories of direct control interests

(1) A person has a **direct control interest** in a foreign company at any time if they hold—

(a) any of the shares in the foreign company:

(b) any of the shareholder decision-making rights for the company:

(c) a right to—

(i) receive any income of the company for the accounting period in which the time falls; or

(ii) have the income of the company for the accounting period in which the time falls dealt with in their interest or on their behalf:

(d) a right to—

(i) receive any of the value of the net assets of the company, if they are distributed; or

(ii) have the net value of the assets, if they are distributed, dealt with in their interest or on their behalf.

Percentage of total is counted

(2) The direct control interest in each control interest category is the percentage of the total that the person holds.

Measurement of available subscribed capital

(3) When the direct control interest in the category in subsection (1)(a) is calculated, the percentage is the total of the available subscribed capital per share calculated under the slice rule of the shares held as a percentage of the total available subscribed capital per share calculated under the slice rule of all shares in the company.

Varying decision-making rights

(4) When the direct control interest in the category in subsection (1)(b) is calculated, if the percentage varies between the rights described in the different paragraphs of the definition of **shareholder decision-making rights** in section YA 1 (Definitions), the highest percentage is taken.

Income distribution rights: assumptions

(5) When the direct control interest in the category in subsection (1)(c) is calculated, it is assumed that—

(a) the income is distributed on the last day of the accounting period; and

(b) the person's entitlement is unchanged during the period; and

(c) a payment of interest on a debenture subject to section FA 2 (Recharacterisation of certain debentures), FA 2B (Stapled debt securities), or FZ 1 (Treatment of interest payable under debentures issued before certain date) is a distribution of income.

Defined in this Act: accounting period, available subscribed capital, control interest category, direct control interest, foreign company, income, interest, pay, share, shareholder decision-making right, slice rule

Compare: 2004 No 35 s EX 5

Section EX 5(1)(c): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 84(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 5(1)(d): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 84(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 5(5)(c): amended (with effect on 1 April 2008), on 6 October 2009, by section 150 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 6 Direct control interests include options and similar rights

Entitlement to acquire or extinguish

(1) For the purposes of section EX 5, a person is treated as holding something if they are entitled to acquire it or extinguish it.

Entitlement arises in various ways

(2) A person is entitled to acquire or extinguish something if the entitlement is absolute or contingent and whether the entitlement—

(a) arises under a company's constitution; or

(b) arises under the terms of an option; or

(c) arises under the terms of a convertible note; or

(d) arises under the terms of any arrangement substantially similar to any of those described in paragraphs (a) to (c); or

(e) arises in some other way.

Standard security arrangements

(3) Despite subsections (1) and (2), a person is not treated as being entitled to acquire something if—

(a) the entitlement arises under a security arrangement; and

(b) the person acquired the security arrangement in a transaction entered into on an arm's length basis; and

(c) the security arrangement's terms conform to generally accepted commercial practice.

No double counting

(4) Despite subsections (1) and (2), for the purpose of determining whether a foreign company is a CFC, each of the percentage holdings described in section EX 5 may be counted only once.

Defined in this Act: arrangement, CFC, company, convertible note, direct control interest, foreign company, security arrangement

Compare: 2004 No 35 s EX 6

EX 7 Indirect control interests

How indirect control interests arise

(1) A person has an indirect **control interest** in a foreign company to the extent to which the rules in this section attribute to them some or all of the direct control interests held by a CFC in the foreign company.

Attribution of CFC's direct interests

(2) A CFC's direct control interest in another foreign company is attributed under subsections (3) to (11).

Associates

(3) For the purposes of this section, the CFC is treated as also holding any direct control interests in the foreign company held by persons associated with the CFC.

Attribution to smallest controlling group

(4) Subsections (6) to (11) apply to attribute the CFC's direct control interests to the smallest controlling group, to ensure that the attribution exercise does not dilute recognition of a factual chain of control.

Attribution on basis of respective income interests

(5) If the CFC's direct control interests are attributed to more than 1 person, the direct control interests are divided in proportion to each group member's respective income interest in the CFC.

One controlling group

(6) If there is only 1 group of New Zealand residents whose control interests have caused the CFC to be a CFC under section EX 1, the CFC's direct control interests are treated as being held by that group.

More than 1 group

(7) If there is more than 1 group whose control interests have caused the CFC to be a CFC under section EX 1, the CFC's direct control interests are attributed to the smallest group.

Equal smallest groups

(8) If there are 2 or more groups that are equally the smallest, and 1 group has the greatest total control interests in the CFC, the attribution is to that group.

Equal smallest groups with equal greatest control interests

(9) If there are 2 or more smallest groups with equal greatest total control interests in the CFC, the attribution is made in full to each group.

No double counting

(10) Despite subsection (9), for the purpose of determining whether a foreign company is a CFC, a direct control interest may be counted only once.

Sequential application

(11) If a foreign company becomes a CFC under this section, this section is then applied to attribute its direct control interests.

Defined in this Act: associated person, CFC, control interest, direct control interest, foreign company, income interest, New Zealand resident

Compare: 2004 No 35 s EX 7

Section EX 7 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Calculation of person's income interest

EX 8 Income interests: total of direct and indirect interests

Calculation of income interest

(1) A person's income interest in a CFC at any time is the total of the following:

(a) any direct income interest that the person holds in the CFC:

(b) any indirect income interest that the person holds in the CFC.

Avoidance arrangements

(2) Any of the following sections may apply to the calculation of a person's income interest:

(a) section GB 9 (Temporary disposals of direct control or income interests):

(b) section GB 10 (Temporary acquisitions of direct control or income interests):

(c) section GB 11 (Temporary increases in totals for control interest categories):

(d) section GB 12 (Temporary reductions in totals for control interest categories):

(e) section GB 13 (When combination of changes reduces income):

(f) section GB 14 (When combination of changes increases loss).

Defined in this Act: CFC, control interest category, direct control interest, direct income interest, income, income interest, indirect income interest

Compare: 2004 No 35 s EX 8

EX 9 Direct income interests

Categories of direct income interest

(1) A person has a **direct income interest** in a CFC at any time if they hold—

(a) any of the shares in the foreign company:

(b) any of the shareholder decision-making rights for the company:

(c) a right to—

(i) receive any income of the company for the accounting period in which the time falls; or

(ii) have the income of the company for the accounting period in which the time falls dealt with in their interest or on their behalf:

(d) a right to—

(i) receive any of the value of the net assets of the company, if they are distributed; or

(ii) have the net value of the assets, if they are distributed, dealt with in their interest or on their behalf.

Percentage of total is counted

(2) The person's direct income interest is the percentage of the total that the person holds.

Varying percentages

(3) However, if the percentage varies between the different categories, the person's direct income interest is the highest.

Measurement of available subscribed capital

(4) When the direct income interest in the category in subsection (1)(a) is calculated, the percentage is the total of the available subscribed capital per share calculated under the slice rule of the shares held as a percentage of the total available subscribed capital per share calculated under the slice rule of all shares in the company.

Varying decision-making rights

(5) When the direct income interest in the category in subsection (1)(b) is calculated, if the percentage varies between the rights described in the different paragraphs of the definition of **shareholder decision-making rights** in section YA 1 (Definitions), the highest percentage is taken.

Income distribution rights: assumptions

(6) When the direct income interest in the category in subsection (1)(c) is calculated, it is assumed that—

(a) the income is distributed on the last day of the accounting period; and

(b) the person's entitlement is unchanged during the period; and

(c) a payment of interest on a debenture subject to section FA 2 (Recharacterisation of certain debentures), FA 2B (Stapled debt securities), or FZ 1 (Treatment of interest payable under debentures issued before certain date) is a distribution of income.

Defined in this Act: accounting period, available subscribed capital, CFC, debentures, direct income interest, foreign company, income, interest, pay, share, shareholder decision-making right, slice rule

Compare: 2004 No 35 s EX 9

Section EX 9(1)(c): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 85(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 9(1)(d): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 85(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 9(6)(c): amended (with effect on 1 April 2008), on 6 October 2009, by section 151 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 10 Indirect income interests

Looking through CFCs

(1) If a person has a direct income interest in a CFC, and the first CFC has a direct income interest in another CFC, the person has an **indirect income interest** in the other CFC.

Calculation of indirect income interest

(2) The indirect income interest is calculated by multiplying the person's direct income interest in the first CFC by the first CFC's direct income interest in the other CFC.

Chains of CFCs

(3) If there are 2 or more CFCs in a chain of direct income interests between the person and a CFC, the person has an indirect income interest in the CFC at the end of the chain that is calculated by multiplying all the direct income interests in the chain.

Defined in this Act: CFC, direct income interest, indirect income interest

Compare: 2004 No 35 s EX 10

EX 11 Options and similar rights in certain cases

Increase in income interest

(1) The rules in this section apply to increase a person's income interest in a CFC (the **first CFC**) in some cases.

Entitlement to acquire

(2) This section applies when the person, or some other person, such as another CFC taken into account when calculating an indirect income interest of the person in the first CFC, has at any time an entitlement (the **option**) to acquire 1 of the things listed in section EX 9(1) in relation to the first CFC but does not hold it.

Actual holder outside CFC rules attribution

(3) For this section to apply, the actual holder of the thing subject to the option must not be—

(a) another CFC:

(b) a New Zealand resident, unless they are a New Zealand resident whose income interest in the first CFC for the accounting period in question is less than 10% under sections EX 14 to EX 17.

Terms of option indicating economic ownership

(4) For this section to apply, the option must have 1 of the following features:

(a) in the absence of this section, the effect of the option would be to defeat the intent and application of subpart CQ (Attributed income from foreign equity) or DN (Attributed losses from foreign equity) or this subpart, taking into account the economic benefit that the person gets as a result of the CFC deriving income:

(b) the consideration payable for the exercise of the option is less than the market value of the thing acquired at the time of the acquisition:

(c) the holder of the option (or an associated person) has directly or indirectly funded or assisted the actual holder to acquire or hold the thing subject to the option.

Calculation as if option exercised

(5) If each requirement for this section to apply is met, the person's income interest is calculated as if the option holder had exercised the option.

Defined in this Act: accounting period, associated person, CFC, income, income interest, indirect income interest, New Zealand resident, pay

Compare: 2004 No 35 s EX 11

Section EX 11(3)(b): amended, on 1 April 2008, by section 382 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EX 12 Reduction of total income interests

Application of this section

(1) This section applies when the total income interests for a CFC for an accounting period would be more than 100%, because section EX 9(3) requires the highest percentage to be taken if varying percentage shareholder rights are held.

Proportional reduction

(2) Each person's income interest for the period is reduced to the amount calculated using the formula—

$$\text{income interest before reduction} \times 100 \div \text{total income interests before reduction.}$$

Defined in this Act: accounting period, amount, CFC, income interest, shareholder

Compare: 2004 No 35 s EX 12

EX 13 Income interests of partners

[Repealed]

Section EX 13: repealed, on 1 April 2008, by section 14(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Ten percent threshold and variations in income interest level

EX 14 Attribution: 10% threshold, not PIE

Persons with attributed CFC income or loss

(1) A person has attributed CFC income or loss from a CFC only if the person—

(a) has an income interest in the CFC of 10% or more for the relevant accounting period; and

(b) is not a portfolio investment entity.

Portfolio investment entity

(2) A portfolio investment entity that would have attributed CFC income or loss from a CFC in the absence of subsection (1)(b) has FIF income or loss from the CFC under the FIF rules.

Defined in this Act: accounting period, attributed CFC income, CFC, FIF income, FIF rules, income interest, loss, PIE, portfolio investment entity

Section EX 14: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 18(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 15 Associates and 10% threshold

Associates included

(1) For the purpose of applying the 10% threshold in sections CD 45, CQ 2, EX 14, EX 21, EX 34, and EX 58, a person's income interest in a CFC is increased by each income interest in the CFC, for the relevant accounting period, of a person associated with the person.

Exception

(2) Despite subsection (1), the income interest of an associate is not counted if the associate is a CFC.

Defined in this Act: accounting period, associated person, CFC, income interest

Compare: 2004 No 35 s EX 15

Section EX 15(1): substituted, on 1 April 2008, by section 383 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 15(1): amended (with effect on 30 June 2009), on 6 October 2009, by section 152(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 15(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 152(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 16 Income interests for certain purposes

When this section applies

(1) This section applies for the purposes of determining the attributed CFC income or loss of a person for a period if the person holds an income interest in the CFC on a day in the period.

Zero income interest

(2) For the purposes of calculating the attributed CFC income or loss of a person for a period, the person has an income interest in a CFC of zero on a day in the period if, on the day, the person is—

(a) a non-resident:

(b) a transitional resident.

Attribution not prevented

(3) This section does not override—

(a) *[Repealed]*

(b) section CQ 2(3) (When attributed CFC income arises), which treats any attributed CFC income as being derived while the person deriving it is a New Zealand resident; or

(c) section CQ 5(4) (When FIF income arises), which treats any foreign investment fund (FIF) income as being derived while the person deriving it is a New Zealand resident.

Defined in this Act: accounting period, attributed CFC income, CFC, dividend, FIF income, income interest, New Zealand resident, non-resident, transitional resident

Compare: 2004 No 35 s EX 16

Section EX 16(3)(a): repealed, on 24 February 2016, by section 136(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 16 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 136(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 17 Income interest if variations within period

When this section applies

(1) This section applies when a person's income interest in a CFC, calculated under sections EX 8 to EX 16, varies between days in a period.

Weighted average

(2) The person's income interest for the period is the total of the amounts for the period, each of which is calculated using the formula in subsection (3) for a day in the period.

Formula

(3) The formula is—

income interest for day ÷ days in period.

Definition of items in formula

(4) In the formula,—

(a) **income interest for day** is—

(i) the income interest during the day, if the income interest does not vary during the day:

(ii) the income interest at the start of the day, if the income interest varies during the day:

(b) **days in period** is the number of days in the period.

Defined in this Act: CFC, income interest

Compare: 2004 No 35 s EX 17

Calculation of attributed CFC income or loss

EX 18A Scheme for finding person's attributed CFC income or loss

Formula and rules for calculation

(1) The attributed CFC income or loss of a person (an **interest holder**) holding an income interest in a CFC, for the purposes of the general rules in sections CQ 2(1) and DN 2(1)(which relate to attributed CFC income or loss), is found for the CFC and an accounting period from—

(a) the formula in section EX 18, which uses the interest holder's income interest and the CFC's net attributable CFC income or loss determined as described in subsection (2):

(b) the interest holder's additional CFC attributed income under section EX 19:

(c) the reduction in the interest holder's attributed CFC loss under section EX 20.

Determination of attributed CFC income or loss from attributable CFC amount

(2) An interest holder with an income interest of a fraction (the **fraction**) in a CFC with an attributable CFC amount under section EX 20B for an accounting period has under section EX 18, for the CFC and accounting period,—

(a) attributed CFC income or loss equal to the fraction of the CFC's net attributable CFC income or loss under sections EX 20C to EX 20E and the rules in sections EX 21 and EX 24 to EX 27, if paragraph (b) does not apply:

(b) no attributed CFC income or attributed CFC loss, if the CFC is—

(i) a non-attributing active CFC under section EX 21B, determined as described in subsection (3), for which the interest holder is not affected by an election under section EX 73:

(ii) a non-attributing Australian CFC under section EX 22.

Non-attributing active CFCs

(3) Whether a CFC is a non-attributing active CFC is determined under section EX 21B using—

(a) a test in—

(i) section EX 21D, if the interest holder does not use a test referred to in subparagraph (ii); or

(ii) section EX 21E, if the CFC has accounts prepared to a standard meeting the requirements of section EX 21C and the interest holder chooses to use a test in that section based on those accounts; and

(b) the rules in sections EX 21 and EX 24 to EX 27.

Defined in this Act: accounting period, attributable CFC amount, attributed CFC income, attributed CFC loss, CFC, non-attributing active CFC, non-attributing Australian CFC

Section EX 18A: inserted (with effect on 30 June 2009), on 6 October 2009, by section 153(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 18A(2)(b)(i): amended (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 40(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

EX 18 Formula for calculating attributed CFC income or loss

If a person has attributed CFC income under section CQ 2 (When attributed CFC income arises) or an attributed CFC loss under section DN 2 (When attributed CFC loss arises), the amount of a person's attributed CFC income or loss from a CFC for an accounting period is calculated using the formula—

person's income interest for accounting period
× net attributable CFC income or loss of CFC for accounting period.

Defined in this Act: accounting period, amount, attributed CFC income, attributed CFC loss, CFC, income interest, loss, net attributable CFC income

Compare: 2004 No 35 s EX 18

Section EX 18 formula: amended (with effect on 30 June 2009), on 6 October 2009, by section 154(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 18 list of defined terms **branch equivalent income**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 154(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 18 list of defined terms **net attributable CFC income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 154(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 19 Taxable distribution from non-complying trust

Application of this section

(1) This section applies when—

(a) a CFC derives a taxable distribution from a non-complying trust in an accounting period; and

(b) a person has attributed CFC income or loss from the CFC for the period, or would have if the taxable distribution were included in the CFC's net attributable CFC income.

Additional attributed CFC income

(2) The taxable distribution is excluded under section EX 21(32) when calculating the CFC's net attributable CFC income or loss, and instead the person has additional attributed CFC income.

Calculation of additional attributed CFC income

(3) The amount of the additional attributed CFC income is calculated using the formula—

person's income interest in CFC for accounting period × taxable distribution.

Non-complying trust tax rate

(4) The person is liable for income tax on the additional attributed CFC income at the rate in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) that applies to amounts under section HC 19 (Taxable distributions from non-complying trusts).

Disclosure restrictions on grey list CFCs

[Repealed]

(5) *[Repealed]*

Defined in this Act: accounting period, amount, attributed CFC income, CFC, income interest, income tax, loss, net attributable CFC income, non-complying trust, taxable distribution

Compare: 2004 No 35 s EX 19

Section EX 19(1)(b): amended (with effect on 30 June 2009), on 6 October 2009, by section 155(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 19(2): amended (with effect on 30 June 2009), on 6 October 2009, by section 155(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 19(4): amended, on 1 April 2008, by section 384 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 19(5) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 155(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 19(5): repealed (with effect on 30 June 2009), on 6 October 2009, by section 155(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 19 list of defined terms **branch equivalent income**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 155(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 19 list of defined terms **net attributable CFC income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 155(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 20 Reduction in attributed CFC loss

Application of this section: no economic loss

(1) This section applies when—

(a) a person has an amount of attributed CFC loss; and

(b) the person suffers no, or substantially no, corresponding economic loss, whether because of a call option, a put option, or any other reason.

Application of this section: attributed CFC loss excessive

(2) This section also applies if—

(a) a person has an amount of attributed CFC loss; and

(b) the amount is more than any corresponding economic loss of the person, whether because of the application of the rules for calculating the person's income interest or for any other reason.

Reduction to economic loss

(3) The attributed CFC loss is reduced to be equal to the economic loss, if any.

Defined in this Act: amount, attributed CFC loss, income interest

Compare: 2004 No 35 s EX 20

Attributable CFC amount and net attributable CFC income or loss

Heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 156(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 20B Attributable CFC amount

Attributable CFC amount

(1) **Attributable CFC amount**, for an accounting period and a CFC, means the amount calculated under the rules in section EX 21 using the formula—

gross + arrangement − apportioned funding income.

Definition of items in formula

(2) The items in the formula in subsection (1) are defined in subsections (3) to (4B).

Gross

(3) **Gross** is the total amount of income derived in the accounting period by the CFC that is 1 or more of the following:

(a) a dividend that is paid in relation to rights that are a direct income interest in a foreign company, meet the requirements of neither section EX 34 nor section EX 35, and are excluded from being an attributing interest by—

(i) section EX 31:

(ii) section EX 32:

(iii) section EX 36:

(iv) section EX 37:

(v) section EX 37B:

(vi) *[Repealed]*

(b) a dividend that is paid by a company resident in New Zealand to the extent to which the dividend is not fully imputed:

(c) an amount that is not a distribution from an associated non-attributing active CFC and is—

(i) a deductible foreign equity distribution (the **distribution)**, to the extent to which the distribution is not from, or funded directly or indirectly from, an attributing interest that is an income interest in a FIF meeting the requirements of section EX 59(1):

(ii) a distribution for fixed-rate foreign equity:

(d) a royalty of a type referred to in subsection (5):

(e) rent of a type referred to in subsection (6):

(f) income from a business of insurance or from being an insurer:

(g) income from a life insurance policy of a type referred to in subsection (8):

(h) income from the supply of personal services of a type referred to in subsection (9):

(i) income from the disposal of revenue account property that is a share, other than a share referred to in subsection (10):

(j) income from the disposal of revenue account property that is an option to acquire or dispose of a share:

(k) income from the disposal of revenue account property that is—

(i) not a share, financial arrangement, or life insurance policy; and

(ii) used by the CFC with a purpose or effect of giving rise to income of the CFC referred to in another paragraph of this subsection:

(l) income from a service, other than a telecommunications service, to the extent to which the service is physically performed in New Zealand:

(m) income from a service relating to the use of equipment to provide a telecommunications service, to the extent to which the equipment is at the time—

(i) physically located outside any country or territory; and

(ii) owned by the CFC or by a FIF that is associated with the CFC; and

(iii) not a mobile telephone handset or a radio receiver and transmitter for a ship or aircraft:

(n) income from a telecommunications service to the extent to which the service is physically performed in New Zealand and is not described in subsection (11):

(o) attributed PIE income that, for a CFC, is not excluded income under section CX 56 (Attributed income of certain investors in multi-rate PIEs):

(p) a dividend that is excluded by section CD 36(2) (Foreign investment fund income) from the effect of section CD 36(1).

Arrangement

(4) **Arrangement** is the total for the CFC and the accounting period of amounts of income under section CC 3 (Financial arrangements) for—

(a) an arrangement that—

(i) is a financial arrangement, or a short-term agreement for sale and purchase for which the CFC has made an election under section EW 8 (Election to treat certain excepted financial arrangements as financial arrangements); and

(ii) is not a derivative instrument; and

(iii) is not referred to in subsection (12):

(b) a derivative instrument—

(i) that is held in the course of a business of the CFC for the purpose of dealing with the derivative instrument:

(ii) that is not entered in the ordinary course of a business of the CFC:

(iii) to the extent to which the income is from a hedging relationship, of a type referred to in IFRS 9, with income of the CFC referred to in subsection (3) or paragraph (a) or with a transaction producing such income of the CFC.

Apportioned funding income

(4B) **Apportioned funding income** is,—

(a) if the CFC is an entity carrying on a business of banking or insurance or is directly or indirectly controlled by such an entity, zero:

(b) if paragraph (a) does not apply, the amount calculated using the formula—

$$\text{funding income} \times \text{funding fraction} \times (1 - \text{asset fraction}).$$

Definition of items in formula

(4C) The items in the formula in subsection (4B)(b) are defined in subsections (4D) to (4F).

Funding income

(4D) **Funding income** is the total of the amounts in the accounting period that are included in the items gross and arrangement and relate to a financial arrangement—

(a) that provides funds for the CFC; and

(b) for which there is no reasonable expectation, when the CFC enters the financial arrangement or when the terms of the financial arrangement are changed, that the CFC will have from the financial arrangement amounts that would be income for the CFC exceeding in total the amounts that would be deductions for the CFC, during—

(i) the period in which the CFC is party to the financial arrangement:

(ii) a period predictable in advance during which the CFC is a party to the financial arrangement.

Funding fraction

(4E) **Funding fraction** is the amount given by section EX 20C(6) for the CFC.

Asset fraction

(4F) **Asset fraction** is the amount given by section EX 20C(8) for the CFC.

Attributable CFC amount: royalties

(5) A royalty derived by a CFC is included in an attributable CFC amount under subsection (3)(d) if none of the following are satisfied:

(a) the CFC is regularly engaged in creating, developing, or adding value to property that produces royalties and the royalty is—

(i) paid by a person who is not associated with the CFC under section YB 2 (Two companies); and

(ii) from property that is not linked to New Zealand under subsection (13); and

(iii) from property that the CFC has created or developed or to which the CFC has added substantial value:

(b) the CFC is regularly engaged in creating, developing, or adding value to property that produces royalties and the royalty is—

(i) paid by a person who is associated with the CFC under section YB 2; and

(ii) from property that is not linked to New Zealand under subsection (13); and

(iii) from property that the CFC has created or developed, or to which the CFC has added substantial value; and

(iv) an arm's length amount determined under section GC 13 (Calculation of arm's length amounts) for the arrangement between the CFC and the associated person:

(c) the royalty is—

(i) paid by a person who would be an associated non-attributing active CFC in the absence of this paragraph and subsections (7)(c) and (12)(a); and

(ii) from property that is not linked to New Zealand under subsection (13):

(d) the royalty is—

(i) paid to the CFC by a person not associated with the CFC under section YB 2, or by a CFC associated with the CFC under section YB 2 that has received a royalty payment from such a person or a royalty payment arising from such a royalty payment; and

(ii) from property owned by a New Zealand resident who is resident in no other country under all applicable double tax agreements; and

(iii) from property licensed to the CFC, or to a CFC associated with the CFC under section YB 2, (the **licensee**) by the New Zealand resident for an arm's length amount determined under section GC 13 for the arrangement between the licensee and the New Zealand resident.

Attributable CFC amount: rent

(6) Rent derived by a CFC is included in an attributable CFC amount under subsection (3)(e) if the rent is not of a type referred to in subsection (7) and is from—

(a) a lease or sublease of land:

(b) a lease or sublease of personal property:

(c) a licence to use intangible property:

(d) a hire or bailment.

Attributable CFC amount: exclusions from rent

(7) Rent derived by a CFC from a source referred to in subsection (6) is not included in an attributable CFC amount under subsection (3)(e) if the rent is—

(a) from land in a country or territory with which the CFC has a taxed CFC connection:

(b) from property other than land, to the extent to which the rent relates to the use of the property in a country or territory referred to in paragraph (a):

(c) paid by a person who would be an associated non-attributing active CFC in the absence of this paragraph and subsections (5)(c) and (12)(a):

(d) a payment under a hire purchase agreement:

(e) a payment under a finance lease:

(f) a royalty:

(g) a payment under a licence to use intangible property that—

(i) is not a royalty; and

(ii) would not be included in an attributable CFC amount under subsection (5) if treated as a royalty for the purposes of that subsection.

Attributable CFC amount: income from life insurance contract

(8) Income from a life insurance policy is included in an attributable CFC amount under subsection (3)(g) if the income is not included in a calculation of FIF income or loss and is—

(a) a distribution, if the life insurance policy is not intended to compensate the CFC for financial losses arising from the death or extended incapacity of a specified employee or member involved in the CFC's business:

(b) a distribution that is not intended to compensate the CFC for financial losses arising from the death or extended incapacity of a specified employee or member involved in the CFC's business, if the life insurance policy is intended to compensate the CFC for such losses:

(c) income from a disposal of the life insurance policy, if the policy is revenue account property.

Attributable CFC amount: income from personal services

(9) Income derived by a CFC from the supply of personal services is included in an attributable CFC amount under subsection (3)(h) if the personal services are performed by another person (the **working person**) and—

(a) the working person is a New Zealand resident; and

(b) the personal services are not essential support for a product supplied by the CFC; and

(c) the working person is associated with the CFC under section YB 3 (Company and person other than company) at the time the services are performed or is a relative, at the beginning of the accounting period, of a person associated with the CFC under section YB 3; and

(d) 80% or more of the CFC's total income in the accounting period from supplying personal services is derived through personal services meeting the requirements of paragraph (a) performed by working persons meeting the requirements of paragraph (b); and

(e) to derive the income, the CFC uses a business structure that requires depreciable property having, at the end of the accounting period, a total cost under section GB 28(7) (Interpretation of terms used in section GB 27) less than or equal to the greater of $75,000 and 25% of the CFC's

total income from personal services performed in the accounting period; and

(f) a person who holds an attributing interest in the CFC files, after the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 receives the Royal assent, a return of income in which the amount attributed to the working person is determined under this section.

Exclusions from attributable CFC amount: shares

(10) Income derived by a CFC from the disposal of a share that is revenue account property is not included in an attributable CFC amount under subsection (3)(i) if the CFC's FIF income or loss from the share in the period ending with the disposal is calculated using—

(a) the comparative value method:

(b) the deemed rate of return method:

(c) the fair dividend rate method:

(d) the cost method.

Exclusions from attributable CFC amount: telecommunications services in New Zealand

(11) Income of a CFC from a telecommunications service physically performed in New Zealand is not included in an attributable CFC amount under subsection (3)(n) if—

(a) the service is the transmission, emission, or reception of information between New Zealand and a country or territory with which the CFC has a taxed CFC connection; and

(b) the CFC is a network operator under the Telecommunications (Interception Capability and Security) Act 2013 (a **network operator**), or—

(i) a group of persons has, for the whole of the CFC's accounting period, voting interests and, if a market value circumstance exists, market value interests, of more than 50% in the CFC; and

(ii) the group of persons also has, for the whole of the CFC's accounting period, voting interests and, if a market value circumstance exists, market value interests, of more than 50% in a network operator; and

(c) the service is performed by a person, other than the CFC, who—

(i) is resident in New Zealand, and is resident in no other country under all applicable double tax agreements:

(ii) has a fixed establishment in New Zealand that is a permanent establishment under all applicable double tax agreements; and

(d) the service is performed by the person as part of a business in New Zealand of providing telecommunication services in New Zealand—

(i) carried on through the person's fixed establishment, if the person is not resident in New Zealand; and

(ii) from which the person derives assessable income of more than $5,000,000 per annum.

Exclusions from attributable CFC amount: income from financial arrangements other than derivative instruments

(12) Income of a CFC from a financial arrangement or excepted financial arrangement that is referred to in subsection (4)(a)(i) is not included in an attributable CFC amount under subsection (4)(a) if the financial arrangement or agreement is—

(a) an agreement by the CFC to lend money to a person who would be an associated non-attributing active CFC in the absence of this paragraph and subsections (5)(c) and (7)(c):

(b) an agreement for the sale or purchase of property or services or a hire purchase agreement—

(i) entered in the ordinary course of business by the CFC:

(ii) for property or services produced or used by the CFC in business.

Royalties: property linked to New Zealand

(13) Property giving rise to a royalty is linked to New Zealand at a time in an accounting period for the purposes of subsection (5) if the property meets the requirements of subsection (14) at a time in the period—

(a) beginning—

(i) at the time the property was created, if the property has not since met the requirements of subsection (15); or

(ii) from the time the property most recently met the requirements of subsection (15); and

(b) ending at the time in the accounting period.

Situations creating link with New Zealand

(14) Property owned by a CFC has a link with New Zealand if the property—

(a) has been owned by a New Zealand resident:

(b) has been owned by a non-resident for the purposes of a business carried on in New Zealand through a fixed establishment in New Zealand:

(c) was created or developed in New Zealand:

(d) has had substantial value added in New Zealand:

(e) has been acquired by a person who had a deduction for expenditure or loss incurred in the acquisition:

(f) is based on knowledge acquired by a person who—

(i) acquired the knowledge with a purpose or intention of creating the property; and

(ii) had a deduction for expenditure or loss incurred in the acquisition:

(g) is created or developed from activities, or from the extension, continuation, development, or completion of activities, if the activities produced knowledge acquired by a person who had a deduction for expenditure or loss incurred in the acquisition.

Situations breaking link with New Zealand

(15) There is no link between property and New Zealand for a CFC when the property is owned by a non-resident who—

(a) is not a CFC and is not associated with the CFC; and

(b) is not associated with a person who has owned the property while it had a link with New Zealand.

Defined in this Act: accounting period, agreement for the sale or purchase of property or services, associated, associated non-attributing active CFC, attributable CFC amount, attributable FIF income method, attributed PIE income, business, CFC, comparative value method, deductible foreign equity distribution, deduction, deemed rate of return method, depreciable property, derivative instrument, dividend, excluded income, exempt income, fair dividend rate method, finance lease, financial arrangement, fixed-rate foreign equity, fully imputed, general insurance, group of persons, hire purchase agreement, IFRS 9, income, insurance contract, interest, land, life insurance, life insurance policy, loan, loss, market value circumstance, market value interest, money lent, New Zealand, New Zealand resident, non-attributing active CFC, non-resident, reinsurance contract, relative, resident in New Zealand, revenue account property, royalty, share, short-term agreement for sale and purchase, taxed CFC connection, telecommunications service, voting interest

Section EX 20B: inserted (with effect on 30 June 2009), on 6 October 2009, by section 156(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 20B(1) formula: replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(2): amended (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(3)(a): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(3)(a)(vi): repealed, on 30 March 2025, by section 50 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 20B(3)(c): replaced, on 1 April 2023, by section 58(1) (and see section 58(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 20B(3)(f): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 41(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20B(3)(m)(ii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(3)(n): amended, on 29 August 2011, by section 36(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 20B(3)(o): added, on 29 August 2011, by section 36(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 20B(3)(p): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(4) heading: substituted (with effect on 30 June 2009), on 7 December 2009, by section 23(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 20B(4)(b)(iii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 20B(4)(b)(iii): amended (with effect on 30 June 2009), on 7 December 2009, by section 23(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 20B(4B) heading: inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4B): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4C) heading: inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4C): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4D) heading: inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4D): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4E) heading: inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4E): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4F) heading: inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(4F): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 86(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20B(5)(a)(i): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 157(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 20B(5)(d)(i): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(5)(d)(ii): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(5)(d)(iii): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(7)(a): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(9)(c): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 157(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 20B(9)(e): amended, on 24 February 2016, by section 137(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 20B(9)(f): inserted, on 24 February 2016, by section 137(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 20B(11)(a): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(11)(b): substituted (with effect on 30 June 2009), on 7 December 2009, by section 23(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 20B(11)(b): amended, on 11 May 2014, by section 123 of the Telecommunications (Interception Capability and Security) Act 2013 (2013 No 91).

Section EX 20B(11)(b)(i): amended (with effect on 30 June 2009), on 7 September 2010 (applying for the income years beginning on or after 1 July 2009), by section 43(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EX 20B(11)(c): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B(11)(d): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 19(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 19(8) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B list of defined terms **attributed PIE income**: inserted, on 29 August 2011, by section 36(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 20B list of defined terms **excluded income**: inserted, on 29 August 2011, by section 36(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 20B list of defined terms **group of persons**: inserted (with effect on 30 June 2009), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 20B list of defined terms **IFRS 9**: inserted, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 20B list of defined terms **market value circumstance**: inserted (with effect on 30 June 2009), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 20B list of defined terms **market value interest**: inserted (with effect on 30 June 2009), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 20B list of defined terms **taxed CFC connection**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 19(9) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20B list of defined terms **voting interest**: added (with effect on 30 June 2009), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

EX 20C Net attributable CFC income or loss

CFC's net attributable CFC income or loss

(1) For the purpose of calculating the attributed CFC income or loss for an accounting period of a person (the **interest holder**) with an income interest in a CFC,—

(a) the CFC's **net attributable CFC income** for the accounting period is the greater of zero and the amount calculated using the formula in subsection (2):

(b) the CFC's **net attributable CFC loss** for the accounting period is—

(i) the absolute value of the amount calculated using the formula in subsection (2), if that amount is less than zero:

(ii) zero, if subparagraph (i) does not apply.

Formula for net attributable CFC income or loss

(2) The amount of a CFC's net attributable CFC income or loss for an accounting period is calculated using the rules in section EX 21 and the formula—

attributable CFC − apportioned funding costs − other deductions.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **attributable CFC** is the CFC's attributable CFC amount for the accounting period:

(b) *[Repealed]*

(c) **apportioned funding costs** is the amount calculated using the formula—

funding costs × funding fraction × cost fraction:

(d) **other deductions** is the amount of expenditure and loss incurred in the accounting period by the CFC to the extent to which the expenditure and loss meets the requirements of subsection (13).

Definition of items in formula

(4) The items in the formula in subsection (3)(c) are defined in subsections (6), (10), and (11).

Funding income

[Repealed]

(5) *[Repealed]*

Funding fraction

(6) **Funding fraction** is equal to,—

(a) if the item **funding** in subsection (7)(a) is zero, 1; or

(b) if the item is being used to calculate the item **apportioned funding costs** and the interest holder chooses to rely on this paragraph, 1; or

(c) if neither of paragraphs (a) and (b) apply, the amount calculated using the formula—

(funding − group funding) ÷ funding.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **funding** is the total of amounts, each of which is the outstanding balance for—

(i) a financial arrangement to which the CFC is a party and which provides funds for the CFC:

(ii) a fixed rate foreign equity, or share giving a right to a deductible foreign equity distribution, issued by the CFC and held by a company that is a New Zealand resident, a CFC, or a FIF for which the interest holder uses the attributable FIF income method:

(b) **group funding** is the lesser of the item funding and the total of amounts, each of which is the outstanding balance for a financial arrangement, a fixed-rate foreign equity, or a share giving a right to a deductible foreign equity distribution,—

(i) under which the CFC provides funds to another CFC associated with the CFC under section YB 2 (Two companies) or to a FIF for which the interest holder uses the attributable FIF income method and that is associated with the CFC under section YB 2; and

(ii) that produces for the CFC an amount that is included in the item arrangement under section EX 20B(4) or is a deductible foreign equity distribution or a distribution for fixed-rate foreign equity.

Asset fraction

(8) **Asset fraction** is the amount calculated using the formula—

(attributable CFC's assets − group funding)
÷ (total CFC's assets − group funding).

Definition of items in formula

(9) In the formula in subsection (8),—

(a) **attributable CFC's assets** is the total of amounts for the CFC's assets, each of which is the value of an asset to the extent to which the asset is used for the purpose of deriving an attributable CFC amount and not used for the purpose of deriving an amount that is not an attributable CFC amount:

(b) **group funding** is—

(i) zero, if subparagraph (ii) does not apply; or

(ii) the amount of the item **group funding** referred to in subsection (7)(b), if subsection (6)(c) applies for the interest holder and the CFC:

(c) **total CFC's assets** is the total value of the CFC's assets.

Funding costs

(10) **Funding costs** is the total of amounts in the accounting period, each of which—

(a) would be a deduction of the CFC relating to a financial arrangement to which the CFC is a party and which provides funds for the CFC:

(b) is a distribution relating to fixed-rate foreign equity or a deductible foreign equity distribution of the CFC, other than a deductible foreign equity distribution (the **distribution**) to the extent to which the distribution is funded directly or indirectly from an attributing interest that is an income interest in a FIF meeting the requirements of section EX 59(1), and is paid by the CFC to a company resident in New Zealand, to another CFC, or to a FIF for which the interest holder uses the attributable FIF income method.

Cost fraction

(11) **Cost fraction** is,—

(a) if the CFC is not excessively debt funded under section EX 20D, the amount of the item **asset fraction** referred to in subsection (8); or

(b) if the CFC is excessively debt funded under section EX 20D, the lesser of—

(i) the amount of the item **asset fraction** referred to in subsection (8):

(ii) the amount calculated under section EX 20D.

Determining debts and assets of CFC

(12) For the items referred to in subsection (9), the debts and assets of the CFC are determined under sections FE 8 to FE 11 (which contain rules for determining the apportionment of interest) as if the CFC were—

(a) an excess debt outbound company; and

(b) the only member of the CFC's New Zealand group.

Requirements for item other deductions

(13) Amounts of expenditure or loss contribute to the item **other deductions** to the extent to which—

(a) the amounts do not relate to a financial arrangement or share and—

(i) are incurred for the purpose of deriving an attributable CFC amount; and

(ii) are not incurred for the purpose of deriving an amount that is not an attributable CFC amount; and

(iii) correspond to amounts that would be deductions of the CFC after the adjustments that would be made under sections CH 2 and DB 50 (which relate to adjustments for prepayments) if the CFC were a resident:

(b) the amounts relate to financial arrangements or shares referred to in the definition of the item **funding** in subsection (7)(a) and exceed in total the amount given by multiplying the items **funding costs** and **funding fraction**, used in calculating the item **apportioned funding costs** under subsection (3)(c):

(c) the amounts—

(i) do not relate to financial arrangements that provide funds for the CFC; and

(ii) relate to financial arrangements referred to in section EX 20B(4).

Defined in this Act: accounting period, attributable CFC amount, CFC, deductible foreign equity distribution, deduction, financial arrangement, fixed-rate foreign equity, generally accepted accounting practice, income interest, interest, loss, net attributable CFC income, net attributable CFC loss, share

Section EX 20C: inserted (with effect on 30 June 2009), on 6 October 2009, by section 156(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 20C(2) formula: replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 87(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20C(3) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(3): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(3)(b): repealed (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 87(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20C(4) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(4): replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 87(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20C(5) heading: repealed (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, pursuant to section 87(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20C(5): repealed (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 87(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20C(6) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(6): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(7) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(7): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(7)(a)(ii): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 42(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(7)(b): replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 87(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20C(8) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(8): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(9) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(9): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(9B) heading: repealed (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(9B): repealed (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(10) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(10): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(10)(b): amended, on 1 April 2023, by section 59(1) (and see section 59(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 20C(10)(b): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 42(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(11) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(11): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(12): amended (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(6) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(13) heading: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(7) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(13): inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 42(7) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20C(13)(a)(iii): replaced, on 1 April 2016 (applying for the 2016–17 and later income years), by section 138(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 20D Adjustment of cost fraction for excessively debt funded CFC

When this section applies

(1) This section applies for the purposes of the item (the CFC's **cost fraction**) in section EX 20C(11) to a CFC that is excessively debt funded under subsection (2) in relation to a person (the **interest holder**) with an income interest in the CFC.

Excessive debt funding

(2) A CFC is excessively debt funded under this section if—

(a) the amount (the CFC's **debt-asset ratio**) calculated using the formula in subsection (4) is more than 0.75; and

(b) the amount (the CFC's **relative debt-asset ratio**) given by section EX 20E is more than 1.10.

Calculations for CFC

(3) For the purposes of subsections (4) to (8), the debts and assets of the CFC are determined under sections FE 8 to FE 11 (which contain rules for determining the apportionment of interest) as if the CFC were—

(a) an excess debt outbound company; and

(b) the only member of the CFC's New Zealand group.

Formula for debt-asset ratio of CFC

(4) The formula for the CFC's debt-asset ratio referred to in subsection (2)(a) is—

(total CFC's debts − group funding) ÷ (total CFC's assets − total CFC's non-debt liabilities − group funding).

Definition of items in formula

(5) The items in the formula in subsection (4) are defined in subsections (6) to (8B).

Total CFC's debts

(6) **Total CFC's debts** is the total amount for the CFC and the accounting period, determined under generally accepted accounting practice, of the outstanding balances of—

(a) financial arrangements entered by the CFC, each of which—

(i) provides funds to the CFC; and

(ii) gives rise to an amount for which the CFC would have a deduction:

(b) fixed-rate foreign equity that is issued by the CFC and held by a company that is a New Zealand resident, a CFC, or a FIF for which the interest holder uses the attributable FIF income method:

(c) shares issued by the CFC in relation to which the CFC makes deductible foreign equity distributions to a company that is a New Zealand resident, a CFC, or a FIF for which the interest holder uses the attributable FIF income method.

Group funding

(7) **Group funding** is—

(a) if paragraph (b) does not apply, zero; or

(b) if the interest holder chooses to rely on this paragraph and the item **total CFC's assets** is greater than the item **total CFC's debts**, the lesser of the item **total CFC's debts** and the total of amounts, each of which is the outstanding balance for a financial arrangement, a fixed-rate foreign equity, or a share giving a right to a deductible foreign equity distribution,—

(i) under which the CFC provides funds to another CFC associated with the CFC under section YB 2 (Two companies) or to a FIF for which the interest holder uses the attributable FIF income method and that is associated with the CFC under section YB 2; and

(ii) that produces for the CFC an amount that is included in the item arrangement under section EX 20B(4) or is a deductible foreign equity distribution or a distribution for fixed-rate foreign equity.

Total CFC's assets

(8) **Total CFC's assets** is the total value of the CFC's assets determined under generally accepted accounting practice.

Total CFC's non-debt liabilities

(8B) **Total CFC's non-debt liabilities** is the total value of the CFC's non-debt liabilities determined under generally accepted accounting practice.

Cost fraction for excessively debt funded CFC

(9) For a CFC that is excessively debt funded, the item **cost fraction** for the purposes of this section is the amount calculated using the formula in subsection (10) and determining the debts and assets of a CFC under sections FE 8 to FE 11 as if the CFC were—

(a) an excess debt outbound company; and

(b) the only member of the CFC's New Zealand group.

Formula for cost fraction

(10) The formula for the CFC's cost fraction is—

attributable foreign company assets ÷ total foreign company assets.

Definition of items in formula

(11) The items in the formula in subsection (10) are defined in subsections (12) and (13).

Attributable foreign company assets

(12) **Attributable foreign company assets** is the total value of assets, consolidated under generally accepted accounting practice for the accounting period, of all the interest holder's CFCs and of all the FIFs for which the interest holder uses the attributable FIF income method, to the extent to which each asset is—

(a) used for the purpose of deriving an attributable CFC amount or an amount that is included in net attributable FIF income or loss; and

(b) not used for the purpose of deriving an amount other than an amount referred to in paragraph (a).

Total foreign company assets

(13) **Total foreign company assets** is the total value of assets, consolidated under generally accepted accounting practice for the accounting period, of all the interest holder's CFCs and of all the FIFs for which the interest holder uses the attributable FIF income method.

Defined in this Act: accounting period, attributable FIF income method, CFC, deductible foreign equity distribution, deduction, excess debt outbound company, financial arrangement, fixed-rate foreign equity, generally accepted accounting practice, loss, net attributable FIF income, New Zealand resident

Section EX 20D: inserted (with effect on 30 June 2009), on 6 October 2009, by section 156(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 20D heading: amended (with effect on 30 June 2009), on 2 November 2012, by section 43(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20D(1): amended (with effect on 30 June 2009), on 2 November 2012, by section 43(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20D(4) formula: amended, on 1 July 2018, by section 12(1) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20D(5): amended, on 1 July 2018, by section 12(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20D(6)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 21(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D(6)(c): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 21(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D(7)(b): replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 88(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 20D(8B) heading: inserted, on 1 July 2018, by section 12(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20D(8B): inserted, on 1 July 2018, by section 12(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20D(9) heading: amended (with effect on 30 June 2009), on 2 November 2012, by section 43(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20D(9): amended (with effect on 30 June 2009), on 2 November 2012, by section 43(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20D(10) heading: amended (with effect on 30 June 2009), on 2 November 2012, by section 43(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20D(10): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 43(7) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20D(10): amended (with effect on 30 June 2009), on 2 November 2012, by section 43(6) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 20D(12) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 21(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D(12): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 21(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D(13) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 21(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D(13): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 21(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 21(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D list of defined terms **generally accepted accounting practice**: inserted, on 1 July 2018, by section 12(4) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20D list of defined terms **loss**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 21(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20D list of defined terms **net attributable FIF income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 21(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 20E Relative debt-asset ratio for CFC

What this section does

(1) This section determines the relative debt-asset ratio of a CFC for the purposes of section EX 20D(2)(b) by determining an amount (the **group debt-asset ratio**) for the CFC's group and comparing that amount with the debt-asset ratio of the CFC determined under section EX 20D(4).

Members of CFC's group and calculations for group

(2) For the purposes of subsections (3) to (8),—

(a) the members of a CFC's group are—

(i) the CFC:

(ii) if the interest holder is a company, the members of the worldwide group that the interest holder would have under sections FE 31B, FE 31C, and FE 32 (which relate to the determination of groups) if the interest holder were an excess debt outbound company:

(iii) if the interest holder is a trustee, the members of the trustee's worldwide group under section FE 3(1)(b) (Interest apportionment for individuals):

(iv) if the interest holder is a natural person, the person's worldwide group referred to in section FE 5(1C)(a) to (c) (Thresholds for application of interest apportionment rules):

(b) the debts and assets of the CFC's group are determined under sections FE 8 to FE 11 and FE 18 (Measurement of debts and assets of worldwide group) as if the interest holder, if a company, were an excess debt outbound company.

Formula for CFC's group debt-asset ratio

(3) The formula for the CFC's group debt-asset ratio is—

total group debts ÷ (total group assets − total group non-debt liabilities).

Definition of items in formula

(4) The items in the formula in subsection (3) are defined in subsections (5), (6), and (6B).

Total group debts

(5) **Total group debts** is the total amount, consolidated under generally accepted accounting practice for the CFC's group and the accounting period, of the outstanding balances of—

(a) financial arrangements entered by the group's members, each of which—

(i) provides funds to a group member; and

(ii) gives rise to an amount for which a group member would have a deduction:

(b) fixed-rate foreign equity issued by a member of the group and held by a company that is a New Zealand resident, a CFC, or a FIF for which the interest holder uses the attributable FIF income method:

(c) equity interests issued by a member of the group in relation to which the member makes deductible foreign equity distributions to a company that is a New Zealand resident, a CFC, or a FIF for which the interest holder uses the attributable FIF income method.

Total group assets

(6) **Total group assets** is the total value, consolidated under generally accepted accounting practice for the accounting period, of the assets of the CFC's group.

Total group non-debt liabilities

(6B) **Total group non-debt liabilities** is the total value of the group's non-debt liabilities determined under generally accepted accounting practice.

Formula for CFC's relative debt-asset ratio

(7) The formula for the CFC's relative debt-asset ratio is—

CFC's debt-asset ratio ÷ group debt-asset ratio.

Definition of items in formula

(8) In the formula in subsection (7),—

(a) **CFC's debt-asset ratio** is the CFC's debt-asset ratio under section EX 20D(4):

(b) **group debt-asset ratio** is the CFC's group debt-asset ratio under subsection (3).

Defined in this Act: accounting period, attributable FIF income method, CFC, deductible foreign equity distribution, deduction, excess debt outbound company, financial arrangement, fixed-rate foreign equity, generally accepted accounting practice, New Zealand resident

Section EX 20E: inserted (with effect on 30 June 2009), on 6 October 2009, by section 156(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 20E(3) formula: amended, on 1 July 2018, by section 13(1) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20E(4): amended, on 1 July 2018, by section 13(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20E(5)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 22(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20E(5)(c): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 22(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20E(6B) heading: inserted, on 1 July 2018, by section 13(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20E(6B): inserted, on 1 July 2018, by section 13(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 20E list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 22(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 20E list of defined terms **generally accepted accounting practice**: inserted, on 1 July 2018, by section 13(4) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Calculation of branch equivalent income or loss

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 160 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 21 Attributable CFC amount and net attributable CFC income or loss: calculation rules

Calculation rules for CFC

(1) The rules in this section apply for the purposes of—

(a) calculating the attributable CFC amount for a CFC under section EX 20B:

(b) calculating the net attributable CFC income or loss for a CFC under section EX 20C:

(c) determining under section EX 21D whether a CFC is a non-attributing active CFC.

Calculation rules for test group of CFCs

(1B) For the purpose of determining under section EX 21D whether a member of a group of CFCs is a non-attributing active CFC,—

(a) the consolidated annual gross income of the group is calculated under the rules in this section; and

(b) the consolidated attributable CFC amount of the group is calculated under the rules in this section.

CFC treated as New Zealand resident

(2) The rules in this Act are applied as if the CFC were always a New Zealand resident.

Modifications to rules

(3) However, the rules in the Act are modified for the purposes of the calculation by the following subsections.

Conversion to New Zealand dollars

(4) The taxpayer must choose—

(a) for all the calculations to be done in New Zealand dollars; or

(b) for all the calculations to be done in the currency of the CFC's financial accounts; and if the CFC has no financial accounts, the currency used is that of the CFC's country of residence, the result being then converted into New Zealand dollars at the average of the close of trading spot exchange rates for the 15th day of each complete month that falls in the period.

Consent for change of currency

(5) Having chosen a currency, the taxpayer must use the same currency for calculating attributable CFC amount and net attributable CFC income or loss attributable to the CFC for each later consecutive accounting period, unless the Commissioner allows the taxpayer to choose again.

Change for commercial purpose

(6) The Commissioner may consent to a change under subsection (5) only if satisfied that—

(a) the taxpayer's main purpose in changing is a commercial one, and for this purpose, the reducing of tax is not a commercial purpose; and

(b) the change does not have an effect of defeating the intent and application of subpart CQ (Attributed income from foreign equity) or DN (Attributed losses from foreign equity) or this subpart.

New Zealand currency for financial arrangements

(7) Despite subsections (4) to (6), New Zealand currency calculations must be used to calculate that part of the attributable CFC amount and net attributable CFC income or loss arising from financial arrangements if—

(a) the total value of financial arrangements to which the CFC is a party is more than $1,000,000 at any time during the relevant accounting period, applying section EW 17(2)(b) (Straight-line method) to measure the values; or

(b) the CFC's total net foreign exchange loss attributable to financial arrangements, calculated under subsections (4) to (6) for the accounting period, is more than $100,000.

Limit to subsection (7)

(8) Subsection (7) does not apply to a financial arrangement if—

(a) it is a variable principal debt instrument; and

(b) all the rights and obligations of all the parties to the financial arrangement are expressed in the currency chosen under subsection (4)(b); and

(c) no other party to the financial arrangement is associated with the CFC; and

(d) no person enters into the financial arrangement under an arrangement that has a purpose of defeating the application of subsection (7).

Opening cost base: tangible assets: first period

(9) If the taxpayer had no attributed CFC income or loss from the CFC for the previous accounting period, the taxpayer must choose whether to measure the cost base at the start of an accounting period of premises, plant, machinery, equipment, and trading stock of the CFC at—

(a) historical cost minus any accumulated amounts of depreciation loss, or another value used by the CFC as the starting value for the period for income tax calculations in the country in which the CFC is resident, but only if the value is below market value; or

(b) the starting value that would be used under this Act if the CFC had always been a New Zealand resident.

Opening cost base: tangible assets: later periods

(10) If the taxpayer had attributed CFC income or loss from the CFC for the previous period, the cost base at the start of an accounting period of premises, plant, machinery, equipment, and trading stock of the CFC is the closing value at the end of the previous period used to calculate the income or loss.

Opening cost base: financial arrangements: first period

(11) If the taxpayer had no attributed CFC income or loss from the CFC for the previous accounting period, the taxpayer must choose to calculate the consideration under the financial arrangements rules for a financial arrangement at the start of an accounting period, at—

(a) the market value of the financial arrangement; or

(b) the absolute value calculated using the formula—

consideration paid to the CFC + expenditure
− consideration paid by the CFC − income.

Definition of items in formula

(12) In the formula,—

(a) **consideration paid to the CFC** is the consideration paid to the CFC for all periods before the accounting period:

(b) **expenditure** is expenditure that would have been incurred under the financial arrangements rules for all periods before the accounting period if the CFC had been resident in New Zealand:

(c) **consideration paid by the CFC** is the consideration paid by the CFC for all periods before the accounting period:

(d) **income** is income that would have been derived under the financial arrangements rules for all periods before the accounting period if the CFC had been resident in New Zealand.

Provisions that do not apply

(13) The following provisions do not apply:

(a) the consolidation rules:

(b) section CB 27 (Income equalisation schemes) and subparts DQ (Income equalisation schemes and environmental restoration accounts schemes) and EH (Income equalisation schemes):

(c) subpart CQ (Attributed income from foreign equity) or DN (Attributed losses from foreign equity) or this subpart to the extent to which any of the subparts would result in attributed CFC income or attributed CFC loss for the CFC:

(d) section CW 8 (Money lent to government of New Zealand):

(db) section CW 9 (Dividend derived from foreign company):

(dc) section CW 10 (Dividend within New Zealand wholly-owned group:

(e) section CW 40(1) (Local and regional promotion bodies):

(f) sections DO 1 (Enhancements to land) and DO 2 (Plantings for erosion, shelter, and water protection purposes):

(g) sections EW 9 (Persons to whom financial arrangements rules apply) and EW 11(b) (What financial arrangements rules do not apply to):

(h) subpart FE (Interest apportionment on thin capitalisation):

(i) section GB 5 (Arrangements involving trust beneficiaries):

(j) sections IA 2 to IA 9, subparts IB and IC, and sections IP 3 to IP 7, IZ 4, and IZ 5 (which relate to the use of tax losses).

Business treated as if carried on in New Zealand

(14) The following provisions apply as if the CFC's business activities were carried on in New Zealand:

(a) sections CT 1 to CT 3, CT 5 to CT 7, CX 42, CX 43, CZ 8, DT 1 to DT 15, and DT 17 to DT 19 (which relate to petroleum mining):

(b) sections DO 4 to DO 7, DO 12, DP 1 to DP 3, DP 8, and DP 11 (which relate to farming, aquacultural, and forestry expenditure):

(c) section EZ 16 (Amount of depreciation loss for plant or machinery additional to section EZ 15 amount):

(d) the definitions in subpart YA (General definitions) that specifically apply for the purposes of those sections.

Transfer pricing rules

(15) Sections GC 6 to GC 14 (which relate to transfer pricing arrangements between associated persons) apply only to a transaction that has a purpose or effect of defeating any of the jurisdictional ring-fencing rules for CFC losses and tax credits in—

(a) section DN 4 (Ring-fencing cap on deduction):

(b) section IQ 2 (Ring-fencing cap on attributed CFC net losses):

(c) section IQ 4 (Group companies using attributed CFC net losses):

(d) sections LK 1 to LK 7 (which relate to foreign tax credits and CFCs).

Dividends

(16) Dividends that are not part of the CFC's attributable CFC amount are exempt income of the CFC.

Dividends: exempt income

[Repealed]

(17) *[Repealed]*

Benefits from money advanced

(18) When section CC 7 (Consideration other than in money) is applied, the borrower is treated as if it carries on a business in New Zealand.

No tainting by association

(19) Sections CB 9 to CB 13 (which relate to the disposal of land) and CV 1 (Group companies) do not apply to treat an amount derived by the CFC as income merely because of the activities of a person associated with the CFC if the associate is a non-resident.

Crown acquisition of land

[Repealed]

(20) *[Repealed]*

Amount of depreciation loss recovered

(21) When sections EE 48 to EE 52 (which relate to disposals and similar events) are applied, the CFC is treated as having had a deduction for an amount of depreciation loss, and to have an adjusted tax value accordingly, if an amount of depreciation loss has been deducted when calculating the CFC's branch equivalent income or loss for any period and the attributed CFC income or loss of any person.

GST and value-added taxes

(22) When sections CX 1 (Goods and services tax), DB 2 (Goods and services tax), EE 45 (Consideration for purposes of section EE 44), EE 54 (Cost: GST), and EZ 17 (Additional amount of depreciation loss: between 16 December 1991 and 1 April 1994) are applied, references to output tax, input tax, or goods and services tax (GST) payable include a reference to the equivalent item arising under the value-added tax or other tax rules of a country or territory outside New Zealand if the rules have a similar intent and application to the New Zealand GST rules.

Government grants to businesses

(23) When section DF 1 (Government grants to businesses) is applied, a reference to the New Zealand government includes a government outside New Zealand but, to the extent to which section DF 1 still does not apply to a grant or

subsidy to the CFC from a government, the grant or subsidy is income of the CFC.

Subvention payments

(24) If an amount is paid as consideration for the transfer of tax losses,—

(a) it is income if derived by the CFC; and

(b) it is a deduction if—

(i) paid by the CFC to a person who is resident in the same country as the CFC and not a non-attributing active CFC; and

(ii) deductible under the taxation law of that country.

Life insurers

(25) Subsection (26) applies if—

(a) the CFC itself carries on the business of providing life insurance; or

(b) shares in the CFC are held, directly or indirectly, by a foreign company (the **parent company**, in subsection (26)) that carries on the business of providing life insurance and those shares have to be taken into account under sections EX 8 to EX 13 to calculate the taxpayer's income interest in the CFC.

Policyholders

(26) If the test in subsection (25) is met, the net attributable CFC income or loss of the CFC is the amount actuarially determined to be the part of the CFC's net attributable CFC income or loss to which shareholders, and not policyholders in either the CFC or the parent company, are entitled.

When subsection (26) does not apply

(27) Despite subsection (25), subsection (26) does not apply if the Commissioner—

(a) considers that the amount calculated is not a reasonable reflection of the part attributable to shareholders; or

(b) has requested and not received sufficient information to enable the actuarial calculation to be reviewed.

Mineral mining activities

(28) Sections CU 1 to CU 9, DU 1 to DU 12, IS 1, and IS 2 (which relate to mineral mining) apply, with any necessary modifications, if the CFC carries on activities outside New Zealand that are substantially the same as the mineral mining activities to which those sections apply.

Petroleum mining activities

(29) Sections CT 1 to CT 3, CT 5, CX 42, CX 43, CZ 8, DT 1 to DT 15, and DT 17 to DT 19 (which relate to petroleum mining) apply, with any necessary modifications, if the CFC carries on petroleum mining activities outside New Zealand that are substantially the same as the petroleum mining activities to which those sections apply.

Finance leases and specified leases

(30) A lease entered into by the CFC before the start of the first accounting period in which the CFC is a CFC is neither a finance lease (subject to the financial arrangements rules and sections FA 6 to FA 11, which relate to finance leases), nor a specified lease (subject to sections FZ 2 to FZ 4, which relate to leases).

When subsection (30) does not apply

(31) Subsection (30) does not apply if another party to the lease is a New Zealand resident, a CFC, or a FIF for which the taxpayer uses the attributable FIF income method.

Taxable distributions from non-complying trust

(32) If the CFC gets a taxable distribution from a non-complying trust—

(a) section HC 22 (Use of tax losses to reduce taxable distributions from non-complying trusts) does not apply; and

(b) the taxable distribution is not taken into account in calculating the CFC's net attributable CFC income or loss; and

(c) section EX 19 applies.

CFCs with interest in FIFs

(33) If the CFC has rights in a FIF,—

(a) the rights are not prevented from being an attributing interest of the CFC in a FIF merely because the notional New Zealand residence of the CFC under subsection (2) causes section EX 34 to apply; and

(b) the CFC's FIF income or loss is not taken into account in calculating the net attributable CFC income; and

(c) section EX 58 applies.

Transitional treatment of cross-border reinsurance

(34) Section CZ 12 (General insurance with risk period straddling 1 July 1993) applies as if the reference to New Zealand were a reference to the CFC's country of residence.

Disclosure restrictions on grey list CFCs

[Repealed]

(35) *[Repealed]*

Defined in this Act: absolute value, accounting period, adjusted tax value, amount, annual gross income, arrangement, associated person, attributable CFC amount, attributable FIF income method, attributed CFC income, attributed CFC loss, attributing interest, branch equivalent loss, business, CFC, close of trading spot exchange rate, Commissioner, consideration, consolidation rules, deduction, depreciation loss, dividend, exempt income, FIF, FIF income, finance lease, financial arrangement, financial arrangements rules, foreign company, GST, GST payable, income, income interest, income tax, income year, input tax, lease, life insurance, loss, mineral, net attributable CFC income, net attributable CFC loss, net income, net loss, New Zealand, New Zealand resident, non-attributing active CFC, non-complying trust, non-resident, output tax, pay, petroleum, request, resident in New

Zealand, share, shareholder, specified lease, tax, taxable distribution, trading stock, variable principal debt instrument

Compare: 2004 No 35 s EX 21

Section EX 21 heading: amended (with effect on 30 June 2009), on 6 October 2009, by section 161(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(1) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 161(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(1): substituted (with effect on 30 June 2009), on 6 October 2009, by section 161(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(1B) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(1B): inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(2): substituted (with effect on 30 June 2009), on 6 October 2009, by section 161(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(5): amended (with effect on 30 June 2009), on 6 October 2009, by section 161(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(7): amended (with effect on 30 June 2009), on 6 October 2009, by section 161(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(13)(c): replaced, on 24 February 2016, by section 139(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 21(13)(db): inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(13)(dc): inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(13)(f): amended (with effect on 1 April 2011), on 17 July 2013, by section 51(a) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EX 21(13)(f): amended (with effect on 1 April 2011), on 17 July 2013, by section 51(b) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EX 21(13)(j): amended (with effect on 1 April 2020), on 30 March 2021, by section 51(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EX 21(14)(a): amended, on 1 April 2018, by section 83(1) (and see section 83(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21(15): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 161(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(15): amended (with effect on 1 April 2008), on 6 October 2009, by section 161(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(16) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 161(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(16): substituted (with effect on 30 June 2009), on 6 October 2009, by section 161(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(17) heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 161(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(17): repealed (with effect on 30 June 2009), on 6 October 2009, by section 161(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(20) heading: repealed (with effect on 26 August 2024), on 29 March 2025, pursuant to section 51 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 21(20): repealed (with effect on 26 August 2024), on 29 March 2025, by section 51 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 21(24)(b): substituted (with effect on 30 June 2009), on 6 October 2009, by section 161(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(26): amended (with effect on 2 November 2012), on 30 March 2021, by section 51(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EX 21(26): amended (with effect on 1 April 2008), on 7 December 2009, by section 26(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 21(26): amended (with effect on 30 June 2009), on 6 October 2009, by section 161(11)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(26): amended (with effect on 30 June 2009), on 6 October 2009, by section 161(11)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(28): amended, on 1 April 2014, by section 52 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EX 21(29): amended, on 1 April 2018, by section 83(2) (and see section 83(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21(31): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 23(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21(32)(b): amended (with effect on 30 June 2009), on 6 October 2009, by section 161(12) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(33)(b): amended (with effect on 30 June 2009), on 6 October 2009, by section 161(13) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(35) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 161(14) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21(35): repealed (with effect on 30 June 2009), on 6 October 2009, by section 161(14) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **1973 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **annual gross income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(16)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **attributable CFC amount**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(16)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 23(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 139(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 21 list of defined terms **branch equivalent income**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 161(16)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **life insurance rules**: repealed (with effect on 2 November 2012), on 30 March 2021, by section 51(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EX 21 list of defined terms **net attributable CFC income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(16)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **net attributable CFC loss**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(16)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **non-attributing active CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 161(16)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Non-attributing active CFCs

Heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 162(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 21B Non-attributing active CFCs

Non-attributing active CFC

(1) **Non-attributing active CFC**, for an accounting period and a person (the **interest holder**), means a CFC—

(a) for which the interest holder is not affected by an election under section EX 73 for the accounting period; and

(b) that meets the requirements of subsection (2) or (3), alone or as part of a test group of companies under section EX 21D or EX 21E.

CFC meeting test in section EX 21D or EX 21E

(2) A CFC is a non-attributing active CFC—

(a) under section EX 21D, if the CFC meets the requirements of that section and paragraph (b) does not apply:

(b) under section EX 21E, if—

(i) the CFC meets the requirements of section EX 21C for the use of an applicable accounting standard in the application of section EX 21E; and

(ii) the person chooses to use the applicable accounting standard in applying section EX 21E; and

(iii) the CFC meets the requirements of section EX 21E.

Insurer meeting requirements of determination

(3) A CFC that is an insurer meeting the requirements of a determination made by the Commissioner under section 91AAQ of the Tax Administration Act 1994 is a non-attributing active CFC.

Single test for each CFC

(4) In determining whether CFCs are non-attributing active CFCs for an accounting period under a test in section EX 21D or EX 21E, an interest holder must not use the result of a test applied to a test group that includes a CFC if the person, or a member of a wholly-owned group to which the person belongs, uses for the period a result of the same or a different test applied to the CFC, alone or as part of a different test group.

Part-period calculations

(5) Section EX 21F sets out the requirements for a non-attributing active CFC when an interest holder holds an income interest for only part of an accounting period.

Defined in this Act: accounting period, CFC, group of companies, income interest, non-attributing active CFC

Section EX 21B: inserted (with effect on 30 June 2009), on 6 October 2009, by section 162(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21B(1): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 44(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 21B(2)(b): amended, on 29 March 2018, by section 84(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21B(2)(b)(i): amended, on 29 March 2018, by section 84(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21B(2)(b)(ii): amended, on 29 March 2018, by section 84(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21B(2)(b)(iii): amended, on 29 March 2018, by section 84(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21B(4) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 24(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21B(4): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 24(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21B(4): amended (with effect on 1 July 2009), on 30 June 2014, by section 89 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21B(5) heading: inserted, on 29 March 2018 (with effect on 1 July 2009), by section 84(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21B(5): inserted, on 29 March 2018 (with effect on 1 July 2009), by section 84(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 21B list of defined terms **group of companies**: inserted (with effect on 30 June 2009), on 2 November 2012, by section 44(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 21B list of defined terms **income interest**: inserted, on 29 March 2018, by section 84(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Tests for non-attributing active CFCs

Heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 162(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 21C Applicable accounting standards for section EX 21E

Applicable accounting standards

(1) In applying EX 21E to determine whether a CFC is a non-attributing active CFC for a person (the **interest holder**) with an interest in the CFC, the interest holder may use as an accounting standard (the **applicable accounting standard**) 1 of the standards given by subsections (2) to (5) and section EZ 32F if section GB 15C (Arrangements related to accounting test for non-attributing active CFC) does not apply.

Generally accepted accounting practice with IFRS for CFC

(2) The interest holder may use generally accepted accounting practice in New Zealand including IFRSs and the framework for differential reporting for entities applying the New Zealand equivalents to the international financial standards reporting regime (the **generally accepted accounting practice with IFRS**) for the CFC, if the interest holder or another person has accounts that—

(a) include the accounts of the CFC; and

(b) comply with generally accepted accounting practice with IFRS; and

(c) meet the audit requirements of subsection (8).

Generally accepted accounting practice with IFRS for test group

(3) The interest holder may use generally accepted accounting practice with IFRS for the CFC's test group under section EX 21E(2), if the interest holder or another person has accounts that—

(a) include the accounts of the members of the test group; and

(b) comply with generally accepted accounting practice with IFRS; and

(c) meet the audit requirements of subsection (8).

IFRSEs for CFC

(4) The interest holder may use IFRSEs for the CFC, if the interest holder or another person has accounts that—

(a) include the accounts of the CFC; and

(b) comply with the relevant IFRSEs; and

(c) meet the audit requirements of subsection (8).

IFRSEs for test group

(5) The interest holder may use IFRSEs for the CFC's test group under section EX 21E(2), if the interest holder or another person has accounts that—

(a) include the accounts of the members of the test group; and

(b) comply with the relevant IFRSEs; and

(c) meet the audit requirements of subsection (8).

Generally accepted accounting practice without IFRS for CFC

[Repealed]

(6) *[Repealed]*

Generally accepted accounting practice without IFRS for CFC's test group

[Repealed]

(7) *[Repealed]*

Audit requirements

(8) Accounts meet the audit requirements of this subsection if they—

(a) are audited by an accountant who is—

(i) a chartered accountant or an accountant of equivalent professional standard in the country in which the accounts are prepared; and

(ii) independent of the CFC and the person; and

(b) are given an unqualified opinion or an opinion of equivalent standard in the country in which the accounts are prepared.

Compliance with accounting standards

(9) For the purposes of subsections (2) to (5) and section EZ 32F, accounts are treated as complying with the accounting standard relevant to the subsection if—

(a) the accounts state that they comply with the accounting standard; and

(b) the accounts meet the audit requirements of subsection (8); and

(c) the Commissioner does not have reasonable grounds to suspect—

(i) fraudulent activity by the interest holder, the CFC, a company in the CFC's test group, or the auditor:

(ii) preparation of the accounts with an intent to mislead:

(iii) incompetence of the auditor.

Defined in this Act: accounting period, annual gross income, associated, attributable CFC amount, CFC, company, generally accepted accounting practice, IFRS, IFRSE, insurer, New Zealand resident, non-attributing active CFC, rent, royalty

Section EX 21C: inserted (with effect on 30 June 2009), on 6 October 2009, by section 162(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21C(1): amended, on 1 April 2014, by section 93(1) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21C(6) heading: repealed, on 1 April 2014, pursuant to section 93(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21C(6): repealed, on 1 April 2014, by section 93(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21C(7) heading: repealed, on 1 April 2014, pursuant to section 93(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21C(7): repealed, on 1 April 2014, by section 93(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21C(9): amended, on 1 April 2014, by section 93(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21C(9)(c)(i): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 25(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21C list of defined terms **company**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 25(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 21D Non-attributing active CFC: default test

CFC as part of test group

(1) A person (the **interest holder**) with an interest in a CFC may choose to apply this section for the CFC as a member of a group (a **test group**) if the group consists of companies—

(a) each of which is subject to the laws of the same country or territory and—

(i) has a taxed CFC connection with the country or territory:

(ii) would be a non-attributing active CFC if not treated as part of a test group and would have a taxed CFC connection with the country or territory in the absence of paragraph (c) of the definition of **taxed CFC connection**; and

(b) in each of which an income interest of more than 50% is held by—

(i) the interest holder:

(ii) companies that are all members of a wholly-owned group of companies that includes the interest holder; and

(c) each of which is required to use the same currency under section EX 21(4); and

(d) that are consolidated for the purposes of this section—

(i) using like tax treatments for like transactions and for other events in similar circumstances; and

(ii) eliminating in full all balances, transactions, income, and expenses arising between members of the test group.

CFC as part of test group for part of accounting period

(1B) An interest holder who acquires, or disposes of, an interest in a CFC (the **first CFC**) after the beginning of an accounting period may choose to apply this section to group the first CFC with other CFCs as a test group for the accounting period if—

(a) the CFCs in the test group are all acquired, or all disposed of, in the accounting period by the interest holder or by members (the **wholly-owned members**) of a wholly-owned group of companies that includes the interest holder; and

(b) for the period in the accounting period in which the interest holder holds the interest in the first CFC, the interest holder or the wholly-owned members hold an income interest under section EX 17 of more than 50% in the first CFC and in each other CFC in the test group; and

(c) the interest holder, or the wholly-owned members, own the first CFC and each other CFC in the test group—

(i) at the beginning of the accounting period; or

(ii) at the end of the accounting period; and

(d) the requirements of subsection (1)(a), (c), and (d) are met.

Threshold ratio

(2) A CFC is a non-attributing active CFC under section EX 21B(2)(a) for an accounting period and a person if the amount calculated under subsection (3) using the formula in subsection (4)—

(a) is less than 0.05; and

(b) is not zero under subsection (3)(f).

Application of formula

(3) In using the formula in subsection (4)—

(a) each item in the formula is determined—

(i) for the CFC's consolidated test group, if the interest holder chooses to apply the formula to the test group; or

(ii) for the CFC, if subparagraph (i) does not apply; and

(b) each item in the formula is determined for a test group after amounts included in the item are adjusted to remove amounts corresponding to income interests not held by the interest holder; and

(c) a reference to a company that is associated is treated as being a reference to a company that is—

(i) associated with a member of the CFC's test group, although not a member of the CFC's test group, if the interest holder chooses to apply the formula to the test group; or

(ii) associated with the CFC, if subparagraph (i) does not apply; and

(d) a reference to a company that is in the same group of companies is treated as being a reference to a company that is—

(i) in the same group of companies as a member of the CFC's test group, although not a member of the CFC's test group, if the interest holder chooses to apply the formula to the test group; or

(ii) in the same group of companies as the CFC, if subparagraph (i) does not apply; and

(e) a numerator or denominator that is a negative number is treated as being zero; and

(f) the amount calculated using the formula is zero if the denominator is zero.

Formula

(4) The amount that determines whether the CFC is a non-attributing active CFC is calculated using the formula—

(attributable − attributable adjustments) ÷ (gross − gross adjustments).

Definition of items in formula

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

Attributable

(6) **Attributable** is the attributable CFC amount for the accounting period.

Attributable adjustments

(7) **Attributable adjustments** is the total of amounts included in the item **attributable**, in subsection (6), that are—

(a) if the interest holder chooses that this paragraph apply, income derived from the supply of personal services—

(i) included in an attributable CFC amount under section EX 20B(3)(h); and

(ii) not included in an attributable CFC amount under another paragraph of section EX 20B(3) and (4):

(b) if the interest holder chooses that this paragraph apply, the cost of revenue account property producing an amount (the **included amount**) included in the attributable CFC amount under section EX 20B(3)(k) to the extent, not exceeding the included amount, to which—

(i) the cost is treated as a deduction of the CFC in the accounting period; and

(ii) the deduction exceeds the amount of any income under subpart CH (Adjustments) relating to the deduction.

Gross

(8) **Gross** is the annual gross income for the accounting period in the absence of income under subpart CQ (Attributed income from foreign equity).

Gross adjustments

(9) **Gross adjustments** is the total of the following amounts for the accounting period:

(a) the amount of the item "attributable adjustments" in subsection (7):

(b) expenditure or loss that is included in the calculation of the attributable CFC amount under section EX 20B:

(c) income derived from a company that would meet the requirements of subsection (1)(a) to (c) for a member of a test group with the CFC:

(cb) income that is derived from a fixed establishment by a member of the test group and is not an attributable CFC amount, if the member is included in the test group under subsection (1)(a)(ii):

(d) income from a supply that meets the requirements of section GB 15B (Supplies affecting default test for non-attributing active CFC).

Defined in this Act: accounting period, annual gross income, associated non-attributing active CFC, attributable CFC amount, CFC, company, fixed establishment, group of companies, income, interest, non-attributing active CFC, resident in New Zealand, royalty, taxed CFC connection, wholly-owned group of companies

Section EX 21D: inserted (with effect on 30 June 2009), on 6 October 2009, by section 162(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21D(1)(a): replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 90(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21D(1)(b): replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 90(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21D(1B) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 24 February 2016, by section 140(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 21D(1B): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 24 February 2016, by section 140(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 21D(7): amended (with effect on 30 June 2009), on 7 September 2010, by section 44 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EX 21D(7)(b): amended (with effect on 30 June 2009), on 7 December 2009, by section 27(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 21D(9)(cb): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 90(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21D list of defined terms **fixed establishment**: inserted (with effect on 30 June 2009), on 30 June 2014, by section 90(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21D list of defined terms **taxed CFC connection**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 26(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21D list of defined terms **wholly-owned group companies**: inserted (with effect on 30 June 2009), on 30 June 2014, by section 90(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EX 21E Non-attributing active CFC: test based on accounting standard

Applicable accounting standard

(1) A person (the **interest holder**) who chooses to determine under this section whether a CFC is a non-attributing active CFC for the person for an accounting period must use an accounting standard (the **applicable accounting standard**) permitted by section EX 21C.

CFC as part of test group

(2) The interest holder may choose to apply this section for the CFC as a member of a group (a **test group**) if—

(a) the group consists of companies required under the applicable accounting standard to consolidate, whether or not with companies that are not in the group; and

(b) each company is subject to the laws of the same country or territory and—

(i) has a taxed CFC connection with the country or territory:

(ii) would be a non-attributing active CFC if not treated as part of a test group and would have a taxed CFC connection with the country or territory in the absence of paragraph (c) of the definition of **taxed CFC connection**; and

(c) an income interest of more than 50% is held in each company by—

(i) the interest holder:

(ii) companies that are all members of a wholly-owned group of companies that includes the interest holder; and

(d) each company has the same functional currency; and

(e) there are audited and consolidated financial statements that—

(i) include the accounts of the companies in the group, whether or not with accounts of companies that are not in the group; and

(ii) comply with the applicable accounting standard.

CFC as part of test group for part of accounting period

(2B) An interest holder who acquires, or disposes of, an interest in a CFC (the **first CFC**) after the beginning of an accounting period may choose to apply this section to group the first CFC with other CFCs as a test group for the accounting period if—

(a) the CFCs in the test group are all acquired, or all disposed of, in the accounting period by the interest holder or by members (the **wholly-owned members**) of a wholly-owned group of companies that includes the interest holder; and

(b) for the period in the accounting period in which the interest holder holds the interest in the first CFC, the interest holder or the wholly-owned members hold an income interest under section EX 17 of more than 50% in the first CFC and in each other CFC in the test group; and

(c) the interest holder, or the wholly-owned members, own the first CFC and each other CFC in the test group—

(i) at the beginning of the accounting period; or

(ii) at the end of the accounting period; and

(d) the requirements of subsection (2)(a), (b), (d), and (e) are met.

Threshold ratio

(3) A CFC is a non-attributing active CFC under section EX 21B(2)(b) for an accounting period and an interest holder if, under subsection (4),—

(a) the amount calculated using the formula in subsection (5) is less than 0.05; and

(b) *[Repealed]*

(c) the amount calculated using the denominator in the formula in subsection (5) is more than zero.

Application of formula

(4) In using the formula in subsection (5),—

(a) each item in the formula is—

(i) determined under the applicable accounting standard; and

(ii) adjusted so that no amount is included in the item more than once; and

(b) each item in the formula is determined—

(i) from amounts consolidated for the CFC's test group under the applicable accounting standard, if the interest holder chooses to apply the formula to the test group; or

(ii) from amounts for the CFC, if subparagraph (i) does not apply; and

(c) each item in the formula is determined after adjustment of amounts included in the item by removing amounts corresponding to minority interests not held by the interest holder; and

(d) a reference to a company that is associated is treated as being a reference to a company that is—

(i) associated with a member of the CFC's test group, although not a member of the CFC's test group, if the interest holder chooses to apply the formula to the test group; or

(ii) associated with the CFC, if subparagraph (i) does not apply; and

(e) a reference to a company that is in the same group of companies is treated as being a reference to a company that is—

(i) in the same group of companies as a member of the CFC's test group, although not a member of the CFC's test group, if the person chooses to apply the formula to the test group; or

(ii) in the same group of companies as the CFC, if subparagraph (i) does not apply; and

(f) amounts determined for a CFC other than as part of a test group are—

(i) determined in the functional currency of the CFC; and

(ii) converted between currencies under the applicable accounting standard, but ignoring exchange differences arising on a monetary item that forms part of a net investment of the CFC in a foreign operation; and

(g) amounts determined for a test group are—

(i) converted from the functional currency of the CFC to the presentation currency of the consolidated accounts for the test group using the average conversion rate for the accounting period; and

(ii) otherwise converted between currencies under the applicable accounting standard; and

(h) a numerator that is a negative number is treated as being zero.

Formula

(5) The amount that determines whether the CFC is a non-attributing active CFC is calculated using the formula—

(reported passive + added passive − removed passive)
÷ (reported revenue + added revenue − removed revenue)

Definition of items in formula

(6) The items in the formula are defined in subsections (7) to (12).

Reported passive

(7) **Reported passive** is the total amount of—

(a) income from a dividend:

(b) income from interest:

(c) income from a royalty:

(d) income from rent:

(e) income, other than rent or interest, from a finance lease or operating lease:

(f) income or loss from a financial asset, other than a derivative as defined in IFRS 9 or a share that is not revenue account property, in the form of—

(i) a change in the reported fair value of the asset:

(ii) a gain or loss on the derecognition, as defined in IFRS 9, of the asset:

(iii) *[Repealed]*

(fb) a foreign exchange gain or loss on—

(i) a financial asset other than a derivative as defined in IFRS 9 or a share that is not revenue account property, if subparagraph (ii) does not apply; or

(ii) a financial asset or financial liability other than a derivative as defined in IFRS 9 or a share that is not revenue account property, for a CFC for which foreign exchange gains and losses from financial assets are not readily distinguishable by an interest holder from foreign exchange gains and losses from financial liabilities:

(g) income or loss from a derivative instrument, as defined in IFRS 9, and included in the CFC's statement of income—

(i) if the instrument is held in the course of a business of the CFC for the purpose of dealing with the derivative instrument:

(ii) if the instrument is not entered in the ordinary course of a business of the CFC:

(iii) to the extent to which the income or loss is from a hedging relationship, of a type referred to in IFRS 9, with an amount that would change the numerator of the formula in subsection (5) or with a transaction producing such an amount of income or gain:

(h) income or gains from a business of insurance, including income or gains from property used to back insurance assets.

Added passive

(8) **Added passive** is the total of amounts not included in the item **reported passive** for the accounting period that are 1 or more of the following:

(a) income from a life insurance policy that is included in the attributable CFC amount for the accounting period under section EX 20B(3)(g):

(b) income from the disposal of revenue account property that is included in the attributable CFC amount for the accounting period under section EX 20B(3)(k), if the property is—

(i) not a share, financial arrangement, or life insurance policy; and

(ii) used by the CFC in a way giving rise to income or gains that increase the numerator of the formula in subsection (5):

(c) income from a supply of services performed in New Zealand that is included in the attributable CFC amount for the accounting period under section EX 20B(3)(l):

(d) income from a supply of telecommunications services that is included in the attributable CFC amount for the accounting period under section EX 20B(3)(m) or (n):

(e) attributed PIE income that is included in the attributable CFC amount for the accounting period under section EX 20B(3)(o).

Removed passive

(9) **Removed passive** is zero if the interest holder does not choose to include an amount for this item or is the total of amounts that are included in the item **reported passive** or **added passive** for the accounting period and are in a category included in categories chosen by the interest holder from the following:

(a) a dividend that is not included in the attributable CFC amount for the accounting period under section EX 20B(3)(a) to (c):

(b) a royalty that would be included in the attributable CFC amount for the accounting period but for section EX 20B(5)(a) to (d):

(c) rent that would be included in the attributable CFC amount for the accounting period but for section EX 20B(7)(a) to (c):

(cb) gain or loss from a financial asset or financial liability that is a financial arrangement or agreement referred to in section EX 20B(12):

(d) the cost of revenue account property producing an amount (the **included amount**) included in the attributable CFC amount under section EX 20B(3)(k) to the extent, not exceeding the included amount, to which—

(i) the cost would be a deduction of the CFC in the accounting period if the CFC were a resident of New Zealand; and

(ii) the deduction would exceed the amount of any income arising under subpart CH (Adjustments) relating to the deduction.

Reported revenue

(10) **Reported revenue** is the total amount that is—

(a) included under the applicable accounting standard in—

(i) operating revenue, if the applicable accounting standard is former generally accepted accounting practice without IFRS; or

(ii) revenue, if subparagraph (i) does not apply:

(ab) income from rent:

(b) income, other than rent, from a finance lease or operating lease:

(c) a gain or loss on a financial asset, other than a derivative as defined in IFRS 9 or a share not on revenue account, in the form of—

(i) a change in the reported fair value of the asset:

(ii) a gain or loss on the derecognition, as defined in IFRS 9, of the asset:

(iii) *[Repealed]*

(cb) a foreign exchange gain or loss on—

(i) a financial asset other than a derivative as defined in IFRS 9 or a share that is not revenue account property, if subparagraph (ii) does not apply; or

(ii) a financial asset or financial liability other than a derivative as defined in IFRS 9 or a share that is not revenue account property, for a CFC for which foreign exchange gains and losses from financial assets are not readily distinguishable by an interest holder from foreign exchange gains and losses from financial liabilities:

(d) a gain or loss from a derivative instrument, as defined in IFRS 9, and included in the CFC's statement of income—

(i) if the derivative instrument is held in the course of a business of the CFC for the purpose of dealing with the derivative instrument:

(ii) if the derivative instrument is not entered in the ordinary course of a business of the CFC:

(iii) to the extent to which the gain or loss is from a hedging relationship, of a type referred to in IFRS 9, with an amount that would change the denominator of the formula in subsection (5) or with a transaction producing such an amount of income or gain:

(e) income or a gain from a business of insurance, including from property used to back insurance assets, if the applicable accounting standard is not former generally accepted accounting practice without IFRS.

Added revenue

(11) **Added revenue** is zero if the interest holder does not choose to include an amount for this item or is the total of amounts that are not included in the item **reported revenue** for the accounting period and are either or both of the following:

(a) income from a life insurance policy that is included in the attributable CFC amount for the accounting period under section EX 20B(3)(g):

(b) income from the disposal of revenue account property that is included in the attributable CFC amount for the accounting period under section EX 20B(3)(k), if the property is—

(i) not a share, financial arrangement, or life insurance policy; and

(ii) used by the CFC in a way giving rise to income or gains that increase the numerator of the formula in subsection (5).

Removed revenue

(12) **Removed revenue** is the total of amounts that are included under the applicable accounting standard in the item reported revenue or added revenue for the accounting period and are 1 or more of the following:

(a) an amount included in the item removed passive under subsection (9)(d):

(b) a dividend to the extent to which it is included in the item removed passive, under subsection (9)(a):

(c) income from a supply of personal services that is included in the item reported revenue, and in the attributable CFC amount for the accounting period under section EX 20B(3)(h):

(d) income or loss from a share that is not revenue account property under this Act in the form of—

(i) a change in the reported fair value of the share:

(ii) income or loss on the derecognition, as defined in IFRS 9, of the share:

(iii) a foreign exchange gain or loss on the share:

(db) income that is derived from a fixed establishment by a member of the test group and is not an attributable CFC amount, if the member is included in the test group under subsection (2)(b)(ii):

(e) income derived from another CFC that—

(i) is subject to the laws of the country or territory under which the CFC is liable to income tax on the CFC's income because of the CFC's domicile, residence, place of incorporation, or centre of management; and

(ii) is liable to tax on its income in that country or territory because of its domicile, residence, place of incorporation, or centre of management; and

(iii) could be consolidated with the CFC for the purposes of this section if appropriate audited accounts were prepared:

(f) if the applicable standard is former generally accepted accounting practice without IFRS, income from a liability, other than income derived in the normal course of business from a sale or supply of services, in the form of—

(i) a reduction in the liability:

(ii) a gain on the disposal or other derecognition of the liability:

(iii) a foreign exchange gain on the liability:

(g) if the applicable standard is former generally accepted accounting practice without IFRS, income from an asset that is not a financial asset under NZIAS 32 and not revenue account property as defined in section YA 1 (Definitions) in the form of—

(i) an increase in the fair value of the asset:

(ii) a gain on the disposal of the asset:

(iii) a foreign exchange gain on the asset.

Compliance with accounting standards

(13) If accounts meet the requirements of section EX 21C for the relevant accounting standard—

(a) the accounts are treated as complying with the relevant accounting standard for the purposes of subsection (2):

(b) amounts drawn from the accounts, or from information that is used to prepare the accounts and is consistent with them, are treated as complying with the relevant accounting standard for the purposes of subsection (4) if the Commissioner does not have reasonable grounds to suspect—

(i) fraudulent activity by the interest holder, the CFC, a CFC in the CFC's test group, or the auditor:

(ii) preparation of the accounts with an intent to mislead:

(iii) incompetence of the auditor.

Defined in this Act: accounting period, associated non-attributing active CFC, attributable CFC amount, CFC, company, dividend, finance lease, financial arrangement, financial asset, financial liability, fixed establishment, former generally accepted accounting practice without IFRS, group of companies, IFRS, IFRS 9, income, life insurance policy, non-attributing active CFC, operating lease, premium, revenue account property, royalty, taxed CFC connection, wholly-owned group of companies

Section EX 21E: inserted (with effect on 30 June 2009), on 6 October 2009, by section 162(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 21E(2)(b): replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 91(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(2)(c): replaced (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(2B) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 24 February 2016, by section 141(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 21E(2B): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 24 February 2016, by section 141(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 21E(3)(b): repealed (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(4)(g)(ii): amended (with effect on 30 June 2009), by section 91(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(4)(h): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(7)(f): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(7)(f)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(7)(f)(iii): repealed (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(6) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(7)(fb): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(7) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(7)(fb)(i): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(7)(fb)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(7)(g): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(7)(g)(iii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(7)(g)(iii): amended (with effect on 30 June 2009), on 7 December 2009, by section 28(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 21E(8)(e): added, on 29 August 2011, by section 38 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 21E(9)(cb): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 27(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21E(9)(cb): amended (with effect on 1 July 2009), on 30 June 2014, by section 91(8) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(9)(d): amended (with effect on 30 June 2009), on 7 December 2009, by section 28(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 21E(10)(a)(i): amended, on 1 April 2014, by section 94(1) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21E(10)(ab): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 27(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21E(10)(c): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(10)(c)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(10)(c)(iii): repealed (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(9) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(10)(cb): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(10) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(10)(cb)(i): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(10)(cb)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(10)(d): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(10)(d)(iii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(10)(d)(iii): amended (with effect on 30 June 2009), on 7 December 2009, by section 28(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 21E(10)(e): amended, on 1 April 2014, by section 94(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21E(12)(d)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E(12)(db): inserted (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 91(11) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E(12)(f): amended, on 1 April 2014, by section 94(3) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21E(12)(g): amended, on 1 April 2014, by section 94(4) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21E list of defined terms **financial asset**: inserted (with effect on 30 June 2009), on 30 June 2014, by section 91(12) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E list of defined terms **financial liability**: inserted (with effect on 30 June 2009), on 30 June 2014, by section 91(12) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E list of defined terms **fixed establishment**: inserted (with effect on 30 June 2009), on 30 June 2014, by section 91(12) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 21E list of defined terms **former generally accepted accounting practice without IFRS**: inserted, on 1 April 2014, by section 94(5) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section EX 21E list of defined terms **IFRS 9**: inserted, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 21E list of defined terms **taxed CFC connection**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 27(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 21E list of defined terms **wholly-owned group of companies**: inserted (with effect on 30 June 2009), on 30 June 2014, by section 91(12) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EX 21F Part-period calculations

When this section applies

(1) This section applies for the purposes of sections EX 21B, EX 21C, and EX 21E when an interest holder holds an income interest for only part of an accounting period (the **part-period**).

Requirements

(2) The interest holder may determine that a CFC is a non-attributing active CFC if—

(a) the CFC meets the requirements of section EX 21C for the use of applicable accounting standard in the application of section EX 21E; and

(b) the person chooses to use the applicable accounting standard in EX 21E; and

(c) the CFC meets the requirements of section EX 21E, having regard to the accounts for the part-period; and

(d) the person, or a company that is part of the person's group of companies, holds an income interest in the CFC for the part-period.

Determination for interest holders

(3) A determination under subsection (2) applies for the interest holder and no other person.

Alternative default method

(4) If the requirements of subsection (2) are not met, the interest holder must use the default test set out in section EX 21D, applying the test to the full accounting period.

Defined in this Act: accounting period, CFC, company, group of companies, income interest, non-attributing active CFC

Section EX 21F: inserted, on 29 March 2018 (with effect on 1 July 2009), by section 85 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Non-attributing Australian CFCs

Heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 163(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 22 Non-attributing Australian CFCs

Criteria

(1) A CFC is a **non-attributing Australian CFC** for an accounting period if—

(a) at all times in the accounting period the CFC is—

(i) resident in Australia; and

(ii) under Australian law, subject to income tax on its income or treated as part of the head company of a consolidated group subject to income tax on its income; and

(iii) treated as being resident in Australia under all agreements between the government of Australia and the governments of other countries or territories that would be a double tax agreement if between the government of New Zealand and the government of the other country or territory; and

(b) the CFC's liability for income tax has not been reduced by—

(i) an exemption from income tax for income derived from business activities carried on outside Australia:

(ii) a special allowance, relief, or exemption with respect to offshore banking units; and

(c) the CFC—

(i) is not a unit trust; or

(ii) is a unit trust that is subject under Australian law to income tax on its income in the same way as a company; or

(iii) is a unit trust whose units are owned by an entity resident in Australia as described in paragraph (a)(iii), and either the unit holder meets the requirements of paragraph (a)(ii) or the unit trust is treated as part of the head company of a consolidated group subject under Australian law to tax on its income.

No attributed CFC income or loss

(2) Sections CQ 2(1)(i) (When attributed CFC income arises) and DN 2(1)(i) (When attributed CFC loss arises) provide that no attributed CFC income or attributed CFC loss arises from a non-attributing Australian CFC.

CFCs with interest in FIF: look-through approach

(3) This section does not prevent FIF income or FIF loss arising under section EX 58 from an interest of a non-attributing Australian CFC in a FIF.

Defined in this Act: accounting period, attributed CFC income, attributed CFC loss, CFC, double tax agreement, FIF, FIF income, FIF loss, income tax, non-attributing Australian CFC, resident in Australia

Section EX 22: substituted (with effect on 30 June 2009), on 6 October 2009, by section 163(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 22(1)(b)(ii): amended (with effect on 1 April 2014), on 30 June 2014, by section 92(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 22(1)(c): replaced, on 29 March 2018 (with effect on 1 April 2014 and applying for income years beginning on or after 1 July 2014), by section 86(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EX 23 Tax concession grey list CFCs

[Repealed]

Section EX 23: repealed (with effect on 30 June 2009), on 6 October 2009, by section 164(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Change of residence of companies

EX 24 Companies moving to or from New Zealand

Companies becoming foreign

(1) If a company becomes a foreign company, an accounting period of the company starts on the day when the company becomes a foreign company and the former accounting period ends on the previous day.

Companies ceasing to be foreign

(2) If a foreign company ceases to be a foreign company, an accounting period of the company starts on the day when the company ceases to be a foreign company and the former accounting period ends on the previous day.

Pro-rating

(3) If subsection (1) or (2) applies to shorten an accounting period of a CFC, a person with attributed CFC income or loss from the CFC for the period may choose to calculate the CFC attributable income or loss of the CFC—

(a) using the results for the shortened period only; or

(b) by applying the pro-rating formula in subsection (4) to the results for the unshortened period.

Formula

(4) The formula for calculating CFC attributable income or loss under subsection (3)(b) is—

unshortened period CFC attributable income or loss
× days in shortened period ÷ days in unshortened period.

Defined in this Act: accounting period, attributed CFC income, CFC, company, foreign company, loss, New Zealand

Compare: 2004 No 35 s EX 25

Section EX 24(3): amended, on 24 February 2016, by section 142(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 24(4): amended, on 24 February 2016, by section 142(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 24(4) formula: amended, on 24 February 2016, by section 142(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 24 list of defined terms **branch equivalent income**: repealed, on 24 February 2016, by section 142(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Change of CFC's balance date

EX 25 Change of CFC's balance date

Application of this section

(1) This section applies when a person—

(a) has an income interest in a CFC; and

(b) has calculated attributed CFC income or loss from the CFC on the basis of 1 accounting year (the **old accounting year**); and

(c) wants to change to use a different accounting year (the **new accounting year**) for the calculations.

Change requiring Commissioner's consent

(2) The person may make the change only if the Commissioner agrees.

Commissioner's reasons

(3) The Commissioner may consider any relevant factors when making the decision, including—

(a) whether the change is sought because ownership of the CFC has changed:

(b) whether the change is sought because of taxation or other legal requirements in a country where the CFC is resident or does business:

(c) whether the change is sought to achieve consistent balance dates in a group of companies:

(d) whether the change would postpone liability to income tax on attributed CFC income.

No transitional deferral

(4) If the new accounting year ends in a later income year than the year the old accounting year ends in, and that fact would result in an amount of attributed

CFC income being derived in the later income year, the amount is not deferred to the later income year and instead is treated as derived in the previous income year. However, this subsection applies only once, in the year of the transition.

Defined in this Act: accounting year, amount, attributed CFC income, business, CFC, Commissioner, group of companies, income interest, income tax, income year, loss

Compare: 2004 No 35 s EX 26

Section EX 25(1)(b): amended, on 24 February 2016, by section 143(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 25(3)(d): substituted (with effect on 30 June 2009), on 6 October 2009, by section 165(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 25(3)(d): amended, on 24 February 2016, by section 143(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 25(4): amended, on 24 February 2016, by section 143(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 25 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 143(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 25 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 165(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Ownership measurement concession

EX 26 Use of quarterly measurement

Interests held at end of quarter

(1) In order to simplify the process of calculating a person's control interest or income interest in a foreign company, the person is treated as holding at all times during a quarter the same interest, including a zero interest, as the interest they hold at the end of the quarter.

Anti-avoidance

(2) The concession in subsection (1) is overridden by the anti-avoidance rules in sections GB 9 to GB 16 (which relate to arrangements involving CFCs).

Ignoring concession

(3) A person may choose not to apply the concession in subsection (1) when calculating their attributed CFC income or loss from a foreign company.

Election

(4) An election under subsection (3)—

(a) must be in the form required by the Commissioner; and

(b) is irrevocable; and

(c) applies in the income year in which it is made and later.

Defined in this Act: attributed CFC income, Commissioner, control interest, foreign company, income interest, income year, loss, quarter

Compare: 2004 No 35 s EX 27

Anti-avoidance rule: stapled stock

EX 27 Anti-avoidance rule: stapled stock

When this section applies

(1) This section applies when—

(a) a New Zealand resident holds rights (the **stapled rights**) that give rise to an income interest or control interest in a foreign company; and

(b) the rights may, or may ordinarily, be disposed of only together with rights in another company; and

(c) the other company is a New Zealand resident or a CFC.

Stapled rights held by company

(2) When each of subparts CQ (Attributed income from foreign equity) and DN (Attributed losses from foreign equity) and this subpart is applied, the stapled rights are held by the other company and not by the person.

Defined in this Act: CFC, company, control interest, foreign company, income interest, New Zealand resident

Compare: 2004 No 35 s EX 28

Foreign investment fund (FIF) rules

What is a foreign investment fund?

EX 28 Meaning of FIF

A **foreign investment fund**, or **FIF**, is any of the following

(a) a foreign company:

(b) a foreign superannuation scheme:

(c) an insurer under a life insurance policy, but not if the policy is offered or entered into in New Zealand (in which case the insurer must comply with the rules for life insurers in relation to the policy):

(d) an entity described in schedule 25, part A (Foreign investment funds).

Defined in this Act: FIF, foreign company, foreign investment fund, foreign superannuation scheme, life insurance policy, offered or entered into in New Zealand

Compare: 2004 No 35 s EX 29

Section EX 28(c): amended (with effect on 2 November 2012), on 30 March 2021, by section 52(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EX 28 list of defined terms **life insurance rules**: repealed (with effect on 2 November 2012), on 30 March 2021, by section 52(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Attributing interests in FIFs

EX 29 Attributing interests in FIFs

Three categories

(1) A person has an **attributing interest** in a FIF if—

(a) the person holds rights in 1 of the categories of rights described in subsections (2) to (4); and

(b) none of the exemptions in sections EX 31 to EX 43 applies to those rights.

Category 1: direct income interest in foreign company

(2) The first category is a direct income interest, as defined in section EX 30, in a foreign company or in an entity described in schedule 25, part A (Foreign investment funds).

Category 2: FIF superannuation interest

(3) The second category is a FIF superannuation interest, held as a beneficiary or a member.

Category 3: foreign life policy entitlement

(4) The third category is rights to benefit from a life insurance policy in relation to which a FIF is the insurer.

Contingent rights

(5) The second and third categories include rights that are contingent or discretionary.

Defined in this Act: attributing interest, direct income interest, FIF, FIF superannuation interest, foreign company, life insurance policy

Compare: 2004 No 35 s EX 30

Section EX 29(1)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 166 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 29(3) heading: replaced, on 1 April 2014, by section 53(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EX 29(3): replaced, on 1 April 2014, by section 53(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EX 29 list of defined terms **FIF superannuation interest**: inserted, on 1 April 2014, by section 53(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EX 29 list of defined terms **foreign superannuation scheme**: repealed, on 1 April 2014, by section 53(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EX 30 Direct income interests in FIFs

Categories of direct income interest

(1) A person has a direct income interest in a foreign company at any time if they hold—

(a) any of the shares in the foreign company:

(b) any of the shareholder decision-making rights for the company:

(c) a right to receive, or to apply, any of the income of the company for the accounting period in which the time falls:

(d) a right to receive, or to apply, any of the value of the net assets of the company, if they are distributed.

Percentage of total

(2) The person's direct income interest is the percentage of the total that the person holds.

Varying percentages

(3) However, if the percentage varies between the different categories, the person's direct income interest is the highest.

Measurement of available subscribed capital

(4) When the direct income interest in the category in subsection (1)(a) is calculated, the percentage is the total of the available subscribed capital per share calculated under the slice rule of the shares held as a percentage of the total available subscribed capital per share calculated under the slice rule of all shares in the company.

Varying decision-making rights

(5) When the direct income interest in the category in subsection (1)(b) is calculated, if the percentage varies between the rights described in the different paragraphs of the definition of **shareholder decision-making rights** in section YA 1 (Definitions), the highest percentage is taken.

Income distribution rights: assumptions

(6) When the direct income interest in the category in subsection (1)(c) is calculated, it is assumed that—

(a) the income is distributed on the last day of the accounting period; and

(b) the person's entitlement is unchanged during the period; and

(c) a payment of interest on a debenture subject to section FA 2 (Recharacterisation of certain debentures) or FA 2B (Stapled debt securities) is a distribution of income.

Meaning of company

(7) In this section, and in defined terms referred to in this section, **company** includes an entity listed in schedule 25, part A (Foreign investment funds).

Partnerships

(8) In this section, if a partnership holds any rights, each partner is treated as holding a share of those rights in proportion to the partner's interest in the partnership.

Defined in this Act: accounting period, available subscribed capital, company, debenture, direct income interest, FIF, foreign company, income, interest, pay, share, shareholder decision-making right, slice rule

Compare: 2004 No 35 s EX 31

Section EX 30(6)(c): amended (with effect on 1 April 2008), on 6 October 2009, by section 167 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 31 Exemption for ASX-listed Australian companies

Exemption

(1) A person's rights in a FIF in an income year are not an attributing interest if—

(a) the rights are a share; and

(b) the share is not a share that may not, or ordinarily may not, be disposed of unless together with rights in another company; and

(c) the FIF is a company that meets the requirements of subsection (2).

ASX-listed Australian company

(2) The company must—

(a) at all times in the year when the person holds a right in the company, be resident in Australia; and

(b) at all times in the year when the person holds a right in the company, not be treated as resident in a country other than Australia under an agreement that—

(i) is between Australia and that other country; and

(ii) would be a double tax agreement if negotiated between New Zealand and that other country; and

(c) be included on the official list of ASX Limited, a market licensee under Chapter 7 of the Corporations Act 2001 (Aust)—

(i) at the beginning of an income year, if subparagraphs (ii) and (iii) do not apply; or

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

(iii) at the beginning of the final month of the preceding income year if, in the first month of an income year, the shares are cancelled or transferred under a scheme of arrangement entered into under Part 5.1 of the Corporations Act 2001 (Aust); and

(d) at all times in the year when the person holds a right in the company, not be an entity described in schedule 25, part B (Foreign investment funds); and

(e) at all times in the year when the person holds a right in the company, be required under the Income Tax Assessment Act 1997 (Aust) and Income Tax Assessment Act 1936 (Aust) to maintain a franking account.

Defined in this Act: attributing interest, cancellation, company, double tax agreement, FIF, income year, resident in Australia, resident in New Zealand, share, year

Compare: 2004 No 35 s EX 33C

Section EX 31(1) heading: inserted, on 1 April 2008, by section 385(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 31(1): substituted, on 1 April 2008, by section 385(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 31(2) heading: replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 38(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EX 31(2): inserted, on 1 April 2008, by section 385(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 31(2)(c): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 38(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EX 31(2)(c)(i): amended (with effect on 1 April 2008), on 6 October 2009, by section 168(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 31(2)(c)(ii): replaced, on 24 February 2016, by section 144 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 31(2)(c)(iii): added (with effect on 1 April 2008), on 6 October 2009, by section 168(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 31 list of defined terms **cancellation**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 168(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 31 list of defined terms **direct income interest**: repealed, on 1 April 2008, by section 385(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 31 list of defined terms **income tax**: repealed, on 1 April 2008, by section 385(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EX 32 Exemption for Australian unit trusts with adequate turnover or distributions

Exemption

(1) A person's rights in a FIF in an income year are not an attributing interest if—

(a) the rights are a direct income interest; and

(b) the FIF is a unit trust; and

(c) at all times in the year when the person holds a right in the unit trust, the unit trust is resident in Australia; and

(d) at all times in the year when the person holds a right in the unit trust, the unit trust is not treated as resident in a country other than Australia under an agreement that—

(i) is between Australia and that other country; and

(ii) would be a double tax agreement if negotiated between New Zealand and that other country; and

(e) the unit trust is, at all times in the year, not an entity described in schedule 25, part B (Foreign investment funds); and

(f) at all times in the year when the unit trust makes a distribution to investors, there is an RWT proxy under section 124ZF of the Tax Administration Act 1994 for the unit trust and payments by the unit trust to the person; and

(g) for the trust's accounting year (the **trust's year**) that ends in the person's income year, the unit trust meets—

(i) the 25% minimum share turnover test in subsection (2):

(ii) the 70% minimum distribution test in subsection (7).

25% minimum turnover test

(2) The 25% minimum turnover test requires that, for the trust's year, the amount of total net realised gains calculated under subsection (3) must be 25% or more of the amount of total net unrealised gains at the end of the year calculated under subsection (5).

Calculation of total net realised gains

(3) The amount of total net realised gains is calculated using the formula—

total disposal gain − total cost.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **total disposal gain** is the total of amounts derived from disposal of shares by the unit trust during the trust's year:

(b) **total cost** is the total cost to the unit trust of those shares.

Calculation of total net unrealised gains

(5) The amount of total net unrealised gains is calculated using the formula—

total profitable shares − total cost.

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **total profitable shares** is the total of the market values of shares of the unit trust that are—

(i) held at the end of the trust's year; and

(ii) have a market value greater than or equal to their cost to the unit trust:

(b) **total cost** is the total cost to the unit trust of those shares.

70% minimum distribution test

(7) The 70% minimum distribution test requires that, for the trust's year, the total amount of distributions by the unit trust during the trust's year must be 70% or more of the total distributable gains for the trust's year calculated under subsection (8).

Calculation of total distributable gains

(8) The amount of total distributable gains is calculated using the formula—

closing equity + distributions − opening equity − contributions.

Definition of items in formula

(9) In the formula in subsection (8),—

(a) **closing equity** is the amount by which, at the end of the trust's year, the market value of the unit trust's assets is more than the market value of the unit trust's liabilities:

(b) **distributions** is the total amount of distributions to investors by the unit trust during the trust's year:

(c) **opening equity** is the amount by which, at the beginning of the trust's year, the market value of the unit trust's assets is more than the market value of the unit trust's liabilities:

(d) **contributions** is the total amount of contributions by investors to the unit trust during the trust's year.

Currency

(10) The calculations must be done in the currency of the unit trust's financial accounts.

Defined in this Act: accounting year, attributing interest, company, direct income interest, FIF, income year, resident in Australia, resident in New Zealand, RWT proxy, share, unit trust, year

Compare: 2004 No 35 s EX 33D

Section EX 32: substituted, on 1 April 2008, by section 386 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 32(1)(f): amended, on 18 March 2019, by section 293 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EX 32(9)(d): amended (with effect on 1 April 2008), on 6 October 2009, by section 169(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 33 Exemption for Australian regulated superannuation savings

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

(a) the person is a natural person; and

(b) the FIF is a foreign superannuation scheme that is—

(i) an Australian approved deposit fund:

(ii) an Australian exempt public sector superannuation scheme:

(iii) an Australian regulated superannuation fund:

(iv) an Australian retirement savings account.

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

Section EX 33: replaced (with effect on 1 April 2014), on 24 February 2016, by section 145 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 34 CFC rules exemption

A person's rights in a FIF at any time are not an attributing interest if—

(a) the FIF is a CFC at the time; and

(b) the person has, under sections EX 14 to EX 17, an income interest of 10% or more in the CFC for the accounting period during which the time falls; and

(c) the person is not a portfolio investment entity.

Defined in this Act: accounting period, attributing interest, CFC, FIF, income interest, portfolio investment entity

Compare: 2004 No 35 s EX 32

Section EX 34(b): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 28(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 34(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 170 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 34(c): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 28(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 34 list of defined terms **portfolio investment entity**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 28(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 35 Exemption for interest in FIF resident in Australia

A person's rights in a FIF in an income year are not an attributing interest if,—

(a) for the total period in the year for which the person has rights in the FIF, the item **income interest** calculated under section EX 50(4) for the person and the FIF is 10% or more, treating the period that the person has rights in the FIF as the accounting period for the purposes of section EX 50(4) when the person does not have rights in the FIF for the entire accounting period; and

(b) at all times in the year, the FIF is—

(i) resident in Australia; and

(ii) under Australian law, subject to income tax on its income or treated as part of the head company of a consolidated group subject to income tax on its income; and

(iii) treated as being resident in Australia under all agreements between the Government of Australia and the governments of other countries or territories that would be a double tax agreement if between the Government of New Zealand and the government of the other country or territory; and

(c) the FIF's liability for income tax for the income year is not reduced by—

(i) an exemption from income tax for income derived from business activities carried on outside Australia:

(ii) a special allowance, relief, or exemption with respect to offshore banking units; and

(cb) the FIF is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company; and

(d) at all times in the year, the person is none of the following:

(i) a portfolio investment entity:

(ii) a superannuation scheme:

(iii) a unit trust:

(iv) a life insurer:

(v) a group investment fund.

Defined in this Act: attributing interest, double tax agreement, FIF, group investment fund, income tax, income year, life insurer, portfolio investment entity, resident in Australia, superannuation scheme, unit trust

Section EX 35: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 29(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 35(a): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 24 February 2016, by section 146(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 35(a): amended (with effect on 1 July 2011), on 28 March 2024, by section 67 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EX 35(b)(iii): amended (with effect on 1 April 2014), on 30 June 2014, by section 93(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 35(cb): inserted (with effect on 1 April 2014 and applying for income years beginning on or after 1 July 2014), on 30 June 2014, by section 93(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 35 list of defined terms **direct income interest**: repealed (with effect on 1 July 2011), on 24 February 2016, by section 146(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 36 Venture capital company emigrating to grey list country: 10-year exemption

A person's rights in a FIF in an income year are not an attributing interest if—

(a) the rights are a direct income interest; and

(b) the FIF is a grey list company; and

(c) the FIF is not an entity described in schedule 25, part B (Foreign investment funds); and

(d) the person has held shares in the company at all times after a time when—

(i) the company was resident in New Zealand; and

(ii) the shares were not listed on a recognised exchange; and

(e) the company became a grey list company immediately after having, for 12 months or more,—

(i) carried on business in New Zealand; and

(ii) had in New Zealand more than 50% of its assets; and

(iii) had in New Zealand more than 50% of its employees; and

(f) the year begins less than 10 years after the company became a grey list company; and

(g) at all times in the year, the company has a fixed establishment in New Zealand; and

(h) the company through the fixed establishment—

(i) incurs in the year, expenditure other than interest of at least $1,000,000 or, if less than $1,000,000, at least 25% of the total expenditure, other than interest, incurred by the company in the year; and

(ii) at all times in the year, engages at least 10 fulltime employees or contractors or, if less than 10, at least 25% of the total number engaged by the company.

Defined in this Act: attributing interest, company, direct income interest, employee, FIF, fixed establishment, grey list company, income year, interest, New Zealand resident, recognised exchange, share, year

Compare: 2004 No 35 s EX 33(3)

Section EX 36(d): amended, on 1 April 2008, by section 387(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 36(e)(i): substituted, on 1 April 2008, by section 387(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 36(h)(i): substituted, on 1 April 2008, by section 387(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 36(h)(ii): substituted, on 1 April 2008, by section 387(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EX 37 Grey list company owning New Zealand venture capital company: 10-year exemption

A person's rights in a FIF in an income year are not an attributing interest if—

(a) the rights are a direct income interest; and

(b) the FIF is a grey list company; and

(c) the FIF is not an entity described in schedule 25, part B (Foreign investment funds); and

(d) the person has held shares in the grey list company at all times after a time when the shares were not listed on a recognised exchange; and

(e) at all times in the year, the grey list company holds more than 50% of the voting interests in a company resident in New Zealand (the **resident company**) that, for 12 months or more, has—

(i) carried on a business in New Zealand; and

(ii) had in New Zealand more than 50% of the resident company's assets; and

(iii) had in New Zealand more than 50% of the resident company's employees; and

(f) the year begins less than 10 years after the grey list company first held more than 50% of the voting interests in the resident company; and

(g) the resident company through a fixed establishment in New Zealand—

(i) incurs in the year expenditure, other than interest, of at least $1,000,000 or, if less than $1,000,000, at least 25% of the total expenditure, other than interest, incurred by the company in the year:

(ii) at all times in the year, engages at least 10 fulltime employees or contractors or, if less than 10, at least 25% of the total number engaged by the company.

Defined in this Act: attributing interest, company, direct income interest, employee, FIF, fixed establishment, grey list company, income year, interest, New Zealand resident, recognised exchange, share, voting interest, year

Compare: 2004 No 35 s EX 33(4)

Section EX 37(d): substituted, on 1 April 2008, by section 388(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 37(e): substituted, on 1 April 2008, by section 388(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 37(e): amended (with effect on 1 April 2008), on 6 October 2009, by section 171(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 37(f): substituted (with effect on 1 April 2008), on 6 October 2009, by section 171(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 37(g)(i): substituted, on 1 April 2008, by section 388(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 37(g)(ii): substituted, on 1 April 2008, by section 388(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 37 list of defined terms **voting interest**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 171(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 37B Share in grey list company acquired under venture investment agreement

A person's rights in a FIF in an income year are not an attributing interest if—

(a) the FIF is a grey list company; and

(b) the person first acquires a share or option to buy a share in the company—

(i) under a venture investment agreement; and

(ii) at the same time and on the same terms as an acquisition of an interest in the FIF by New Zealand Growth Capital Partners Limited or a company owned by New Zealand Growth Capital Partners Limited.

Defined in this Act: attributing interest, company, FIF, grey list company, income year, share

Compare: 2004 No 35 s EX 37(4B)

Section EX 37B: inserted, on 1 April 2008, by section 389 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 37B(b)(ii): amended, on 27 November 2025, by section 49 of the Statutes Amendment Act 2025 (2025 No 74).

EX 38 Exemptions for employee share schemes

Grey list companies

(1) A person's rights in a FIF in an income year are not an attributing interest if—

(a) the person is a natural person; and

(b) the rights are a direct income interest; and

(c) the FIF is a grey list company; and

(d) the FIF is not an entity described in schedule 25, part B (Foreign investment funds); and

(e) at the time the person acquires the shares, the FIF—

(i) employs the person:

(ii) owns, directly or indirectly, the person's employer; and

(f) the person acquires the shares under an employee share scheme; and

(g) the employee share scheme includes a restriction on the disposal of the shares; and

(h) at the beginning of the year, the period of the restriction—

(i) has not expired:

(ii) has expired for a period of less than 6 months.

Share scheme taxing date

(2) A person's rights in a FIF in an income year are not an attributing interest to the extent to which—

(a) the rights are a direct income interest; and

(b) section EX 30(1)(c) does not apply; and

(c) the person acquires the shares or related interests under an employee share scheme; and

(d) at the beginning of the year, the share scheme taxing date for the shares or related interests has not passed.

Defined in this Act: attributing interest, company, direct income interest, employee share scheme, employer, FIF, grey list company, share, share scheme taxing date, year

Compare: 2004 No 35 s EX 33(5)

Section EX 38 heading: replaced, on 29 September 2018, by section 87(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 38(1) heading: inserted, on 29 September 2018, by section 87(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 38(1)(f): amended (with effect on 29 September 2018), on 31 March 2023, by section 60 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 38(1)(g): substituted (with effect on 1 April 2008), on 6 October 2009, by section 172 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 38(1)(g): amended, on 29 September 2018, by section 87(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 38(2) heading: inserted, on 29 September 2018, by section 87(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 38(2): inserted, on 29 September 2018, by section 87(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 38 list of defined terms **employee share scheme**: inserted, on 29 September 2018, by section 87(6)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 38 list of defined terms **share purchase agreement**: repealed, on 29 September 2018, by section 87(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 38 list of defined terms **share scheme taxing date**: inserted, on 29 September 2018, by section 87(6)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EX 39 Terminating exemption for grey list company with numerous New Zealand shareholders

[Repealed]

Section EX 39: repealed (with effect on 1 October 2011), on 2 November 2012 (applying for the 2012–13 and later income years), by section 47(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

EX 40 Foreign exchange control exemption

A person's rights in a FIF are not an attributing interest if and to the extent to which—

(a) the person is a natural person; and

(b) the person acquired the rights—

(i) before first becoming a New Zealand resident; or

(ii) before exchange controls applying to the person and the interest were imposed by a foreign country; or

(iii) before 8.00 pm New Zealand Standard Time on 2 July 1992; and

(c) the exchange controls prevent the person from deriving amounts from the rights, or from disposing of the rights, in New Zealand dollars, or consideration that is readily convertible into New Zealand dollars.

Defined in this Act: amount, attributing interest, FIF, New Zealand, New Zealand resident

Compare: 2004 No 35 s EX 34

EX 41 Income interest of non-resident or transitional resident

Categories 2 and 3

(1) Subsection (2) applies only to rights described in section EX 29(3) or (4).

Exemption for non-resident or transitional resident

(2) A person's rights in a FIF at any time are not an attributing interest if—

(a) the person is a natural person; and

(b) the person acquires the rights when a non-resident or transitional resident; and

(c) at the time, the person is a non-resident or transitional resident.

Defined in this Act: attributing interest, FIF, income year, New Zealand resident, non-resident, transitional resident

Compare: 2004 No 35 s EX 35

EX 42 New resident's accrued superannuation entitlement exemption

[Repealed]

Section EX 42: repealed, on 1 April 2014, by section 55 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EX 42B Interests in foreign superannuation scheme other than FIF superannuation interests

A person's right to benefit from a foreign superannuation scheme as a beneficiary or a member is not an attributing interest in the foreign superannuation scheme if the right is not a FIF superannuation interest for the person.

Defined in this Act: attributing interest, FIF superannuation interest, foreign superannuation scheme

Section EX 42B: inserted, on 1 April 2014, by section 56 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EX 43 Non-resident's pension or annuity exemption

Exemption

(1) The rights of a natural person to benefit from a pension or annuity provided by a FIF are not an attributing interest if the requirements of subsections (2) and (3) are met.

Relevant period of non-residence

(2) The person must have provided the consideration for acquiring the rights—

(a) when the person was not resident in New Zealand; or

(b) when the person was resident in New Zealand but in the period ending 3 years after the end of the income year in which they last became a New Zealand resident; or

(c) when the person was resident in New Zealand but as a result of commuting or transferring their interest in a superannuation fund in anticipation of their ceasing to be a New Zealand resident.

Restricted rights to assign or cash in

(3) The person's future benefits must not be able to be assigned, or exchanged for a current receipt of cash, or other property, except—

(a) if the person is assigning the benefit rights to a spouse under a relationship agreement; or

(b) at the cost of a substantial decrease in the present value of the benefits.

Elective exclusion of pre-1996–97 rights

(4) Subsection (1) does not apply if—

(a) the rights were acquired before the 1996–97 income year; and

(b) the person chose to treat the rights as an interest in a foreign investment fund for the 1996–97 income year and later income years by complying with the requirements of section CG 15(4) of the Income Tax Act 1994.

Defined in this Act: attributing interest, FIF, foreign investment fund, income year, New Zealand resident, non-resident, relationship agreement, resident in New Zealand, superannuation fund, year

Compare: 2004 No 35 s EX 37

Section EX 43 list of defined terms **matrimonial agreement**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Calculation of FIF income or loss

EX 44 Five calculation methods

Use of 1 method

(1) If the tests in section CQ 5 (When FIF income arises) or DN 6 (When FIF loss arises) are met, the amount of a person's FIF income or loss from an attributing interest is calculated under—

(a) *[Repealed]*

(b) the attributable FIF income method; or

(c) the comparative value method; or

(d) the deemed rate of return method; or

(e) the fair dividend rate method; or

(f) the cost method.

Choosing method

(2) The person must choose which calculation method applies by completing their return of income accordingly, but the choice is limited by sections EX 46, EX 47, EX 47B, EX 48, and EX 62.

Defined in this Act: amount, attributable FIF income method, attributing interest, calculation method, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF income, loss, return of income

Compare: 2004 No 35 s EX 38

Section EX 44 heading: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 31(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 44(1): amended, on 24 February 2016, by section 147(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 44(1)(a): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 31(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 44(1)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 31(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 44(2): amended, on 1 July 2018, by section 14(1) (and see section 14(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 44 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 31(4)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 44 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 31(4)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 44 list of defined terms **attributing interest**: inserted, on 24 February 2016, by section 147(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 44 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 31(4)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 44 list of defined terms **fair dividend rate**: repealed, on 24 February 2016, by section 147(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 44 list of defined terms **fair dividend rate method**: inserted, on 24 February 2016, by section 147(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 45 Exclusion of amounts of death benefit

No FIF income

(1) When this section applies, a person is treated as not deriving FIF income to the extent to which the income arises solely from receiving a death benefit under a life insurance policy.

Application of this section: contract before becoming resident

(2) This section applies if—

(a) the person or the deceased (the **contracting party**), when not a New Zealand resident, entered into a binding contract that gave rise to the benefit; and

(b) at the time the contract was entered into, the contracting party either had not previously been a New Zealand resident or had not been a resident for at least the previous 10 years; and

(c) the benefit was not increased by a voluntary action taken after the contracting party became a resident.

Application of this section: pre-1992 contracts

(3) This section also applies if—

(a) before 2 July 1992 the person or the contracting party entered into a binding contract giving rise to the benefit; and

(b) the benefit was not increased by a voluntary action taken on or after 2 July 1992.

Defined in this Act: amount, FIF income, life insurance policy, New Zealand resident, year

Compare: 2004 No 35 s EX 39

EX 46 Limits on choice of calculation methods

Same method for same FIF

(1) If a person has 2 or more attributing interests in the same FIF for the same period, the person must use the same calculation method for calculating FIF income or loss from each interest in that period, except to the extent to which—

(a) the interests are of different classes; and

(b) the choice of method for a class is limited by this section or section EX 47, EX 48, or EX 62.

Accounting profits method

[Repealed]

(2) *[Repealed]*

Attributable FIF income method

(3) A person may use the attributable FIF income method to calculate FIF income or loss from an attributing interest in a FIF for an accounting period only if the person can provide to the Commissioner, if requested, sufficient information to enable the Commissioner to check the calculations required by section EX 50 and,—

(a) at all times in the accounting period during which the person has rights in the FIF,—

(i) the FIF is a company; and

(ii) the item "income interest" given by section EX 50(4) for the person and the FIF is 10% or more, treating the period that the person has rights in the FIF as the accounting period for the purposes of section EX 50(4) when the person does not have rights in the FIF for the entire accounting period; and

(iii) the person is not a portfolio investment entity:

(b) the FIF is a CFC and the person cannot determine the market value of the attributing interest at the beginning of the accounting period except by independent valuation and neither the person nor a person who has a direct income interest of 10% or more in the FIF is—

(i) a listed company:

(ii) a group investment fund:

(iii) a portfolio investment entity:

(iv) a superannuation scheme:

(v) a unit trust:

(vi) a trustee of a trust with a beneficiary described in 1 or more of subparagraphs (i) to (iv).

Deemed rate of return method: general rule

[Repealed]

(4) *[Repealed]*

Deemed rate of return method

(5) A person may use the deemed rate of return method to calculate FIF income or loss from an attributing interest in a FIF only if the person is required by section EX 47 to use the deemed rate of return method for the interest.

Comparative value method: shares in foreign companies

(6) A person may use the comparative value method to calculate FIF income or loss from an attributing interest in a FIF that is a share in a foreign company for an income year only if—

(a) the person is a natural person:

(b) the person is the trustee of a trust that—

(i) has no gifting settlor who is not a natural person or deceased person; and

(ii) at all times in the income year, is a complying trust for a distribution made at the time; and

(iii) is, at all times in the income year, mainly for the benefit of a natural person for whom the gifting settlors of the trust have natural love and affection (or had natural love and affection when alive) or is mainly for the benefit of an organisation or trust with income that is exempt income under section CW 41 or CW 42 (which relate to the income of charities); and

(iv) is not a superannuation scheme:

(c) *[Repealed]*

(d) the share is a non-ordinary share described in subsection (10):

(e) the person is the share user of the share under a returning share transfer to which section EX 47B applies.

Fair dividend rate method: shares in foreign companies

[Repealed]

(7) *[Repealed]*

Fair dividend rate method: exemption for shares in foreign companies

(8) A person must not use the fair dividend rate method to calculate FIF income or loss from an attributing interest in a FIF that is a share in a foreign company for an income year if—

(a) the share is a non-ordinary share described in subsection (10):

(b) the person chooses to use the comparative value method for another attributing interest that is a share in a foreign company and for which the person would be allowed, in the absence of this paragraph, to use the fair dividend rate method.

Cost method for shares in foreign companies

(9) A person may use the cost method to calculate FIF income or loss from an attributing interest in a FIF if—

(a) the attributing interest is a share in a foreign company for which the fair dividend rate method is allowed; and

(b) the market value of the attributing interest at the start of the income year is not readily available.

Certain non-ordinary shares

(10) For the purposes of subsections (6)(d) and (8)(a), a non-ordinary share in a foreign company is—

(a) a fixed-rate share that meets the requirements of the definition of **fixed-rate share**, paragraph (f)(i) or (f)(iii), or both:

(b) a non-participating redeemable share:

(c) an interest in a non-resident holding directly or indirectly assets of which 80% or more by value at a time in the income year—

(i) consist of fixed-rate foreign equities, or financial arrangements providing funds to a person; and

(ii) are denominated in New Zealand dollars or are assets having a value in New Zealand dollars that is governed by 1 or more related financial arrangements that remove 80% to 125% of foreign currency risk for the assets and are entered with the sole purpose and net effect of offsetting exposure to foreign currency exchange rate movement in the value of the assets:

(cb) an interest in a non-resident if—

(i) the non-resident holds directly or indirectly assets of which 80% or more by value at a time in the income year consist of fixed-rate foreign equities or financial arrangements providing funds to a person ignoring financial arrangements between the non-resident and other members of a group of companies that it is a member of; and

(ii) the non-resident is not listed on a recognised exchange or is listed on a recognised exchange but is a foreign PIE equivalent, ignoring section HL 10(4) (Further eligibility requirements relating to investments) for the purposes of this subparagraph; and

(iii) the interest has a value in New Zealand dollars that is governed by 1 or more related financial arrangements that remove 80% to 125% of foreign currency risk for the interest and are entered with the sole purpose and net effect of offsetting exposure to foreign currency exchange rate movement in the value of the interest:

(d) a share that involves an obligation—

(i) of another person to provide to the investor, directly or indirectly through an arrangement, an amount that is more than the issue price of the share; and

(ii) that is non-contingent or subject to a contingency that is sufficiently remote to be immaterial:

(db) an interest in a non-resident if—

(i) the non-resident is related to the person holding the interest, or the interest is or is part of a structured arrangement; and

(ii) the non-resident is not a foreign PIE equivalent; and

(iii) the non-resident is allowed a deduction against income or an equivalent tax relief, under the taxation law of a country or territory outside New Zealand, for the payment of a dividend arising from the interest:

(e) a share of a kind that the Commissioner determines under section 91AAO of the Tax Administration Act 1994 to be an interest for which the fair dividend rate method is not available.

Commissioner's determination overriding subsection (10)(a) to (d)

(11) Subsection (10)(a) to (d) does not apply to a share if the Commissioner determines under section 91AAO of the Tax Administration Act 1994 that the share is an interest for which the fair dividend rate method is available.

Meaning of gifting settlor

(12) A **gifting settlor**, for a trust (the **relevant trust**), means a person who—

(a) makes a transfer of value, by disposing of property, to the trustee of—

(i) the relevant trust:

(ii) a trust with a trustee who settles property on the relevant trust, directly or through the trustees of other trusts; and

(b) is not the trustee of a trust.

Defined in this Act: accounting period, accounting profits method, amount, attributable FIF income method, attributing interest, calculation method, Commissioner, company, comparative value method, complying trust, cost method, deemed rate of return method, direct income interest, dividend, exempt income, fair dividend rate method, FIF, FIF income, financial arrangement, fixed-rate foreign equity, fixed-rate share, foreign company, foreign PIE equivalent, generally accepted accounting practice, gifting settlor, grey list company, IFRS 9, income, income year, loss, market value, non-resident, pay, PIE, portfolio investment entity, recognised exchange, related, request, returning share transfer, share, share supplier, share user, shareholder, structured arrangement, superannuation scheme, tax, trustee

Compare: 2004 No 35 s EX 40

Section EX 46(1)(b): replaced, on 30 March 2017, by section 79 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EX 46(2) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 32(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(2): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(3) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(3): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(3)(a): amended (with effect on 1 July 2011), on 28 March 2024, by section 68(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EX 46(3)(a)(ii): amended (with effect on 1 July 2011), on 28 March 2024, by section 68(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EX 46(4) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 32(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(4): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(5) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(5): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(6)(b): substituted, on 1 April 2008, by section 392(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 46(6)(b)(iii): amended (with effect on 1 April 2008), on 6 October 2009, by section 173(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(6)(b)(iv): added (with effect on 1 April 2008), on 6 October 2009, by section 173(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(6)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(6)(d): substituted (with effect on 1 April 2008), on 6 October 2009, by section 173(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(6)(e): inserted, on 1 July 2018, by section 15(1) (and see section 15(4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46(7) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 32(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(7): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(8): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 32(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46(8)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 173(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(9): replaced (with effect on 1 July 2011), on 29 March 2025, by section 52 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 46(10) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 173(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(10): amended (with effect on 1 April 2008), on 6 October 2009, by section 173(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(10)(a): substituted (with effect on 30 June 2009), on 29 August 2011, by section 39(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 46(10)(a): amended, on 29 March 2018 (with effect on 30 June 2009), by section 88(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 46(10)(c): substituted, on 1 April 2008, by section 392(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 46(10)(c)(i): amended (with effect on 1 April 2009), on 7 December 2009, by section 30 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 46(10)(c)(ii): replaced (with effect on 26 June 2019), on 31 March 2023, by section 61(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 46(10)(cb): inserted (with effect on 1 April 2009), on 6 October 2009, by section 173(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(10)(cb)(i): amended (with effect on 1 April 2009), on 7 December 2009, by section 30 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EX 46(10)(cb)(ii): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 173(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46(10)(cb)(iii): replaced (with effect on 26 June 2019), on 31 March 2023, by section 61(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 46(10)(db): inserted, on 1 July 2018, by section 15(2) (and see section 15(4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46(11) heading: amended, on 1 April 2008, by section 392(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 46(11): amended (with effect on 1 April 2008), on 30 June 2014, by section 94 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 46(11): amended, on 1 April 2008, by section 392(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 46(12) heading: added, on 1 April 2008, by section 392(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 46(12): added, on 1 April 2008, by section 392(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 46 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 32(9)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 32(9)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 46 list of defined terms **dividend**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46 list of defined terms **fixed-rate foreign equity**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 173(13) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46 list of defined terms **fixed-rate share**: inserted, on 29 March 2018 (with effect on 30 June 2009), by section 88(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 46 list of defined terms **foreign investment vehicle**: repealed, on 1 April 2010, by section 173(12)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46 list of defined terms **foreign PIE**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 173(11)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46 list of defined terms **foreign PIE equivalent**: inserted, on 1 April 2010, by section 173(12)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46 list of defined terms **gifting settlor**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 46 list of defined terms **IFRS 9**: inserted, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 46 list of defined terms **non-resident**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46 list of defined terms **pay**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46 list of defined terms **PIE**: inserted, on 1 April 2010, by section 173(12)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 46 list of defined terms **related**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EX 46 list of defined terms **returning share transfer**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46 list of defined terms **share supplier**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46 list of defined terms **share user**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 46 list of defined terms **structured arrangement**: inserted, on 1 July 2018, by section 15(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

EX 47 Method required for certain non-ordinary shares

A person must calculate FIF income or loss for an income year from an attributing interest that is a non-ordinary share described in section EX 46(10) using—

(a) the comparative value method; or

(b) the deemed rate of return method, if use of the comparative value method is not practical because the person cannot determine the market value of the attributing interest at the end of the income year.

Defined in this Act: attributing interest, comparative value method, deemed rate of return method, fair dividend rate method, FIF income, FIF loss, income year, market value, share

Section EX 47: substituted (with effect on 1 April 2008), on 6 October 2009, by section 174 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 47B Method required for shares subject to certain returning share transfers

A person must use the comparative value method to calculate FIF income or FIF loss for an income year from an attributing interest that is a share subject to a returning share transfer if—

(a) the person is the share user; and

(b) the share supplier is resident in a country or territory outside New Zealand (the **foreign jurisdiction**); and

(c) the person is related to the share supplier or the returning share transfer is or is part of a structured arrangement; and

(d) the taxation law of the foreign jurisdiction treats the share supplier as owning the shares subject to the returning share transfer.

Defined in this Act: attributing interest, comparative value method, FIF income, FIF loss, income year, New Zealand, related, returning share transfer, share, share supplier, share user, structured arrangement

Section EX 47B: inserted, on 1 July 2018, by section 16(1) (and see section 16(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

EX 48 Default calculation method

When this section applies

(1) This section applies when—

(a) a person does not choose a calculation method to calculate FIF income or loss from an attributing interest for a period; and

(b) sections EX 46, EX 47, EX 47B, and EX 62 do not have the effect of requiring a particular calculation method to be used.

Default choice

(2) The person is treated as having chosen to use, for the period,—

(a) the fair dividend rate method if it is practical to use it; and

(b) the cost method if it is not practical to use the fair dividend rate method.

Defined in this Act: attributing interest, calculation method, cost method, direct income interest, fair dividend rate method, FIF income, foreign company, loss

Compare: 2004 No 35 s EX 41

Section EX 48(1)(b): amended (with effect on 1 July 2018), on 29 March 2025, by section 53(1) (and see section 53(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 48(2) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 33(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 48(2): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 33(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 48 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 33(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 48 list of defined terms **comparative value method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 33(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 48 list of defined terms **deemed rate of return method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 33(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 49 Accounting profits method

[Repealed]

Section EX 49: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 34(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 50 Attributable FIF income method

Formula

(1) If a person is using the **attributable FIF income method** to calculate FIF income or loss from an attributing interest in a FIF, the total FIF income or loss from all their attributing interests in the FIF for the relevant accounting period is calculated using the formula—

net attributable FIF income or loss × income interest.

Definition of items in formula

(2) The items in the formula in subsection (1) are defined in subsections (3) and (4).

Net attributable FIF income or loss

(3) **Net attributable FIF income or loss** is the amount for the FIF and the accounting period found by applying—

(a) sections EX 18A to EX 21E, EX 24, and EX 25, as modified by subsection (4B), as if the FIF were a CFC and the person's attributing interests in the FIF were income interests in the CFC; and

(b) subsections (5) and (6).

Income interest

(4) **Income interest** is the person's income interest in the FIF for the accounting period. The income interest is calculated under all the following CFC rules, applying as if the FIF were a CFC:

(a) sections EX 8 to EX 11 and EX 13:

(b) sections EX 16 and EX 17:

(c) section EX 26.

Modifications to method of calculating net attributable CFC income or loss

(4B) The net attributable FIF income or loss of a FIF is calculated as if—

(a) section EX 20B(5)(c)(i) required that the royalty be paid by a foreign company meeting the requirements of section EX 50(4C):

(b) section EX 20B(5)(d) were omitted:

(c) section EX 20B(7)(c) required that the rent be paid by a foreign company meeting the requirements of section EX 50(4C):

(d) section EX 20B(12)(a) required that the financial arrangement or agreement be an agreement by the CFC to lend money to a foreign company meeting the requirements of section EX 50(4C):

(e) section EX 21C(2)(a) required—

(i) the interest holder or other person to have accounts that include the accounts of the CFC, including by proportionate consolidation under NZIAS 31:

(ii) the interest holder or other person to have accounts that include dividends and net fair value changes in relation to the CFC under IFRS 9, or include amounts recognised under the equity method in NZIAS 28 or NZIAS 31, and the CFC to have accounts that are prepared under United States generally accepted accounting principles and meet the requirements of section EX 21C(8) for accounts prepared under those principles in the United States of America:

(f) section EX 21C(3)(a) required—

(i) the interest holder or other person to have accounts that include the accounts of the members of the test group, including by proportionate consolidation under NZIAS 31:

(ii) the interest holder or other person to have accounts that include dividends and net fair value changes in relation to the members under IFRS 9, or include amounts recognised under the equity method in NZIAS 28 or NZIAS 31, and the members to have accounts that are prepared under United States generally accepted accounting principles and meet the requirements of section EX

21C(8) for accounts prepared under those principles in the United States of America:

(g) section EX 21C(4)(a) required—

(i) the interest holder or other person to have accounts that include the accounts of the CFC, including by proportionate consolidation under the IFRSE corresponding to NZIAS 31:

(ii) the interest holder or other person to have accounts that include dividends and net fair value changes in relation to the CFC under the IFRSE corresponding to IFRS 9, or include amounts recognised under the equity method in the IFRSE corresponding to NZIAS 28 or NZIAS 31, and the CFC to have accounts that are prepared under United States generally accepted accounting principles and meet the requirements of section EX 21C(8) for accounts prepared under those principles in the United States of America:

(h) section EX 21C(5)(a) required—

(i) the interest holder or other person to have accounts that include the accounts of the members of the test group, including by proportionate consolidation under the IFRSE corresponding to NZIAS 31:

(ii) the interest holder or other person to have accounts that include dividends and net fair value changes in relation to the members under the IFRSE corresponding to IFRS 9, or include amounts recognised under the equity method in the IFRSE corresponding to NZIAS 28 or NZIAS 31, and the members to have accounts that are prepared under United States generally accepted accounting principles and meet the requirements of section EX 21C(8) for accounts prepared under those principles in the United States of America:

(i) section EX 21D(1)(a) required that none of the other companies in the test group be a CFC:

(j) section EX 21D(1)(b) required that the CFC hold a voting interest of more than 50% in each of the other companies in the test group:

(k) section EX 21D(3)(b) were omitted:

(l) section EX 21E(2)(b) required that none of the other companies in the test group be a CFC:

(m) section EX 21E(2)(c) required that the CFC hold a voting interest of more than 50% in each of the other companies in the test group:

(n) section EX 21E(2)(d) were omitted:

(o) section EX 21E(4)(c) were omitted:

(p) the references in section EX 21E(7)(f) and (g) to "IFRS 9" were to "whichever is appropriate of IFRS 9, an equivalent IFRSE, and an equivalent standard or principle included in United States generally accepted accounting principles":

(q) section EX 21E(9)(a) required that an amount in the category be a dividend that is—

(i) not included in the attributable CFC amount for the accounting period under section EX 20B(3)(a) to (c); and

(ii) paid by a company other than 1 from which the person does not have additional FIF income or loss under subsection (6) because of the application of subsection (7B)(b):

(r) the references in section EX 21E(10)(c) and (d) to "IFRS 9" were to "whichever is appropriate of IFRS 9, an equivalent IFRSE, and an equivalent standard or principle included in United States generally accepted accounting principles":

(s) the references in section EX 21E(12)(d) to "IFRS 9" were to "whichever is appropriate of IFRS 9, an equivalent IFRSE, and an equivalent standard or principle included in United States generally accepted accounting principles":

(t) the reference in section EX 21E(12)(g) to "NZIAS 32" were a reference to "whichever is appropriate of NZIAS 32, an equivalent IFRSE, and an equivalent standard or principle included in United States generally accepted accounting principles".

Requirements for foreign company making payments to FIF

(4C) A foreign company making payments to a FIF meets the requirements of this subsection if—

(a) the person uses the attributable FIF income method for the foreign company or would be able to use that method in the absence of section EX 35; and

(b) the foreign company, if it were a CFC, would be a non-attributing active CFC under section EX 21B(2) in the absence of section EX 20B(5)(c)(i), (7)(c), and (12)(a); and

(c) a group of persons holds total voting interests of more than 50% in the FIF and in the foreign company; and

(d) the FIF and the foreign company each have a taxed FIF connection with the same country or territory.

Taxable distributions

(5) If the FIF derives a taxable distribution from a non-complying trust in the accounting period,—

(a) the taxable distribution is excluded when calculating the FIF's net attributable FIF income or loss, due to the combined effect of subsection (1) and section EX 21(32); and

(b) the person has additional attributed CFC income calculated by multiplying the taxable distribution by the person's income interest in the FIF; and

(c) the person is liable for income tax on the additional attributed CFC income at the rate in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) that applies to amounts under section HC 22 (Use of tax losses to reduce taxable distributions from non-complying trusts).

Calculation of additional FIF income or loss

(6) If the FIF has an income interest in a foreign company for the accounting period and, as a result, the person has an indirect attributing interest in the foreign company, the person has additional FIF income or loss calculated using the formula—

interest × FIF's FIF income or loss.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **interest** is the person's income interest in the FIF for the period:

(b) **FIF's FIF income or loss** is the FIF's FIF income or loss for the period from foreign companies in which the person has an indirect attributing interest, calculated under the rules in section EX 58(4) and (5) as if—

(i) the FIF were the CFC referred to; and

(ii) the FIF's interest in the foreign company were an attributing interest, despite any application of section EX 34.

Exception to subsection (6)

(7B) A person does not have additional FIF income or loss under subsection (6) from a FIF with an interest in a foreign company if—

(a) the foreign company meets the test for a non-attributing active CFC under section EX 21B(2) and the person—

(i) *[Repealed]*

(ii) is able to include the foreign company in the same test group as the FIF under section EX 21D or EX 21E:

(b) the FIF would meet the test for a non-attributing active CFC under section EX 21B(2)(b) if the items **added passive** and **reported revenue** under section EX 21E(5), (8), and (10) for the FIF included the amounts given by subsection (7C)(a)—

(i) relating to the FIF's interests in each member of a grouping of one or more foreign companies including the foreign company; and

(ii) reported in the accounts of the FIF, or in the consolidated accounts of the FIF's test group under section EX 21E.

(c) *[Repealed]*

Requirements for test under subsection (7B)(b)

(7C) In determining whether a FIF would meet the requirements of subsection (7B)(b) for an accounting period,—

(a) the amounts required to be included in the items are—

(i) amounts recognised in profit and loss under the equity method under whichever is appropriate of NZIAS 28, NZIAS 31, an equivalent IFRSE, and an equivalent standard or principle in the generally accepted accounting principles in the United States of America:

(ii) amounts recognised in profit or loss under proportionate consolidation under whichever is appropriate of NZIAS 31, an equivalent IFRSE, and an equivalent standard or principle in the generally accepted accounting principles in the United States of America:

(iii) dividends and net fair value changes recognised in profit or loss in relation to investments accounted for under whichever is appropriate of IFRS 9, an equivalent IFRSE, and an equivalent standard or principle in the generally accepted accounting principles in the United States of America; and

(b) an interest holder must not use the result of the test applied to the FIF and a foreign company as a member of a grouping of foreign companies if the interest holder uses for the period a result of the test applied to the FIF and a different grouping of foreign companies.

Application of CFC rules tax credit rules

(8) The rules in sections LK 1 to LK 7 (which relate to tax credits for attributed CFC income) apply to allow the person to claim foreign tax credits but on the basis of the assumptions made in subsection (9). The rules in those sections allow foreign tax credits relating to attributed CFC income but apply a jurisdictional ring-fencing approach to the use of tax credits.

Assumptions in reading tax credit rules

(9) Sections LK 1 to LK 7 are applied as if—

(a) the FIF were a CFC; and

(b) the FIF income of the person from the FIF were attributed CFC income; and

(c) the person's income interest, calculated under subsection (4) were their relevant income interest for the purposes of those sections; and

(d) any relevant person's FIF income calculated under the attributable FIF income method from a FIF that is resident in the relevant country were attributed CFC income.

Reduction in FIF loss to economic loss

(10) In the cases described in subsections (11) and (12), the amount of any FIF loss calculated under subsections (1) and (6) is reduced to be equal to the person's corresponding economic loss, if any.

Application of subsection (10): no economic loss

(11) Subsection (10) applies if the person suffers no, or substantially no, economic loss corresponding to the FIF loss, whether because of a call option, a put option, or any other reason.

Application of subsection (10): FIF loss excessive

(12) Subsection (10) also applies if the amount of FIF loss is more than any corresponding economic loss suffered by the person, whether because of the application of the rules for calculating the person's income interest or any other reason.

Defined in this Act: accounting period, attributable FIF income method, amount, attributed CFC income, attributing interest, CFC, FIF, FIF income, FIF loss, foreign company, IFRS 9, income interest, income tax, indirect attributing interest, loss, net attributable CFC income, net attributable FIF income, non-attributing active CFC, non-complying trust, non-resident, NZIAS 28, NZIAS 31, quarter, tax, taxable distribution, taxed FIF connection, voting interest

Compare: 2004 No 35 s EX 43

Section EX 50 heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(1): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(1) formula: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(3) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(3): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(4B) heading: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(4B): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(4B)(e)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(4B)(f)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(4B)(g)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(4B)(h)(ii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(4B)(p): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(4B)(r): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(4B)(s): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(4C) heading: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(4C): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(4C)(a): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 17 July 2013, by section 52(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EX 50(5)(a): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(5)(c): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 50(6): amended (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 24 February 2016, by section 148(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 50(6): amended (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 95(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 50(7)(b): amended (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 June 2014, by section 95(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 50(7B) heading: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(7B): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50(7B)(a)(i): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 48(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 50(7B)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 48(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 50(7B)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 48(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 50(7C) heading: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 48(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 50(7C): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 48(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 50(7C)(a)(iii): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50(9)(d): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 35(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **branch equivalent income**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **IFRS 9**: inserted, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50 list of defined terms **indirect attributing interest**: inserted (with effect on 1 April 2014), on 24 February 2016, by section 148(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 50 list of defined terms **net attributable CFC income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **net attributable FIF income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **non-attributing active CFC**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **NZIAS 28**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **NZIAS 31**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 50 list of defined terms **NZIAS 39**: repealed, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EX 50 list of defined terms **taxed FIF connection**: inserted (with effect on 1 April 2014), on 24 February 2016, by section 148(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 50 list of defined terms **taxed FIF relationship**: repealed (with effect on 1 April 2014), on 24 February 2016, by section 148(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 50 list of defined terms **voting interest**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 35(8)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 51 Comparative value method

Formula

(1) If a person is using the **comparative value method** to calculate FIF income or loss from an attributing interest in a FIF, the FIF income or loss from that interest for the relevant income year is calculated using the formula—

(closing value + gains) − (opening value + costs).

Definition of items in formula

(2) The items in the formula are defined in subsections (3) to (6).

Closing value

(3) **Closing value** is the market value of the person's interest in the FIF at the end of the income year. The value is zero if the person has disposed of the interest or is then applying another calculation method to it.

Gains

(4) **Gains** is the total of all amounts that the person derives during the income year from holding or disposing of the interest. The amounts include any foreign withholding tax or other amount that the person is allowed as a credit under section LE 1 (Tax credits for imputation credits) or LJ 2 (Tax credits for foreign income tax).

Opening value

(5) **Opening value** is the market value of the person's interest in the FIF at the end of the previous income year, calculated using the exchange rate applying under section EX 57 for that previous year. The value is zero if the person did not hold the interest then or was then applying another calculation method to it.

Costs

(6) **Costs** is the total for the income year of—

(a) all expenditure, if any, that—

(i) the person incurs in acquiring or increasing the interest:

(ii) another person incurs on behalf of the person referred to in subparagraph (i) in relation to the interest:

(b) income tax on the income of the FIF—

(i) for which the person is liable under the laws of a country or territory outside New Zealand; and

(ii) paid by the person in the income year.

Losses from some attributing interests not subject to rule

(7) Subsection (8) applies to a person who calculates under subsection (1) an amount of FIF loss for an attributing interest in a FIF (the **affected interest**) that is not a non-ordinary share described in section EX 46(10).

No total FIF loss from other attributing interests

(8) If, in the absence of this subsection, the person would have under subsection (1) a total FIF loss for the income year from all the person's affected interests, the FIF loss for the income year for the person from each affected interest is reduced to the extent necessary for the total FIF loss from the affected interests to be zero.

Defined in this Act: amount, attributing interest, calculation method, comparative value method, FIF, FIF income, FIF loss, foreign company, foreign withholding tax, income year, loss, market value, pay, tax

Compare: 2004 No 35 s EX 44

Section EX 51(4): amended, on 1 April 2008, by section 393 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 51(5): substituted (with effect on 1 April 2008), on 6 October 2009, by section 176(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 51(6)(a): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 96(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 51(7) heading: substituted (with effect on 1 April 2009), on 6 October 2009, by section 176(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 51(7): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 36(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 51(8) heading: substituted (with effect on 1 April 2009), on 6 October 2009, by section 176(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 51(8): substituted (with effect on 1 April 2009), on 6 October 2009, by section 176(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 51 list of defined terms **direct income interest**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 36(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 52A Fair dividend rate method: use of different forms

When this section applies

(1) This section applies when a person calculates FIF income from an attributing interest in a FIF for an income year (the **current year**) under the fair dividend rate method.

When person must use fair dividend rate periodic method

(2) A person must use the fair dividend rate periodic method under section EX 53 for the attributing interest for the current year if the person—

(a) is a unit trust or other entity that—

(i) makes investments for the benefit of other persons (the **investors**); and

(ii) assigns each investor an interest in a proportion of the net returns from the investments; and

(iii) determines the value of each investor's interests for each of a number of periods making up the income year:

(b) for the attributing interest, uses the fair dividend rate periodic method for the income year ending before the beginning of the current year and uses the fair dividend rate annual method under section EX 52 for an income year included in the period that is the shortest of—

(i) the 4-year period ending before the beginning of the current year:

(ii) the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year:

(iii) the period from the beginning of the 2015–16 income year and ending before the beginning of the current year.

When person must use fair dividend rate annual method

(3) A person must use the fair dividend rate annual method for the attributing interest for the current year if the person uses for the attributing interest—

(a) the fair dividend rate annual method for the income year ending before the beginning of the current year; and

(b) the fair dividend rate periodic method for an income year included in the period that is the shortest of—

(i) the 4-year period ending before the beginning of the current year:

(ii) the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year:

(iii) the period from the beginning of the 2015–16 income year and ending before the beginning of the current year.

Defined in this Act: attributing interest, fair dividend rate annual method, fair dividend rate method, fair dividend rate periodic method, FIF, FIF income, income year, unit trust

Section EX 52A: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 149(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 52 Fair dividend rate annual method

When this section applies

(1) This section applies when a person—

(a) calculates FIF income from an attributing interest in a FIF for an income year under the fair dividend rate method; and

(b) is not required under section EX 52A to use the fair dividend rate periodic method; and

(c) does not choose under section EX 53 to use the fair dividend rate periodic method.

FIF income

(2) The person's total FIF income for the income year from the attributing interests in FIFs (the **FDR interests**) for which the person uses the fair dividend rate annual method is calculated using the formula in subsection (3).

FIF income formula

(3) The formula is—

(0.05 × opening value) + quick sale adjustment.

Definition of items in FIF income formula

(4) The items in the FIF income formula in subsection (3) are defined in subsections (5) to (7).

Opening value

(5) **Opening value** is the total of the market values of the FDR interests held by the person at the start of the income year that are not, at the start of the income year, included in a direct income interest of 10% or more in a FIF that, at the start of the income year,—

(a) meets the requirements of section EX 35(b)(i) to (iii); and

(b) does not have its liability for income tax reduced by an exemption, allowance, or relief referred to in section EX 35(c)(i) or (ii); and

(c) is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company.

Exclusion for certain managed funds

(5B) Subsection (5)(b) does not apply if—

(a) the person is a portfolio investment entity, an entity eligible to be a portfolio investment entity, or a life insurance company; and

(b) the FIF is a foreign PIE equivalent.

When quick sale adjustment required

(6) The quick sale adjustment is required, and is not zero, only if the person, in the income year,—

(a) acquires or increases an FDR interest to which this section applies; and

(b) later disposes of or reduces the FDR interest.

Quick sale adjustment

(7) **Quick sale adjustment** is the lesser of—

(a) the total of the amounts (the **peak holding method amount**) calculated for each FDR interest from the shareholding for the FDR interest using the formula in subsection (8):

(b) the total of the amounts (the **quick sale gain amount**) calculated for each FDR interest from the shareholding for the FDR interest using the formula in subsection (12), treating a negative total as being zero.

Peak holding method amount formula

(8) The formula is—

$$0.05 \times \text{peak holding differential} \times \text{average cost}.$$

Definition of items in formula

(9) The items in the formula in subsection (8) are defined in subsections (10) and (11).

Peak holding differential

(10) **Peak holding differential** is,—

(a) if no share reorganisation affecting the shareholding for the FDR interest occurs in the income year, the lesser of—

(i) the difference between the greatest shareholding in the year and the shareholding at the start of the year:

(ii) the difference between the greatest shareholding in the year and the shareholding at the end of the year; or

(b) if a share reorganisation affecting the shareholding for the FDR interest occurs in the income year, the amount calculated under section EX 54 for the year.

Average cost

(11) **Average cost** is—

(a) if no share reorganisation occurs in the income year, the total amount of expenditure that the person incurs in acquiring or increasing during the income year the attributing interest in the FIF divided by the total for the year of the shareholding increase in the attributing interest in the FIF for each acquisition or increase; or

(b) if a share reorganisation occurs in the income year, the amount calculated under section EX 54 for the year.

Quick sale gain amount formula

(12) The formula, for each acquisition or increase in the attributing interest that is disposed of or reduced in the income year, is—

$$\text{gain} - (\text{interest} \times \text{average cost}).$$

Definition of items in formula

(13) In the formula in subsection (12),—

(a) **gain** is the total amount that the person derives from holding or disposing of the acquisition or increase:

(b) **interest** is the amount of the shareholding acquisition or increase:

(c) **average cost** is,—

(i) if no share reorganisation occurs in the income year, the total amount of expenditure that the person incurs in acquiring or increasing the attributing interest in the FIF divided by the total for the income year of the shareholding increase in the interest for each acquisition or increase; or

(ii) if a share reorganisation occurs in the income year, the amount calculated under section EX 54 for the year.

LIFO for identifying attributing interests disposed of

(14) For the purposes of subsection (12), attributing interests in a FIF are treated as being disposed of in the reverse order of their acquisition (last in-first out).

Treatment of transaction under section EX 63 or EX 67

(14B) For the purposes of subsection (7), if the person is treated as disposing of or acquiring an attributing interest in an income year under section EX 63(5) or EX 67, the disposal or acquisition is ignored.

Treatment of attributing interests subject to returning share transfer

(14C) For a person using the fair dividend rate annual method to calculate FIF income for an attributing interest in a FIF that is an original share subject to a returning share transfer, the attributing interest is treated as being held by the share supplier, except if—

(a) the share user is related to the share supplier:

(b) the returning share transfer is or is part of a structured arrangement.

Meaning of shareholding

(15) In this section, **shareholding** means the number of shares or units in an attributing interest.

Defined in this Act: amount, attributing interest, direct income interest, fair dividend rate annual method, fair dividend rate method, fair dividend rate periodic method, FIF, FIF income, foreign PIE equivalent, income year, investor, life insurance, market value, original share, portfolio investment entity, related, returning share transfer, share, share reorganisation, share supplier, share user, shareholding, structured arrangement

Compare: 2004 No 35 ss EX 44B(2), EX 44C

Section EX 52 heading: replaced, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(1)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 177(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(1)(b): replaced, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(1)(c): inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 177(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(2): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(5): replaced (with effect on 1 July 2014), on 31 March 2023, by section 62(1) (and see section 62(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 52(5B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(5B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(5B)(b): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 177(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(6): substituted (with effect on 1 April 2008), on 6 October 2009, by section 177(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(7)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 177(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(7)(a): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(7)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 177(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(7)(b): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(10)(a): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(10)(b): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 150(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52(11)(a): amended, on 1 April 2008, by section 394(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 52(12) formula: amended, on 1 April 2008, by section 394(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 52(13)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 177(8)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(13)(b): substituted, on 1 April 2008, by section 394(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 52(13)(c): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for income years beginning on or after 1 April 2008), by section 40(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 52(14B) heading: inserted, on 1 April 2008, by section 394(6) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 52(14B): inserted, on 1 April 2008, by section 394(6) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 52(14C) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52(14C): replaced, on 1 July 2018, by section 17(1) (and see section 17(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 52 list of defined terms **direct income interest**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 37(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 52 list of defined terms **fair dividend rate annual method**: inserted, on 1 April 2016, by section 150(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52 list of defined terms **fair dividend rate periodic method**: inserted, on 1 April 2016, by section 150(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 52 list of defined terms **foreign investment vehicle**: repealed, on 1 April 2010, by section 177(11)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **foreign PIE equivalent**: inserted, on 1 April 2010, by section 177(11)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **life insurance**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **original share**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **portfolio investment entity**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **related**: inserted, on 1 July 2018, by section 17(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 52 list of defined terms **returning share transfer**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **share**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **share supplier**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 177(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 52 list of defined terms **share user**: inserted, on 1 July 2018, by section 17(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 52 list of defined terms **structured arrangement**: inserted, on 1 July 2018, by section 17(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

EX 53 Fair dividend rate periodic method

When this section applies

(1) This section applies when a person (the **interest holder**), who calculates under the fair dividend rate method the FIF income from an attributing interest in a FIF for an income year,—

(a) is required under section EX 52A to use the fair dividend rate periodic method:

(b) determines the market value of the attributing interest for each period of a day (the **unit valuation period**) in the income year and—

(i) is not required to use the fair dividend rate periodic method; and

(ii) chooses to use the fair dividend rate periodic method.

When this section applies: second case

[Repealed]

(1B) *[Repealed]*

FIF income

(2) The total FIF income for the income year of the fund or person (the **interest holder**) from the attributing interests in FIFs (the **FDR interests**) for which the fund or person uses the fair dividend rate method is the total of the amounts calculated using the formula in subsection (3) for each unit valuation period.

Formula

(3) The formula is—

(0.05 × opening value × period ÷ year) + quick sale adjustment.

Definition of items in formula

(4) The items in the formula in subsection (3) are defined in subsections (5) to (15).

Opening value

(5) **Opening value** is the total of the market values of the FDR interests held by the person at the start of the unit valuation period that are not, at the start of the unit valuation period, included in a direct income interest of 10% or more in a FIF that, at the start of the income year,—

(a) meets the requirements of section EX 35(b)(i) to (iii); and

(b) does not have its liability for income tax reduced by an exemption, allowance, or relief referred to in section EX 35(c)(i) or (ii); and

(c) is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company.

Exclusion for certain managed funds

(5B) Subsection (5)(b) does not apply if—

(a) the interest holder is a portfolio investment entity, an entity eligible to be a portfolio investment entity, or a life insurance company; and

(b) the FIF is a foreign PIE equivalent.

Period

(6) **Period** is the number of days in the unit valuation period.

Year

(7) **Year** is the number of days in the income year.

When quick sale adjustment required

(8) The quick sale adjustment is required, and is not zero, only if the interest holder has a unit valuation period of more than 1 day and, in the unit valuation period,—

(a) acquires or increases an FDR interest to which this section applies; and

(b) later disposes of or reduces the FDR interest.

Quick sale adjustment

(9) **Quick sale adjustment** is the lesser of—

(a) the total of the amounts (the **peak holding method amount**) calculated for each FDR interest using the formula in subsection (10):

(b) the total of the amounts (the **quick sale gain amount**) calculated for each FDR interest using the formula in subsection (14), treating a negative total as being zero.

Peak holding method amount formula

(10) The formula is—

$$0.05 \times \text{peak holding differential} \times \text{average cost}.$$

Definition of items in formula

(11) The items in the formula in subsection (10) are defined in subsections (12) and (13).

Peak holding differential

(12) **Peak holding differential** is,—

(a) if no share reorganisation occurs in the unit valuation period, the lesser of—

(i) the difference between the greatest shareholding in the period and the shareholding at the start of the period:

(ii) the difference between the greatest shareholding in the period and the shareholding at the end of the period; or

(b) if a share reorganisation occurs in the period, the amount calculated under section EX 54 for the period.

Average cost

(13) **Average cost** is—

(a) if no share reorganisation occurs in the unit valuation period, the total amount of expenditure that the interest holder incurs in acquiring or increasing during the period the attributing interest in the FIF divided by the total for the period of the shareholding increase in the attributing interest in the FIF for each acquisition or increase; or

(b) if a share reorganisation occurs in the period, the amount calculated under section EX 54 for the period.

Quick sale gain amount formula

(14) The formula, for each acquisition or increase in the attributing interest that is disposed of or reduced in the unit valuation period, is—

$$\text{gain} - (\text{interest} \times \text{average cost}).$$

Definition of items in formula

(15) In the formula in subsection (14),—

(a) **gain** is the total amount that the interest holder derives from holding or disposing of the acquisition or increase:

(b) **interest** is the amount of the shareholding acquisition or increase:

(c) **average cost** is the total amount of expenditure that the interest holder incurs in acquiring or increasing the attributing interest in the FIF divided by the total for the period of the shareholding increase in the interest for each acquisition or increase.

LIFO for identifying attributing interests disposed of

(16) For the purposes of subsection (14), attributing interests in a FIF are treated as being disposed of in the reverse order of their acquisition (last in-first out).

Deemed transaction under section EX 67 ignored

(16B) For the purposes of subsection (9), if the person is treated as disposing of or acquiring an attributing interest in an income year under section EX 67, the disposal or acquisition is ignored.

Treatment of attributing interests subject to returning share transfer

(16C) For a person using the fair dividend rate annual method to calculate FIF income for an attributing interest in a FIF that is an original share subject to a returning share transfer, the attributing interest is treated as being held by the share supplier, except if—

(a) the share user is related to the share supplier:

(b) the returning share transfer is or is part of a structured arrangement.

Meaning of shareholding

(17) In this section, **shareholding** means the number of shares or units in an attributing interest.

Defined in this Act: amount, attributing interest, direct income interest, fair dividend rate annual method, fair dividend rate method, fair dividend rate periodic method, FIF, FIF income, foreign PIE equivalent, income year, investor, life insurance, market value, New Zealand, original share, portfolio investment entity, related, returning share transfer, share, share reorganisation, share supplier, share user, shareholding, structured arrangement

Compare: 2004 No 35 ss EX 44B(1), (3), EX 44D

Section EX 53 heading: replaced, on 1 April 2016, by section 151(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 53(1) heading: replaced, on 1 April 2016 (applying for the 2016–17 and later income years), by section 151(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 53(1): replaced, on 1 April 2016 (applying for the 2016–17 and later income years), by section 151(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 53(1B) heading: repealed, on 1 April 2016 (applying for the 2016–17 and later income years), pursuant to section 151(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 53(1B): repealed, on 1 April 2016 (applying for the 2016–17 and later income years), by section 151(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 53(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 178(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(5): replaced (with effect on 1 July 2014), on 31 March 2023, by section 63(1) (and see section 63(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 53(5B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(5B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(5B)(b): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 178(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(8): substituted (with effect on 1 April 2008), on 6 October 2009, by section 178(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(9)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 178(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(9)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 178(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(13)(a): amended, on 1 April 2008, by section 395(7) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 53(14) formula: amended, on 1 April 2008, by section 395(8) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 53(15)(a): substituted, on 1 April 2008, by section 395(9) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 53(15)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 178(9)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(15)(b): substituted, on 1 April 2008, by section 395(9) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 53(15)(c): amended (with effect on 1 April 2008), on 6 October 2009, by section 178(9)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(16B) heading: inserted, on 1 April 2008, by section 395(10) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 53(16B): inserted, on 1 April 2008, by section 395(10) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 53(16C) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53(16C): replaced, on 1 July 2018, by section 18(1) (and see section 18(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 53 list of defined terms **direct income interest**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 38(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 53 list of defined terms **fair dividend rate annual method**: inserted, on 1 July 2018, by section 18(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 53 list of defined terms **fair dividend rate periodic method**: inserted, on 1 April 2016, by section 151(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 53 list of defined terms **foreign investment vehicle**: repealed, on 1 April 2010, by section 178(12)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **foreign PIE equivalent**: inserted, on 1 April 2010, by section 178(12)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **life insurance**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **original share**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **portfolio investment entity**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **related**: inserted, on 1 July 2018, by section 18(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 53 list of defined terms **returning share transfer**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **share**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **share supplier**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 178(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 53 list of defined terms **share user**: inserted, on 1 July 2018, by section 18(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 53 list of defined terms **shareholding**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 53 list of defined terms **structured arrangement**: inserted, on 1 July 2018, by section 18(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section EX 53 list of defined terms **unit valuation period**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 54 Fair dividend rate method and cost method: when periods affected by share reorganisations

Relevant items and formulas

(1) This section provides for the calculation, for an income year or unit valuation period (the **affected period**) in which a share reorganisation occurs, of the following:

(a) the item **peak holding differential** for the purposes of the formulas in sections EX 52(8), EX 53(10), and EX 56(15):

(b) the item **average cost** for the purposes of the formulas in sections EX 52(8), EX 52(12), EX 53(10) and EX 56(5) and (15):

(c) the item **increase** for the purposes of the formula in section EX 56(5).

Identifying reorganisation periods

(2) For the purposes of calculating the items for an affected period under this section,—

(a) the affected period is treated as consisting of periods (the **reorganisation periods**) that do not overlap:

(b) a reorganisation period—

(i) begins with the start of the affected period and immediately before each share reorganisation in the affected period; and

(ii) ends immediately before each share reorganisation in the affected period and at the end of the affected period.

Identifying equivalent shareholdings

(3) For the purposes of calculating the items for an affected period under this section,—

(a) the amount of the attributing interest in the FIF held by the person at any time (the **comparison time**) in a reorganisation period, is treated as being the amount (the **equivalent shareholding**) of the attributing interest in the FIF that the person would hold at the end of the affected

period if, after the comparison time, the person did not increase or reduce the attributing interest in the FIF except under share reorganisations occurring in the affected period:

(b) the amount of an acquisition or increase (the **acquired shareholding**) by the person of the attributing interest in the FIF other than under a share reorganisation is treated as being the amount (the **equivalent acquired shareholding**) equal to the difference between—

(i) the equivalent shareholding for the time of the acquisition or increase; and

(ii) the amount that would be the equivalent shareholding for the time of the acquisition or increase if the person were not to have the acquired shareholding.

Peak holding differential

(4) The item **peak holding differential**, for a person and an affected period, is the lesser of the following:

(a) the difference between the equivalent shareholding that is the greatest for the affected period and the equivalent shareholding at the start of the affected period:

(b) the difference between the equivalent shareholding that is the greatest for the affected period and the equivalent shareholding at the end of the affected period.

Average cost

(5) The item **average cost**, for a person and an affected period, is the total amount of expenditure that the person incurs during the affected period in acquiring or increasing the attributing interest in the FIF divided by the total for the affected period of the equivalent acquired shareholding for each acquisition or increase.

Increase

(6) The item **increase**, for a person and an affected period, is the difference between the equivalent shareholding at the start of the affected period and the equivalent shareholding at the start of the period before the affected period.

Defined in this Act: amount, attributing interest, FIF, income year, share reorganisation

Compare: 2004 No 35 s EX 44E

Section EX 54(1)(b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for income years beginning on or after 1 April 2008), by section 41(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 54 list of defined terms **unit valuation period**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 55 Deemed rate of return method

Formula changes if interest changes

(1) If a person is using the **deemed rate of return method** to calculate FIF income or loss from an attributing interest in a FIF for an income year, the FIF income or loss is calculated—

(a) by the formula in subsection (3) (the **standard formula**) if the person has held the interest unchanged throughout the income year; and

(b) by totalling the amounts calculated by the formula in subsection (5) (the **part-year formula**) for each part of the income year during which the interest is unchanged, in any other case.

When interest changes

(2) A person's attributing interest in a FIF changes during an income year if the person—

(a) acquires or increases the interest; or

(b) disposes of or reduces the interest, but merely receiving an annuity payment from the interest is not a disposal or reduction.

Standard formula

(3) The standard formula is—

opening book value × deemed rate.

Definition of items in standard formula

(4) In the standard formula,—

(a) **opening book value** is the book value of the interest at the end of the previous income year, calculated under subsection (7):

(b) **deemed rate** is the rate set by the Governor-General by Order in Council for this section for the relevant income year (*see* subsection (15)).

Part-year formula

(5) The part-year formula is—

(opening book value + costs) × deemed rate × days ÷ 365.

Definition of items in part-year formula

(6) In the part-year formula,—

(a) **opening book value** is the book value, if any, of the interest at the end of the period before the part of the income year, calculated under subsection (7):

(b) **costs** is the total for the part of the income year of—

(i) all expenditure, if any, that the person incurs in acquiring or increasing the interest:

(ii) income tax on the income of the FIF for which the person is liable under the laws of a country or territory outside New Zealand and which is paid by the person in the part of the income year:

(c) **deemed rate** is the rate set by the Governor-General by Order in Council for this section for the relevant income year (*see* subsection (15)):

(d) **days** is the number of days in the part of the income year; and for this purpose, an acquisition or increase is treated as occurring at the start of a day, and a disposition or reduction is treated as occurring at the end of a day.

Closing book value formula

(7) The book value, at the end of an income year or, in a case in which subsection (5) applies, a part of an income year, of an attributing interest of a person in a FIF under the deemed rate of return method is, unless subsection (9) applies, calculated using the formula (the **closing book value formula**)—

opening book value + costs + deemed income + top-up amounts − gains.

Definition of items in closing book value formula

(8) In the closing book value formula,—

(a) **opening book value** is the book value, if any, of the interest at the end of the previous income year or the part of the income year, calculated under subsection (7):

(b) **costs** is the total for the income year or part of the income year of—

(i) all expenditure, if any, that the person incurs in acquiring or increasing the interest:

(ii) income tax on the income of the FIF for which the person is liable under the laws of a country or territory outside New Zealand and which is paid by the person in the income year or part of the income year:

(c) **deemed income** is the FIF income from the interest for the year or the part of the income year calculated under subsection (3) or (5):

(d) **top-up amounts** is amounts, gains from holding or disposing of the interest, that are top-up FIF income in the year under section EX 60 or EX 61:

(e) **gains** is the total of all amounts that the person derives during the year or the part of the income year from holding or disposing of the interest; the amounts including any foreign withholding tax or other amount that the person is allowed as a credit under section LE 1 (Tax credits for imputation credits) or LJ 2 (Tax credits for foreign income tax).

Closing book value zero if changing method

(9) The closing book value is always zero if the person is using a calculation method for the interest different from the deemed rate of return method at the

end of the income year or, in a case to which subsection (5) applies, the part of the income year.

Top-up income if deemed rate inadequate

(10) If the closing book value of a person's attributing interest in a FIF at the end of an income year or a part of an income year is below zero, the person has additional FIF income equal to the deficit for the relevant income year.

When subsection (10) does not apply

(11) Subsection (10) does not apply if—

(a) the person is a natural person; and

(b) at all times during the income year the total value of the person's attributing interests in FIFs is $250,000 or less, the value of each interest being—

(i) its book value, calculated under subsection (7), at the end of the previous income year, if the person held the interest then and used the deemed rate of return method to calculate FIF income for all attributing interests in the previous income year:

(ii) its market value, in any other case; and

(c) the deficit in closing book value arises only because the person disposed of some or all of the interest; and

(d) the gain that the person derived from disposing of the interest or part-interest is not income, or is income only to the extent to which it gives rise to FIF income.

Top-up income if gains more than deemed income

(12) A person calculating FIF income under the deemed rate of return method can also have additional FIF income under section EX 60.

FIF income reduced on disposal if deemed rate excessive

(13) If a person has disposed of the whole of an attributing interest in a FIF and the closing book value for the relevant income year or the part of the income year is more than zero, the excess is subtracted when the person's FIF income under the deemed rate of return method for the income year is calculated.

When subsection (13) does not apply

(14) Subsection (13) does not apply if—

(a) the person is a natural person; and

(b) at all times during the income year the total value of attributing interests in FIFs held by the person is $250,000 or less, the value of each interest being—

(i) its book value, calculated under subsection (7), at the end of the previous income year, if the person held the interest then and used

the deemed rate of return method to calculate FIF income for all attributing interests in the previous income year:

(ii) its market value, in any other case; and

(c) the gain that the person derived from disposing of the interest or part-interest is not income, or is income only to the extent to which it gives rise to FIF income.

Secondary legislation

(15) An Order in Council under subsection (4)(b) or (6)(c) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, attributing interest, calculation method, deemed rate of return method, FIF, FIF income, foreign withholding tax, income, income year, loss, market value, pay, tax

Compare: 2004 No 35 s EX 45

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EX 55(4)(b): 8.04% is the deemed rate applying for the 2024–25 income year, on 25 July 2025, by clause 3 of the Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2024–25 Income Year) Order 2025 (SL 2025/150).

Section EX 55(4)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EX 55(6)(c): 8.04% is the deemed rate applying for the 2024–25 income year, on 25 July 2025, by clause 3 of the Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2024–25 Income Year) Order 2025 (SL 2025/150).

Section EX 55(6)(c): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EX 55(8)(e): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 55(15) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EX 55(15): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EX 56 Cost method

Cost method formula

(1) If a person is using the cost method to calculate FIF income or loss from an attributing interest in a FIF for an income year, the person's total FIF income from their attributing interests in the FIF for the income year is calculated using the formula—

(0.05 × opening value) + quick sale adjustment.

Definition of items in formula

(2) The items in the formula in subsection (1) are defined in subsections (3) to (18).

Opening value

(3) **Opening value** is the total of the market values of the person's attributing interests in the FIF, being—

(a) zero, if the relevant income year is the year in which the person acquires an attributing interest in the FIF; or

(ab) the amount that is shown as the net asset value of the interest in audited financial statements of the person for the relevant income year made available to the general public, if—

(i) paragraph (a) does not apply; and

(ii) the FIF makes available to the general public audited financial statements for its accounting year ending in the relevant income year; and

(iii) the person chooses that this paragraph applies; or

(ac) the amount of the cost of the interest, if—

(i) paragraphs (a) and (ab) do not apply; and

(ii) the person acquires the interest in the 2005–06 or 2006–07 income year; and

(iii) the interest was not an attributing interest for the income year before the relevant income year; or.

(b) the amount of an independent valuation of the market value of the interest at the start of the relevant income year, if paragraphs (a), (ab) and (ac) do not apply and the person holds the interest at the start of the relevant income year, and—

(i) the interest was not an attributing interest for which the person has FIF income or loss for the income year before the relevant income year:

(ii) the person chooses to use the amount of the independent valuation and there is a period of at least 4 income years between the start of the relevant income year and their last application of this paragraph to the interest, during which period they used the cost method for the interest for all income years.

(c) the amount calculated using the formula in subsection (4), if paragraphs (a), (ab), (ac), and (b) do not apply and the person's shareholding (the **current opening shareholding**) at the start of the relevant income year is the same as the person's shareholding (the **preceding opening shareholding**) at the start of the preceding income year; or

(d) the amount calculated using the formula in subsection (5), if paragraphs (a), (ab), (ac), and (b) do not apply and the person's current opening shareholding is more than the preceding opening shareholding; or

(e) the amount calculated using the formula in subsection (6), if paragraphs (a), (ab), (ac), and (b) do not apply and the person's current opening shareholding is less than the preceding opening shareholding.

Opening value formula: no shareholding change

(4) The formula referred to in subsection (3)(c) is—

1.05 × preceding opening.

Opening value formula: shareholding increase

(5) The formula referred to in subsection (3)(d) is—

1.05 × preceding opening + (increase × average cost).

Opening value formula: shareholding decrease

(6) The formula referred to in subsection (3)(e) is—

(opening shareholding ÷ preceding shareholding) × 1.05 × preceding opening.

Definition of items in formulas

(7) The items in the formula in subsections (4) to (6) are defined in subsections (8) to (13).

Preceding opening

(8) **Preceding opening** is the opening value for the income year before the relevant income year.

FIF income

[Repealed]

(9) *[Repealed]*

Increase

(10) **Increase** is,—

(a) if no share reorganisation occurs in the preceding income year, the difference between the person's shareholding at the start of the relevant income year and the person's shareholding at the start of the preceding income year:

(b) if a share reorganisation occurs in the preceding income year, the amount calculated under section EX 54 for the preceding income year.

Average cost

(11) **Average cost** is,—

(a) if no share reorganisation occurs in the preceding income year, the total amount of expenditure that the person incurs in acquiring or increasing during the preceding income year the attributing interest in the FIF

divided by the total for the preceding income year of the increase in the attributing interest in the FIF for each acquisition or increase; or

(b) if a share reorganisation occurs in the preceding income year, the amount calculated under section EX 54 for the preceding income year.

Opening shareholding

(12) **Opening shareholding** is the amount of the person's shareholding at the start of the relevant income year.

Preceding shareholding

(13) **Preceding shareholding** is the amount of the person's shareholding at the start of the preceding income year.

When quick sale adjustment required

(14) The quick sale adjustment is required only if, in the relevant income year, the person disposes of or reduces their attributing interest in the FIF after acquiring it or increasing it. The quick sale adjustment is zero in any other case.

Quick sale adjustment

(15) **Quick sale adjustment** is calculated using the formula—

$$0.05 \times \text{peak holding differential} \times \text{average cost}.$$

Definition of items in formula

(16) The items in the formula in subsection (15) are defined in subsections (17) and (18).

Peak holding differential

(17) **Peak holding differential** is,—

(a) if no share reorganisation occurs in the relevant income year, the lesser of—

(i) the difference between the greatest shareholding in the year and the shareholding at the start of the year:

(ii) the difference between the greatest shareholding in the year and the shareholding at the end of the year; or

(b) if a share reorganisation occurs in the relevant income year, the amount calculated under section EX 54 for the year.

Average cost

(18) **Average cost** is,—

(a) if no share reorganisation occurs in the relevant income year, the total amount of expenditure that the person incurs in acquiring or increasing during the relevant income year the attributing interest in the FIF divided by the total for the year of the shareholding increase in the attributing interest in the FIF for each acquisition or increase; or

(b) if a share reorganisation occurs in the relevant income year, the amount calculated under section EX 54 for the year.

Meaning of shareholding

(19) In this section, **shareholding** means the number of shares or units in an attributing interest.

Defined in this Act: amount, attributing interest, cost method, FIF, FIF income, FIF loss, income year, market value, New Zealand, share reorganisation, shareholding

Compare: 2004 No 35 s EX 45B

Section EX 56(3)(ab): inserted, on 1 April 2008, by section 396(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(3)(ac)(ii): amended (with effect on 1 April 2008), on 6 October 2009, by section 179(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(3)(ac)(iii): added (with effect on 1 April 2008), on 6 October 2009, by section 179(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(3)(ac): inserted, on 1 April 2008, by section 396(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(3)(b): amended, on 1 April 2008, by section 396(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(3)(b)(i): amended, on 1 April 2008, by section 396(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(3)(b)(ii): replaced (with effect on 1 April 2008), on 18 March 2019, by section 182 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EX 56(3)(c): amended, on 1 April 2008, by section 396(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(3)(d): amended, on 1 April 2008, by section 396(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(3)(e): amended, on 1 April 2008, by section 396(6) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(4) formula: substituted (with effect on 1 April 2008), on 6 October 2009, by section 179(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(5) formula: substituted (with effect on 1 April 2008), on 6 October 2009, by section 179(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(6) formula: substituted (with effect on 1 April 2008), on 6 October 2009, by section 179(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(9) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 179(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(9): repealed (with effect on 1 April 2008), on 6 October 2009, by section 179(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(11)(a): amended, on 1 April 2008, by section 396(7) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56(15) formula: substituted (with effect on 1 April 2008), on 6 October 2009, by section 179(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56(18)(a): amended, on 1 April 2008, by section 396(8) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 56 list of defined terms **close of trading spot exchange rate**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 179(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 56 list of defined terms **shareholding**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 56 list of defined terms **unit valuation period**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 57 Conversion of foreign currency amounts: most methods

When this section applies

(1) This section applies when—

(a) an amount in a foreign currency is the market value of, or is derived from or incurred on, an attributing interest in a FIF that a person has in an income year; and

(b) the person is using one of the following calculation methods (the **relevant method**) to calculate their FIF income or loss from the interest for the income year:

(i) the comparative value method:

(ii) the fair dividend rate method:

(iii) the deemed rate of return method:

(iv) the cost method.

Choosing conversion rates

(2) The person must choose either that—

(a) each foreign currency amount in the income year is converted into New Zealand dollars using the exchange rate on the day for which the market value is determined or on which the amount is derived or incurred; or

(b) all foreign currency amounts in the income year are converted into New Zealand dollars at the average of the close of trading spot exchange rates for the 15th day of each month that falls in the income year.

Election applying method-wide and for future years

(3) The election by the person must be applied for all attributing interests for which they use the relevant method for the income year and each later income year.

Defined in this Act: amount, attributing interest, calculation method, close of trading spot exchange rate, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF income, FIF loss, income year, New Zealand

Compare: 2004 No 35 ss EX 44(7), EX 44C(11), EX 44D(13), EX 45(15), EX 45B(17)

EX 58 Additional FIF income or loss if CFC owns FIF

Application of this section

(1) This section applies when—

(a) a person has an income interest of 10% or more in a CFC for an accounting period under sections EX 14 to EX 17; and

(ab) as a result of an income interest of the CFC in a FIF, the person has an indirect attributing interest in the FIF for the accounting period; and

(b) FIF income and FIF loss is not taken into account in calculating the net attributable CFC income or loss of the CFC for the period for the person.

Calculation of FIF income or loss

(2) The person instead has FIF income or loss, for the income year in which the period ends, calculated using the formula—

income interest × CFC's FIF income or loss.

Definition of items in formula

(3) In the formula,—

(a) **income interest** is the person's income interest in the CFC for the period under sections EX 8 to EX 13:

(b) **CFC's FIF income or loss** is the CFC's FIF income or loss for the period, calculated under subsections (4) and (5), from FIFs in which the person has an indirect attributing interest.

Application of FIF rules to choice of method

(4) The person must—

(a) choose, under sections EX 44 to EX 48, the calculation method for calculating the CFC's FIF income or loss; and

(b) otherwise apply the calculation rules in sections EX 44 to EX 61 to the CFC and the CFC's interest in the FIF, for the period when the person held the indirect attributing interest; and

(c) apply the FIF loss ring-fencing rules in section DN 8 (Ring-fencing cap on deduction: attributable FIF income method) to the CFC and the CFC's interest in the FIF.

Exceptions

(5) Despite subsection (4), the CFC's FIF income or loss does not include an amount actuarially determined to be attributable to policyholders in the CFC or another company as a result of applying section EX 21(25) and (26) to the CFC.

Non-attributing Australian CFCs and non-attributing active CFCs

(6) This section applies regardless of whether the CFC is a non-attributing active CFC under section EX 21B or a non-attributing Australian CFC under section EX 22 for the period.

Exclusion for insurance CFC meeting requirements of determination

(7) The CFC's FIF income or loss does not include income from an income interest of less than 10% in a FIF if the CFC meets the requirements of a determination made by the Commissioner under section 91AAQ of the Tax Administration Act 1994.

Defined in this Act: accounting period, amount, attributing interest, calculation method, CFC, company, direct income interest, FIF, FIF income, FIF loss, FIF rules, grey list, income interest, income year, indirect attributing interest, loss

Compare: 2004 No 35 s EX 46

Section EX 58(1)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 180(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 58(1)(ab): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 24 February 2016, by section 152(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 58(1)(b): amended, on 24 February 2016, by section 152(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 58(1)(b): amended (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 39(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 58(3)(b): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), by section 97(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 58(4)(b): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 24 February 2016, by section 152(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 58(4)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 24 February 2016, by section 152(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 58(4)(c): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), by section 97(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 58(5) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 39(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 58(5): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 49(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 58(6) heading: replaced, on 24 February 2016, by section 152(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 58(6): substituted (with effect on 30 June 2009), on 6 October 2009, by section 180(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 58(6): amended, on 24 February 2016, by section 152(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 58(7) heading: added (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 42(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 58(7): added (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 42(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EX 58 list of defined terms **branch equivalent income**: repealed (with effect on 1 July 2009), on 7 May 2012, by section 39(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 58 list of defined terms **direct income interest**: inserted (with effect on 1 April 2014), on 30 June 2014, by section 97(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EX 58 list of defined terms **indirect attributing interest**: inserted (with effect on 1 April 2014), on 24 February 2016, by section 152(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Relationship with other provisions in Act

EX 59 Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method

When this section applies

(1) This section applies when a person has an attributing interest in a FIF and calculates their FIF income or loss from the interest for a period using—

(a) the comparative value method:

(b) the deemed rate of return method:

(c) the fair dividend rate method:

(d) the cost method.

Exclusion for interests in FIFs resident in Australia

(1B) Subsection (1)(c) does not apply if the person's interest in the company is included, at the beginning of the income year in which the payment is made, in a direct income interest of 10% or more in a FIF that, at the beginning of the income year,—

(a) meets the requirements of section EX 35(b)(i) to (iii); and

(b) does not have its liability for income tax reduced by an exemption, allowance, or relief referred to in section EX 35(c)(i) or (ii); and

(c) is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company.

Application of rule for certain managed funds

(1C) Subsection (1B) does not apply if—

(a) the person is a portfolio investment entity, an entity eligible to be a portfolio investment entity, or a life insurance company; and

(b) the FIF is a foreign PIE equivalent.

No income other than FIF income

(2) An amount, other than FIF income, that is derived in the period from the interest is excluded income under section CX 57B (Amounts derived during periods covered by calculation methods).

Exception to subsection (2): fees rebate

(2B) An amount derived by the person from the interest is not disregarded under subsection (2) if—

(a) the amount is a rebate of fees; and

(b) the person was allowed a deduction for the payment of the fees.

No deductions other than FIF loss

(3) The person is denied a deduction for any amount incurred in the period on acquiring some or all of the interest, except to the extent to which the amount is taken into account under the relevant calculation method in calculating FIF income or loss for the period.

Application of trading stock rules

(4) The interest is not trading stock in the period and accordingly subpart EB (Valuation of trading stock (including dealer's livestock)) does not apply.

Defined in this Act: amount, attributing interest, calculation method, company, comparative value method, cost method, deduction, deemed rate of return method, direct income interest, excluded income, fair dividend rate method, FIF, FIF income, FIF loss, foreign PIE equivalent, income, life insurance, loss, portfolio investment entity, trading stock

Compare: 2004 No 35 s EX 47

Section EX 59(1)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 181(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59(1B) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 40(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 59(1B): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 40(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 59(1B)(b): amended (with effect on 1 July 2014), on 31 March 2023, by section 64(1) (and see section 64(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 59(1B)(c): inserted (with effect on 1 July 2014), on 31 March 2023, by section 64(2) (and see section 64(3) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EX 59(1C) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 181(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59(1C): inserted (with effect on 1 April 2008), on 6 October 2009, by section 181(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59(1C)(b): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 181(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59(2): replaced, on 29 March 2018, by section 89(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 59(2B) heading: inserted (with effect on 1 April 2009), on 6 October 2009, by section 181(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59(2B): inserted (with effect on 1 April 2009), on 6 October 2009, by section 181(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59 list of defined terms **company**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 181(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59 list of defined terms **direct income interest**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 181(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59 list of defined terms **dividend**: repealed, on 29 March 2018, by section 89(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 59 list of defined terms **excluded income**: inserted, on 29 March 2018, by section 89(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 59 list of defined terms **foreign investment vehicle**: repealed, on 1 April 2010, by section 181(6)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59 list of defined terms **foreign PIE equivalent**: inserted, on 1 April 2010, by section 181(6)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59 list of defined terms **grey list company**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 40(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 59 list of defined terms **life insurance**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 181(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 59 list of defined terms **portfolio investment entity**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 181(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 60 Top-up FIF income: deemed rate of return method

When this section applies

(1) This section applies at any time when a person—

(a) has an attributing interest in a FIF for a period; and

(b) is calculating the FIF income or loss from the interest using the deemed rate of return method; and

(c) derives in the period, from holding or disposing of the interest, an amount that would have been income if section EX 59(2) had not applied.

Formula

(2) The gain is FIF income to the extent to which the amount calculated using the following formula is positive:

total income gains − total FIF income.

Definition of items in formula

(3) In the formula,—

(a) **total income gains** is the total of amounts, including the amount in question, derived by the person until that time from holding or disposing of the interest that would have been income if section EX 59(2) had not applied:

(b) **total FIF income** is the total of FIF income, reduced by the total of any FIF losses, derived by the person from the interest until, and including, the relevant period.

Consequence of partial disposals

(4) If the person disposes of part of the interest, this section applies to the part disposed of and the part retained as if they were separate interests. If this means that an apportionment is necessary, it must be done on the basis of the respective market values at the time the part interest is disposed of.

Defined in this Act: amount, attributing interest, deemed rate of return method, FIF, FIF income, FIF loss, income, loss, market value

Compare: 2004 No 35 s EX 48

Section EX 60(4) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EX 61 Top-up FIF income: 1 April 1993 uplift interests

When this section applies

(1) This section applies at any time if a person—

(a) has an attributing interest in a FIF for a period; and

(b) held the interest on 2 July 1992; and

(c) calculated their FIF income from the interest in the period starting on 1 April 1993 under the comparative value method or the deemed rate of return method; and

(d) was treated as having reacquired the interest on 1 April 1993 for an uplifted cost under section CG 23(1)(d) of the Income Tax Act 1994 or EZ 7 of the Income Tax Act 2004; and

(e) derives in the period, from holding or disposing of the interest, an amount that would have been income if section EX 59(2) had not applied.

Formula

(2) The gain is FIF income to the extent to which the amount calculated using the following formula is positive:

total income gains − total FIF income.

Definition of items in formula

(3) In the formula,—

(a) **total income gains** is the total of amounts, including the amount in question, that the person derived until that time from holding or disposing of the interest that would have been income if section EX 59(2) had not applied:

(b) **total FIF income** is the total of FIF income, reduced by the total of any FIF losses, that the person derived from the interest until, and including, the relevant period.

Consequence of partial disposals

(4) If the person disposes of part of the interest, this section applies to the part disposed of and the part retained as if they were separate interests. If this means that an apportionment is necessary, it must be done on the basis of the respective market values at the time the part interest is disposed of.

Defined in this Act: amount, attributing interest, comparative value method, deemed rate of return method, FIF, FIF income, FIF loss, income, market value

Compare: 2004 No 35 s EX 49

Section EX 61(4) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Changing calculation method

EX 62 Limits on changes of method

No change unless allowed

(1) Once a person uses a particular calculation method to calculate FIF income or loss for an attributing interest in a FIF for a particular period, they must use the same method for interests in the FIF for the next period unless they are allowed to change under subsections (2) to (9).

Change on practical grounds

(2) The person may change if it is not practical to continue with the same method because—

(a) *[Repealed]*

(b) in the case of the attributable FIF income method, section EX 46(3)(a) and (b) prevent its continued use or it is impossible to obtain enough information to continue to use it:

(c) in the case of the comparative value method,—

(i) section EX 46(6) prevents its continued use:

(ii) it is impossible to find out the end-of-year market value of the interest:

(d) *[Repealed]*

(e) in the case of the deemed rate of return method, the person is required by section EX 47 to use the comparative value method:

(f) in the case of the fair dividend rate method, it is impossible to find out the start-of-year market value of the interest except by an independent valuation:

(g) in the case of the cost method, section EX 46(9) prevents its continued use.

Choosing to change

(3) The person may also change by notice to the Commissioner if—

(a) the notice complies with subsection (4); and

(b) either—

(i) the person is a natural person and the $250,000 threshold in subsection (5) is not exceeded; or

(ii) the change is to, or from, the attributable FIF income method and within subsections (6) and (7).

Notice of election

(4) The notice of an election to change under subsection (3) must—

(a) give the reasons for the change; and

(b) comply with the Commissioner's notice requirements; and

(c) be given before the end of the first income year or accounting period for which the change is to take effect, unless the Commissioner agrees to a retrospective notice; and

(d) in the case of a natural person relying on the $250,000 threshold test in subsection (3)(b)(i), be given before the end of the year or period that is before the one from the end of which the change takes effect.

Natural person: $250,000 threshold

(5) A natural person may make an election under subsection (3) if the total market value of their attributing interests in FIFs is $250,000 or less at the end of the income year or accounting period before the year or period from the end of which the change takes effect.

Changing to or from the attributable FIF income method

(6) A person may make an election under subsection (3) to change to or from the attributable FIF income method if—

(a) *[Repealed]*

(b) this is the first time they have chosen to change to or from the attributable FIF income method for an attributing interest in the FIF, other than a change from the branch equivalent method:

(c) subsection (7) allows them to make another election.

Repeated changes to or from attributable FIF income method

(7) A person may change more than once to, or from, the attributable FIF income method if—

(a) there has been a change in circumstances, such as a significant change in shareholding, that significantly changes their ability to obtain enough information to use the attributable FIF income method; and

(b) altering their income tax liability is not the principal purpose or effect of the change.

Repeated changes between fair dividend rate method and comparative value method

(8) A person may change more than once from the fair dividend rate method to the comparative value method and from the comparative value method to the fair dividend rate method if the person is a natural person or the trustee of a trust that—

(a) has no gifting settlor who is not a natural person or deceased person; and

(b) at all times in the income year, is a complying trust for a distribution made at the time; and

(c) is—

(i) at all times in the income year, mainly for the benefit of a natural person for whom the gifting settlors of the trust have natural love and affection, or had natural love and affection when alive:

(ii) mainly for the benefit of an organisation or trust with income that is exempt income under section CW 41 or CW 42 (which relate to the income of charities); and

(d) is not a superannuation scheme.

Change to fair dividend rate method in return for 2008–09, 2009–10 tax year

(9) A person may change to the fair dividend rate method from the branch equivalent method or the accounting profits method in the person's return of income for—

(a) the 2008–09 tax year, if the person has not furnished a return for that tax year before the date on which the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 receives the Royal assent; or

(b) the 2009–10 tax year, if the person has furnished a return for the 2008–09 tax year before the date on which that Act receives the Royal assent.

Change to fair dividend rate method for first income year beginning on or after 1 July 2011

(10) A person may change to the fair dividend rate method from the accounting profits method, the branch equivalent method, or the deemed rate of return method in the person's return of income for the first income year beginning on or after 1 July 2011.

Defined in this Act: accounting period, accounting profits method, attributable FIF income method, attributing interest, branch equivalent method, calculation method, Commissioner, comparative value method, complying trust, cost method, deemed rate of return method, exempt income, fair dividend rate method, FIF, FIF income, gifting settlor, income tax liability, income year, loss, market value, notice, return, return of income, superannuation scheme, tax year, trustee

Compare: 2004 No 35 s EX 50

Section EX 62(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 182(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 62(2)(a): repealed, on 24 February 2016, by section 153(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 62(2)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(2)(b): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 50(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 62(2)(c): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(2)(d): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(2)(e): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(2)(g): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(3)(b)(ii): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(6) heading: replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(8) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(6): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(8) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(6)(a): repealed, on 24 February 2016, by section 153(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 62(6)(b): amended, on 24 February 2016, by section 153(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 62(7) heading: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(9) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(7): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(9) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(7)(a): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(9) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(8)(a): substituted, on 1 April 2008, by section 398 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 62(8)(b): substituted, on 1 April 2008, by section 398 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 62(8)(c): substituted, on 1 April 2008, by section 398 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 62(8)(d): substituted, on 1 April 2008, by section 398 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 62(9) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 182(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 62(9): added (with effect on 1 April 2008), on 6 October 2009, by section 182(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 62(10) heading: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(10) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62(10): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 41(10) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 41(11)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 62 list of defined terms **branch equivalent method**: inserted, on 24 February 2016, by section 153(4)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 62 list of defined terms **gifting settlor**: inserted, on 24 February 2016, by section 153(4)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 62 list of defined terms **return**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 182(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 62 list of defined terms **return of income**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 182(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 62 list of defined terms **settlor**: repealed, on 24 February 2016, by section 153(4)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 62 list of defined terms **tax year**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 182(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EX 63 Consequences of changes in method

Changes between cost-based methods and attributable FIF income method

(1) Subsection (2) applies if a person holding an attributing interest in a FIF changes the calculation method for calculating FIF income or loss from the interest—

(a) from 1 of the 4 cost-based calculation methods (the comparative value method, the deemed rate of return method, the fair dividend rate method, or the cost method) to the attributable FIF income method; or

(b) from the attributable FIF income method to 1 of the 4 cost-based calculation methods.

Treatment as disposal for market value

(2) The person is treated as having—

(a) disposed of the interest to an unrelated person immediately before the start of the first accounting period to which the new method applies; and

(b) reacquired the interest at the start of the period; and

(c) received for the disposal and paid for the reacquisition an amount equal to the interest's market value at the time.

Changes from comparative value method or fair dividend rate method to cost method or deemed rate of return method

(3) If a person holding an attributing interest in a FIF changes from either of the comparative value method and the fair dividend rate method to either of the cost method and the deemed rate of return method for calculating FIF income or loss from the interest, the person is treated as having—

(a) disposed of the interest to an unrelated person immediately before the start of the first income year to which the new method applies; and

(b) reacquired the interest at the start of the income year; and

(c) received for the disposal and paid for the reacquisition an amount equal to the interest's market value at the time of the disposal.

Changes from cost method or deemed rate of return method to comparative value method or fair dividend rate method

(4) If a person holding an attributing interest in a FIF changes from either of the cost method or the deemed rate of return method to either of the comparative value method or fair dividend rate method for calculating FIF income or loss from the interest, the person is treated as having—

(a) disposed of the interest to an unrelated person immediately before the start of the first income year to which the new method applies; and

(b) reacquired the interest at the start of the income year; and

(c) received for the disposal and paid for the reacquisition an amount equal to,—

(i) for a person changing from the cost method, what would have been the interest's opening value under section EX 56 if the person had applied the cost method for the income year; or

(ii) for a person changing from the deemed rate of return method, the interest's closing book value under section EX 55(7) for the preceding income year.

Changes between comparative value method and fair dividend rate method

(5) If a person holding an attributing interest in a FIF changes from either of the comparative value method and the fair dividend rate method to the other of the comparative value method and the fair dividend rate method for calculating the FIF income or loss from the interest, the person is treated as having—

(a) disposed of the interest to an unrelated person immediately before the start of the first income year to which the new method applies; and

(b) reacquired the interest at the start of the income year; and

(c) received for the disposal and paid for the reacquisition an amount equal to the market value of the interest at the time of the disposal.

Defined in this Act: accounting period, amount, attributable FIF income method, attributing interest, calculation method, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF, FIF income, income year, loss, market value, pay

Compare: 2004 No 35 s EX 51

Section EX 63(1) heading: amended, on 30 March 2025, by section 54(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 63(1)(a): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 42(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 63(1)(b): replaced, on 30 March 2025, by section 54(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 63(2) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 63(2)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 17 July 2013, by section 53(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EX 63(3)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 17 July 2013, by section 53(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EX 63(4)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 17 July 2013, by section 53(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EX 63(5) heading: added, on 1 April 2008, by section 399 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 63(5): added, on 1 April 2008, by section 399 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 63 list of defined terms **accounting profits method**: repealed, on 30 March 2025, by section 54(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 63 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 42(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 63 list of defined terms **branch equivalent method**: repealed, on 24 February 2016, by section 154(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Cases of entry into and exit from FIF rules

EX 64 Migration of persons holding FIF interests

Leaving New Zealand

(1) Subsection (2) applies if a person—

(a) ceases to be resident in New Zealand; and

(b) holds an attributing interest in a FIF at the time; and

(c) for the period before the change of residence, calculates FIF income or loss from the interest using—

(i) the comparative value method:

(ii) the deemed rate of return method:

(iii) the fair dividend rate method:

(iv) the cost method.

Treatment as disposal at market value

(2) The person is treated as—

(a) having disposed of the interest immediately before the change of residence for an amount equal to its market value at the time; and

(b) not holding the interest when not resident in New Zealand, unless they become resident again and subsections (3) and (4) apply.

Coming to New Zealand

(3) Subsection (4) applies if a person—

(a) is a non-resident or a transitional resident; and

(b) becomes a New Zealand resident who is not a transitional resident; and

(c) holds an attributing interest in a FIF at the time; and

(d) for the period after the change of residence or status, calculates FIF income or loss from the interest using—

(i) the comparative value method:

(ii) the deemed rate of return method:

(iii) the fair dividend rate method:

(iv) the cost method.

Treatment as acquisition at market value

(4) The person is treated as—

(a) having acquired the interest immediately after the change of residence or status for an amount equal to its market value at the time; and

(b) not holding it when the person is a transitional resident or not a New Zealand resident, unless they had previously ceased being resident and subsections (1) and (2) applied.

Look-through calculation method: relevance of income interest rules

(5) Subsection (6) applies if a person—

(a) ceases to be—

(i) a New Zealand resident who is not a transitional resident, and becomes a non-resident:

(ii) a non-resident, and becomes a New Zealand resident who is not a transitional resident:

(iii) a transitional resident, and becomes a New Zealand resident who is not a transitional resident; and

(b) holds an attributing interest in a FIF at the time; and

(c) for the accounting period in which the change occurs, uses the attributable FIF income method to calculate FIF income or loss from the interest.

Income interest rules

(6) The income interest rule in section EX 16 is relevant to the calculation of the amount of FIF income or loss for the period.

Defined in this Act: accounting period, amount, attributable FIF income method, attributing interest, calculation method, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF, FIF income, FIF loss, income interest, loss, market value, New Zealand, New Zealand resident, non-resident, resident in New Zealand, transitional resident

Compare: 2004 No 35 s EX 52

Section EX 64(2) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 64(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 64(4) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 64(4)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 64(5)(c): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 43(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 64 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 43(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 64 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 43(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 64 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 43(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 65 Changes in application of FIF exemptions

Exemptions ceasing to apply

(1) Subsections (2) to (4) apply if a person—

(a) holds rights in 1 of the categories of rights described in section EX 29(2) to (4); and

(b) either—

(i) the rights become an attributing interest in a FIF because 1 of the exemptions in sections EX 31 to EX 43 ceases to apply; or

(ii) the person starts having FIF income or loss from the rights because they incur a cost on an attributing interest in a FIF and exceed the $50,000 threshold in sections CQ 5(1)(d) or (e) (When FIF income arises) and DN 6(1)(d) or (e) (When FIF loss arises).

Market value for cost-based methods

(2) If the person uses the comparative value method, deemed rate of return method, the fair dividend rate method, or the cost method to calculate FIF income or loss from the rights for the period following the change, the person is treated as having—

(a) disposed of the rights to an unrelated person immediately before the change; and

(b) reacquired them immediately after the change; and

(c) received for the disposal and paid for the reacquisition an amount equal to their market value at the time.

Calculation of reduction in FIF income or loss

(3) If the change occurs during an accounting period of the FIF and the person uses the attributable FIF income method to calculate FIF income or loss from the rights for that period, the FIF income or loss is reduced by subtracting the amount calculated using the formula—

FIF income or loss × days before change ÷ days in period.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **FIF income or loss** is the FIF income or loss of the person from the rights for the period before allowing for the reduction:

(b) **days before change** is the number of complete days in the period before the change occurs:

(c) **days in period** is the number of days in the period.

Exemptions applying

(5) Subsections (6) to (8) apply if a person—

(a) holds an attributing interest in a FIF; and

(b) either—

(i) the interest ceases to be an attributing interest in a FIF because 1 of the exemptions in sections EX 31 to EX 43 starts to apply; or

(ii) the person ceases having FIF income or loss from the interest because they dispose of an attributing interest in a FIF and fall below the $50,000 threshold in sections CQ 5(1)(d) or (e) and DN 6(1)(d) or (e).

Market value for cost-based methods

(6) If the person uses the comparative value method, the deemed rate of return method, fair dividend rate method, or cost method to calculate FIF income or loss from the interest for the period before the change, the person is treated as having—

(a) disposed of the interest to an unrelated person immediately before the change; and

(b) reacquired it immediately after the change; and

(c) received for the disposal and paid for the reacquisition an amount equal to its market value at the time.

Calculation of reduction in FIF income or loss

(7) If the change occurs during an accounting period of the FIF and the person uses the attributable FIF income method to calculate FIF income or loss from the interest for that period, the FIF income or loss is reduced by subtracting the amount calculated using the formula—

FIF income or loss × days after change ÷ days in period.

Definition of items in formula

(8) In the formula in subsection (7),—

(a) **FIF income or loss** is the FIF income or loss of the person from the interest for the period before allowing for the reduction:

(b) **days after change** is the number of complete days in the period after the change occurs:

(c) **days in period** is the number of days in the period.

Defined in this Act: accounting period, amount, attributable FIF income method, attributing interest, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF, FIF income, loss, market value, pay

Compare: 2004 No 35 s EX 53

Section EX 65(1)(b)(i): amended (with effect on 1 April 2008), on 6 October 2009, by section 183(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 65(2)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 65(3): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 44(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 65(5)(b)(i): amended (with effect on 1 April 2008), on 6 October 2009, by section 183(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 65(6)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 65(7): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 44(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 65 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 44(3)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 65 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 44(3)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 65 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 44(3)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 66 Entities emigrating from New Zealand

When this section applies

(1) This section applies when a person holds rights that become an attributing interest in a FIF because an entity becomes a FIF.

Treatment as disposal and reacquisition

(2) The person is treated as having—

(a) disposed of the interest immediately before the change to an unrelated person; and

(b) reacquired it immediately after the change; and

(c) received for the disposal and paid for the reacquisition an amount equal to the market value of the interest at the end of the business day on which the change occurred.

Calculation of reduction in FIF income or loss

(3) If the change occurs during an accounting period of the FIF and the person uses the attributable FIF income method to calculate FIF income or loss from the rights for that period, section EX 24 does not apply and the FIF income or loss is reduced by subtracting the amount calculated using the formula—

FIF income or loss × days before change ÷ days in period.

Definition of items in formula

(4) In the formula,—

(a) **FIF income or loss** is the FIF income or loss of the person from the rights for the period before allowing for the reduction:

(b) **days before change** is the number of complete days in the period before the change occurs:

(c) **days in period** is the number of days in the period.

Defined in this Act: accounting period, amount, attributable FIF income method, attributing interest, business, FIF, FIF income, loss, market value, New Zealand, pay

Compare: 2004 No 35 s EX 54

Section EX 66(2) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 66(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 66(2)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 66(3): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 45(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 66 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 45(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 66 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 45(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 66 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 45(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 66B Entities ceasing to be FIFs

When this section applies

(1) This section applies when a person holds rights that cease to be an attributing interest in a FIF because an entity ceases to be a FIF.

Treatment as disposal and reacquisition

(2) The person is treated as having,—

(a) immediately before the change, disposed of the interest to an unrelated person; and

(b) immediately after the change, reacquired the interest; and

(c) received for the disposal and paid for the reacquisition an amount equal to the market value of the interest at the end of the business day on which the change occurred.

Calculation of reduction in FIF income or loss

(3) If the change occurs during an accounting period of the FIF and the person uses the attributable FIF income method to calculate FIF income or FIF loss from the rights for that period, section EX 24 does not apply and the FIF income or FIF loss is reduced by subtracting the amount calculated using the formula—

FIF income or loss × days after change ÷ days in period.

Definition of items in formula

(4) In the formula,—

(a) **FIF income or loss** is the FIF income or FIF loss of the person from the rights for the period before allowing for the reduction:

(b) **days after change** is the number of complete days in the period after the change occurs:

(c) **days in period** is the number of days in the period.

Defined in this Act: accounting period, amount, attributable FIF income method, attributing interest, FIF, FIF income, FIF loss, market value, pay

Section EX 66B: inserted (with effect on 1 April 2009), on 6 October 2009, by section 184(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EX 66B(2) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 66B(2)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 66B(2)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 66B(3): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 46(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 66B list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 46(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 66B list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 46(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 66B list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 46(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

EX 67 FIF rules first applying to interest on or after 1 April 2007

When this section applies

(1) This section applies when a person has rights in a FIF that—

(a) for the period ending on a day (the **preceding day**) are—

(i) not an attributing interest:

(ii) an attributing interest for which the person does not have FIF income or loss:

(iii) rights for which the person is a share supplier in a returning share transfer; and

(b) for the period beginning on the day (the **application day**) following the preceding day are an attributing interest for which the person has FIF income or loss.

Treatment as disposal and acquisition

(2) The person is treated as having—

(a) disposed of the interest immediately before the application day to an unrelated person; and

(b) reacquired it immediately at the start of the application day; and

(c) received for the disposal and paid for the reacquisition an amount equal to the market value of the interest at the time of the disposal.

Payment of tax liability arising from transition

(3) A person who is liable to pay an amount of income tax (the **amount of tax**) because of the disposals in an income year, and related acquisitions, treated as occurring under this section—

(a) may satisfy the liability by paying the Commissioner at least—

(i) one third of the amount of tax in the income year following the income year in which the disposals are treated as occurring; and

(ii) one half of the balance of the amount of tax remaining owing after payment made under subparagraph (i), in the second income year following the income year in which the disposals are treated as occurring; and

(iii) the balance of the amount of tax remaining owing after payments made under subparagraphs (i) and (ii), in the third income year following the income year in which the disposals are treated as occurring:

(b) is not liable to pay any penalty or interest for which the person would otherwise be liable for an inaccuracy in an estimate, or shortfall in the payment, of provisional tax to the extent to which the inaccuracy or shortfall arises because of the disposals.

Defined in this Act: amount, attributing interest, Commissioner, FIF, FIF income, FIF loss, income tax, income year, loss, market value, New Zealand, pay, tax

Compare: 2004 No 35 s EX 54B

Section EX 67(1) heading: substituted, on 1 April 2008, by section 400(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 67(1): substituted, on 1 April 2008, by section 400(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 67(3): amended, on 1 April 2008, by section 400(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 67(3)(a)(i): amended, on 1 April 2008, by section 400(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 67(3)(a)(ii): amended, on 1 April 2008, by section 400(2)(c) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 67(3)(a)(iii): amended, on 1 April 2008, by section 400(2)(d) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 67(3)(b): amended, on 1 April 2008, by section 400(2)(e) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

EX 67B Revaluation of inherited interests in grey list companies

When this section applies

(1) This section applies when—

(a) a person inherited, before 1 April 2007, an interest in a FIF that was a grey list company when the interest was inherited; and

(b) the cost of the interest for the person is equal to zero.

Treatment as disposal and reacquisition

(2) The person is treated as having—

(a) disposed of the interest immediately before this section applied to the person and the interest; and

(b) reacquired the interest as soon as this section applied to the person and the interest; and

(c) received for the disposal and paid for the reacquisition an amount equal to the market value of the interest at the time of the disposal.

Cost of inherited interest for purposes of tax liability

(3) For determining a tax liability of the person arising from the disposal, the cost of the interest for the person at the time of the inheritance is treated as being the lesser of—

(a) the market value of the interest at the time of the inheritance:

(b) the market value of the interest at the time of the disposal.

Payment of tax liability arising from revaluation

(4) A person who is liable to pay an amount of income tax (the **amount of tax**) because of a disposal in an income year, and related acquisition, treated as occurring under this section—

(a) may satisfy the liability by paying to the Commissioner—

(i) at least one third of the amount of tax in the income year following the income year in which the disposal is treated as occurring; and

(ii) at least one half of the balance of the amount of tax remaining owing after payment made under subparagraph (i), in the second income year following the income year in which the disposal is treated as occurring; and

(iii) the balance of the amount of tax remaining owing after payments made under subparagraphs (i) and (ii), in the third income year following the income year in which the disposal is treated as occurring:

(b) is not liable to pay any penalty or interest for which the person would otherwise be liable for an inaccuracy in an estimate, or shortfall in the payment, of provisional tax to the extent to which the inaccuracy or shortfall arises because of the disposals.

Defined in this Act: amount, Commissioner, dispose, FIF, grey list company, income tax, income year, market value, pay, provisional tax, tax

Section EX 67B: inserted, on 7 May 2012, by section 47 of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Measurement of cost

EX 68 Measurement of cost

When this section applies

(1) This section applies when the cost of a person's attributing interest in a FIF is being measured for the purposes of—

(a) the $50,000 threshold in sections CQ 5(1)(d) or (e) (When FIF income arises) and DN 6(1)(d) or (e) (When FIF loss arises):

(b) the comparative value method:

(c) the deemed rate of return method:

(d) the fair dividend rate method:

(e) the cost method.

FIFO cost flow identification

(2) If sections EX 52(14) and EX 53(16) do not apply and it is not possible to specifically identify the cost of the interest because of multiple acquisitions or dispositions or both by the person, the first-in-first-out (the **FIFO**) method of identifying cost flows is applied.

Definition of items in formula

[Repealed]

(3) *[Repealed]*

Share splits or similar

(4) If the person acquires the interest as the result of a share split, non-taxable bonus issue, or similar event, and the acquisition is not income for the person, subsections (5) and (6) apply.

Allocation of original cost

(5) The cost of the interest is a fair allocation, based on market values at the time of the split, of the cost of the original property that is split.

Allocation replacing original cost

(6) For the income year in which the split occurs and later,—

(a) the cost allocated to the interest is no longer the cost of the original property that was split; and

(b) the person is treated as having incurred the allocated cost amount on acquiring the interest when the original property was acquired; and

(c) the person is treated as not incurring any other cost on the interest merely because the original property ceases to exist.

Non-monetary cost

(7) If any cost is incurred in kind and not in money, the amount of the cost is equal to the market value of the cost incurred in kind, measured as at the time incurred.

Exclusion of term life insurance element of premiums

(8) If the interest is rights to benefit under a life insurance policy, the cost of the interest excludes a premium incurred in an earlier income year, or accounting period, to the extent to which the premium relates only to term life insurance for the previous period and does not increase the policy's surrender value.

Exclusion of holding costs

(9) The cost of the interest does not include any expenditure under the financial arrangements rules or interest on money borrowed to acquire it, or other holding costs, incurred after its acquisition.

Transitional rule: interests acquired before 1 January 2000

(10) Subsection (11) applies, for the purposes of the $50,000 threshold in sections CQ 5(1)(d) or (e) and DN 6(1)(d) or (e), if—

(a) the interest was acquired before 1 January 2000; and

(b) the person chooses, for the income year for which the relevant paragraph is applied or an earlier income year, that subsection (11) applies to all interests acquired before 1 January 2000.

Cost treated as half 1 April 2007 value

(11) Despite subsections (1) to (9), the cost of the interest is treated as equal to half the market value of the interest on 1 April 2007.

Optional transitional rule: interests excluded by section EX 39 until 2012–13 income year

(12) For interests that were acquired by the person before 1 January 2005 and excluded by section EX 39 from being attributing interests until the beginning of the 2012–13 income year, the person may choose to treat the cost of every interest as being the market value of the interest at the beginning of the 2012–13 income year, for the purposes of the $50,000 threshold in sections CQ 5(1)(d) or (e) and DN 6(1)(d) or (e).

Defined in this Act: accounting period, amount, attributing interest, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF, financial arrangements rules, income, income year, interest, life insurance, life insurance policy, market value, non-taxable bonus issue, premium, share

Compare: 2004 No 35 s EX 56

Section EX 68(1)(a): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EX 68(2) heading: substituted, on 1 April 2008, by section 401 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 68(2): substituted, on 1 April 2008, by section 401 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 68(3) heading: repealed, on 1 April 2008, by section 401 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 68(3): repealed, on 1 April 2008, by section 401 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section EX 68(12) heading: inserted (with effect on 1 October 2011), on 2 November 2012 (applying for the 2012–13 and later income years), by section 51(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 68(12): inserted (with effect on 1 October 2011), on 2 November 2012 (applying for the 2012–13 and later income years), by section 51(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Change of FIF's balance date

EX 69 Change of FIF's balance date

When this section applies

(1) This section applies when a person—

(a) has an attributing interest in a FIF; and

(b) calculates their FIF income or loss from the FIF using the attributable FIF income method; and

(c) has calculated FIF income or loss from the FIF on the basis of 1 accounting year (the **old accounting year**); and

(d) wants to change to use a different accounting year (the **new accounting year**) for the calculations.

Commissioner's consent

(2) The person may make the change only if the Commissioner agrees.

Commissioner's reasons

(3) The Commissioner may take into account any relevant factors when making the decision, including—

(a) whether the change is sought because ownership of the FIF has changed; and

(b) whether the change is sought because of taxation or other legal requirements in a country where the FIF is resident or does business; and

(c) whether the change would postpone liability to income tax on FIF income.

New accounting year

(4) If the change is approved, the person may use the new accounting year.

Limit on transitional deferral

(5) If, in order to make the transition, the transitional accounting period is more than 1 year and ends in a later income year than the old accounting year ends in, and that would result in an amount of FIF income being derived in the later income year, subsection (6) applies and section CQ 5(1)(g) (When FIF income arises) does not.

Income pro-rated over whole period

(6) For the transitional accounting period, the FIF income is divided by the number of days in the period and the resulting amount is FIF income of the person derived on each day in the period.

Defined in this Act: accounting period, accounting year, amount, attributable FIF income method, attributing interest, business, Commissioner, FIF, FIF income, income tax, income year, loss, year

Compare: 2004 No 35 s EX 57

Section EX 69(1)(b): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 48(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 69 list of defined terms **accounting profits method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 48(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 69 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 48(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 69 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 48(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Market value rules

EX 70 Market value of life policy and superannuation entitlements

When this section applies

(1) This section applies when, in order to calculate a person's FIF income or loss, it is necessary to calculate the market value of a person's rights to benefit under a life insurance policy or as a beneficiary under a superannuation scheme.

Value of life insurance policy

(2) The **market value** of rights to benefit under a life insurance policy is equal to their surrender value.

Limit to subsection (2)

(3) Subsection (2) applies only for the purpose of calculating the cost of a person's rights to benefit from a life insurance policy under—

(a) section EX 64(4); and

(b) section EX 65(2).

Value of superannuation scheme entitlement

(4) The **market value** at any time of a person's rights to benefit under a superannuation scheme is equal to the total of costs incurred up to that time by or for the person on acquiring the rights if—

(a) it is not reasonably practicable to calculate the actual market value; and

(b) they have not derived any material gain from the rights up to that time.

Defined in this Act: FIF income, life insurance policy, loss, market value, superannuation scheme

Compare: 2004 No 35 s EX 58

EX 71 Non-market transactions in FIF interests

Section GC 4 (Disposals and acquisitions of FIF attributing interests) applies to acquisitions and dispositions of attributing interests in FIFs when the compara-

tive value method, the deemed rate of return method, the fair dividend rate method, or the cost method is used.

Defined in this Act: attributing interest, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF

Compare: 2004 No 35 s EX 59

Commissioner's default assessment power

EX 72 Commissioner's default assessment power

When this section applies

(1) This section applies when—

(a) a person has failed to disclose their control interest or income interest in a CFC or attributing interest in a FIF, under section 61 of the Tax Administration Act 1994:

(b) a person has failed to disclose information regarding their control interest or income interest in a CFC or attributing interest in a FIF, requested under section 17B of that Act:

(c) a person cannot obtain enough information to calculate their attributed CFC income or loss or FIF income or loss for a period.

Commissioner's power

(2) The Commissioner may make an assessment of the amount of attributed CFC income or loss or FIF income or loss for the relevant period.

Examples of methods

(3) Without limiting the Commissioner's discretion, the assessment may be based on any of the following:

(a) the accounts of the CFC or FIF for the relevant period prepared for tax authorities, creditors, shareholders, or others:

(b) the application of a rate of presumed increase of 10% or more, compounded annually, to the CFC's net attributable CFC income or to the FIF's net attributable FIF income, for a previous period:

(c) the application of a rate of presumed increase of 10% or more, compounding annually, to the CFC's or FIF's accounting profits as shown in its accounts for a previous period:

(d) an imputed rate of return on the market value of the interest at the start of the period:

(e) the actual gains or losses of the person in the period from holding or disposing of the interest:

(f) the change in the market value of the interest over the period.

Defined in this Act: amount, assessment, attributable FIF income method, attributed CFC income, attributing interest, CFC, Commissioner, control interest, FIF, FIF income, income interest, loss, market value, net attributable CFC income, net attributable FIF income, request, shareholder

Compare: 2004 No 35 s EX 60

Section EX 72(1)(b): amended (with effect on 18 March 2019), on 29 March 2025, by section 55 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EX 72(1)(c): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 49(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 72(2): amended, on 24 February 2016, by section 155 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EX 72(3)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 49(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 72 list of defined terms **attributed repatriation**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 49(3)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 72 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 49(3)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 72 list of defined terms **branch equivalent income**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 49(3)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 72 list of defined terms **net attributable CFC income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 49(3)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 72 list of defined terms **net attributable FIF income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 49(3)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section EX 72 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Election relating to CFC or FIF

Heading: inserted (with effect on 30 June 2009), on 2 November 2012, by section 52(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

EX 73 Election that CFC not non-attributing active CFC or FIF not non-attributing active FIF

Election to have elective attributing CFC

(1) A person (the **interest holder**) may elect by notice to the Commissioner for each accounting period of the election, that—

(a) a CFC of the interest holder, in which the interest holder has an income interest of 10% or more, not be a non-attributing active CFC for the interest holder:

(b) a FIF of the interest holder, for which the interest holder uses the attributable FIF income method, not be a non-attributing active FIF for the interest holder.

Exception

(2) The interest holder must not make an election under subsection (1) for a CFC or FIF that is—

(a) an entity carrying on a business of banking or insurance or is directly or indirectly controlled by such an entity:

(b) a non-attributing Australian CFC.

Period of election

(3) An election under subsection (1) is made for all accounting periods—

(a) for a CFC, ending in the interest holder's income years beginning on or after 1 July 2009, if the notice—

(i) specifies that the election is made under this paragraph or for that period; and

(ii) meets the requirements of subsection (4); or

(b) for a FIF, ending in the interest holder's income years beginning on or after 1 July 2011, if the notice—

(i) specifies that the election is made under this paragraph or for that period; and

(ii) meets the requirements of subsection (4); or

(c) beginning in the interest holder's income years beginning after—

(i) the date on which the notice is given to the Commissioner; or

(ii) another date agreed by the Commissioner.

Timing of retrospective election

(4) A notice of election for a period given by subsection (3)(a) or (b) is not effective unless given to the Commissioner by the later of—

(a) the end of the interest holder's income year in which this subsection receives the Royal assent:

(b) a date allowed by the Commissioner.

Currency of election

(5) An election under subsection (1) remains effective until the beginning of the earliest income year—

(a) for which the election is revoked under subsection (6):

(b) in which the election ceases to be effective under subsection (7).

Revoking election

(6) The interest holder may revoke an election under subsection (1) if—

(a) the interest holder gives notice of the revocation to the Commissioner before the beginning of the interest holder's first income year for which the notice is given; and

(b) the interest holder satisfies the Commissioner that—

(i) expenditure or loss of a CFC included, while the election is effective, in net attributable CFC income or loss for the interest holder is extremely unlikely to result after the revocation in an amount that would otherwise have been an attributable CFC amount for the CFC; and

(ii) the revocation is not made for a purpose or effect of reducing a tax liability; and

(c) the Commissioner agrees to the revocation.

Expiry of election

(7) An election by the interest holder under subsection (1) ceases to be effective in an income year if the election is for—

(a) a CFC that in the income year ceases to be a CFC in which the interest holder has an income interest of 10% or more, except if the CFC becomes at that time a FIF for which the interest holder uses the attributable FIF income method, in which case the election becomes effective as if made for the FIF:

(b) a FIF that in the income year ceases to be a FIF for which the interest holder uses the attributable FIF income method, except if the FIF becomes at that time a CFC meeting the requirements of subsection (8), in which case the election becomes effective as if made for the CFC:

(c) a CFC or FIF that in the income year becomes an entity carrying on a business of banking or insurance or becomes directly or indirectly controlled by such an entity:

(d) a CFC that becomes a non-attributing Australian CFC in the income year.

Requirements for CFC to be affected by FIF election

(8) For a CFC to be affected under subsection (7)(b) by an election,—

(a) the interest holder must have an income interest of 10% or more in the CFC; and

(b) the CFC must not be a non-attributing Australian CFC.

Effect of expiry or revocation of election

(9) If an election under subsection (1) ceases to be effective for a CFC or FIF,—

(a) becoming effective for a FIF under subsection (7)(a) because the CFC becomes a FIF for which the interest holder uses the attributable FIF income method, the interest holder may carry forward under section IQ 1B (Losses carried forward to tax year) attributed CFC losses of the CFC

to a later tax year as if they were FIF net losses that were attributed from the FIF when the CFC losses were attributed from the CFC:

(b) becoming effective for a CFC under subsection (7)(b) because the FIF becomes a CFC of the interest holder in which the interest holder has an income interest of 10% or more, the interest holder may carry forward under section IQ 1B the FIF net losses of the FIF as if they were attributed CFC losses that were attributed from the CFC when the FIF losses were attributed from the FIF:

(c) other than under paragraphs (a) and (b), the interest holder must not carry forward under section IQ 1B an attributed CFC loss from an elective attributing CFC, or a FIF net loss from an elective attributing FIF, to an income year for which the election for the CFC or FIF has ceased to be effective.

Further election

(10) The interest holder may make a further election under subsection (1) for a period given by subsection (3)(c) after an earlier election ceases to be effective, if—

(a) the interest holder gives notice of the election to the Commissioner before the beginning of the interest holder's first income year for which the notice is given; and

(b) the interest holder satisfies the Commissioner that—

(i) the expiry of the earlier election was due to an oversight on the part of the interest holder or the CFC or FIF; and

(ii) the interest holder gave notice of the further election within a reasonable time after the expiry; and

(iii) the further election has no purpose or effect of allowing the attribution of deductions without the attribution of corresponding income; and

(c) the Commissioner agrees to the election.

Further election for entity by associate of original interest holder

(11) An interest holder may not make an election under subsection (1) for a CFC or FIF for which an earlier election by a person associated with the interest holder has ceased to be effective, unless—

(a) the interest holder gives notice of the proposed election to the Commissioner before the beginning of the interest holder's first income year for which the election is made; and

(b) the interest holder satisfies the Commissioner that the proposed election has no purpose or effect of allowing the attribution of deductions without the attribution of corresponding income; and

(c) the Commissioner agrees to the proposed election.

Form and means of notice to Commissioner

(12) A notice to the Commissioner under this section must be given in the form and by the means prescribed by the Commissioner.

Defined in this Act: attributable FIF income method, attributed CFC loss, CFC, Commissioner, elective attributing CFC, elective attributing FIF, FIF, income interest, income year, net attributable FIF loss, non-attributing active CFC, non-attributing Australian CFC, notice

Section EX 73: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 52(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EX 73 list of defined terms **non-attributing active FIF**: repealed, on 29 March 2018, by section 90 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart EY—Life insurance rules

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Introductory provisions

EY 1 What this subpart does

Two bases

(1) This subpart provides for the taxation of life insurers on 2 separate bases, the policyholder base and the shareholder base. Sections EY 2 and EY 3 describe the general apportionment of income and deductions between the 2 bases under this Part. Section LA 8B (General rules particular to life insurers) provides some general rules for tax credits relating to the 2 bases. Parts L and O include tax credit rules and memorandum account rules specific to the 2 bases.

Schedular policyholder base income and PIE schedular income

(2) Section EY 2 uses the assessable income in a life insurer's policyholder base income, and the life insurer's policyholder base allowable deductions, to calculate their schedular policyholder base income. A life insurer's schedular income derived by their life fund PIE that is a multi-rate PIE is excluded from their schedular policyholder base income, along with deductions for that income.

Counting once

(3) Income and deductions must be apportioned to either the policyholder base or the shareholder base. There is no double-counting.

Defined in this Act: assessable income, deduction, income, life fund PIE, life insurance, life insurer, life reinsurance, memorandum account, multi-rate PIE, policyholder base, policyholder base income, schedular policyholder base income, shareholder base, tax credit

Section EY 1: substituted, on 1 July 2010, by section 185(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 2 Policyholder base

Policyholder base income

(1) A life insurer has policyholder base income,—

(a) for savings product policies that are not profit participation policies, under section EY 15:

(b) for profit participation policies, under section EY 17:

(c) under section EY 27(4).

Policyholder base allowable deductions

(2) A life insurer has policyholder base allowable deductions,—

(a) for savings product policies that are not profit participation policies, under section EY 16:

(ab) for consideration for services provided to policyholders by the life insurer in administering and managing funds intended for use in meeting future policyholder claims under savings product policies that are not profit participation policies, under section EY 16B:

(b) for profit participation policies, under section EY 18:

(c) under section EY 27(4):

(d) under section EZ 61 (Allowance for cancelled amount: spreading):

(e) under section LE 2B (Use of remaining credits by life insurer on policyholder base).

Schedular policyholder base income

(3) A life insurer's **schedular policyholder base income** is the amount calculated by subtracting, from the assessable income in the policyholder base income for the income year, the amounts of policyholder base allowable deductions incurred in the income year, or available in the income year under subsection (5) or (5B), in the order in which the amounts are incurred.

Cap on subtracting: ring-fencing policyholder base allowable deductions

(4) Despite subsection (3), the total amount that is subtracted under subsection (3), including an amount available in the income year under subsection (5) or (5B), is no more than the amount of the assessable income in the life insurer's policyholder base income for the income year.

Excess allocations: carrying forward and re-instating next year

(5) An amount of policyholder base allowable deductions that cannot be subtracted under subsection (3) in the current year because of subsection (4) is carried forward to the next income year and treated as policyholder base allowable deductions for that income year.

Transfer of policies with excess policyholder base allowable deductions

(5B) If a life insurer (the **transferor**) transfers a life insurance policy to another life insurer (the **transferee**) in an income year and, immediately before the transfer, the transferor has an amount (the **transferred amount**) of policyholder base allowable deductions for the life insurance policy and the income year, at the time of the transfer—

(a) the amount of policyholder base allowable deductions of the transferor for the income year is reduced by the transferred amount; and

(b) the amount of policyholder base allowable deductions incurred by or available to the transferee in the income year is increased by the transferred amount, which is treated as being incurred by the transferee for the life insurance policy at the time of the transfer.

Exception

(6) Despite subsections (3) to (5) a life insurer's schedular income derived by their life fund PIE that is a multi-rate PIE is excluded from their schedular policyholder base income, along with deductions for that income.

Defined in this Act: amount, assessable income, income year, life fund PIE, life insurance, life insurer, multi-rate PIE, policyholder base allowable deduction, policyholder base income, profit participation policy, savings product policy, schedular income, schedular policyholder base income

Section EY 2: substituted, on 1 July 2010, by section 185(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 2(2)(ab): inserted (with effect on 1 April 2015), on 30 March 2017, by section 80(1) (and see section 80(6) and (7)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 2(3): replaced (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 80(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 2(4): amended (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 80(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 2(5): replaced, on 30 March 2017 (applying for income years beginning after this date), by section 80(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 2(5B) heading: inserted (with effect on 1 April 2016 and applying for transfers occurring on or after the beginning of the 2016–17 income year), on 30 March 2017, by section 80(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 2(5B): inserted (with effect on 1 April 2016 and applying for transfers occurring on or after the beginning of the 2016–17 income year), on 30 March 2017, by section 80(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EY 3 Shareholder base

Shareholder base income

(1) A life insurer has shareholder base income,—

(a) for policies that are not profit participation policies, under section EY 19: *see also* subsection (3), for reserves:

(ab) for consideration for services provided to policyholders by the life insurer in administering and managing funds intended for use in meeting future policyholder claims under savings product policies that are not profit participation policies, under section EY 19B:

(b) for profit participation policies, under sections EY 21, EY 28, and EY 29:

(c) for annuities, under section EY 31.

Shareholder base allowable deductions

(2) A life insurer has shareholder base allowable deductions,—

(a) for policies that are not profit participation policies, under section EY 20: *see also* subsection (3), for reserves:

(b) for profit participation policies, under sections EY 22 and EY 28:

(c) for the period and policies described in section EY 30, under that section:

(d) for annuities, under section EY 31.

Reserves

(3) Under sections EY 23 to EY 27, a life insurer calculates reserving amounts for life insurance policies, other than annuities, that have a life risk component and are not profit participation policies. A reserving amount may be income included in their shareholder base income, or a deduction that is included in their shareholder base allowable deduction, as provided by the relevant sections.

Defined in this Act: deduction, life insurance, life insurance policy, life insurer, life risk, profit participation policy, savings product policy, shareholder base allowable deduction, shareholder base income

Section EY 3: substituted, on 1 July 2010, by section 185(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 3(1)(ab): inserted (with effect on 1 April 2015), on 30 March 2017, by section 81(1) (and see section 81(3) and (4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 3 list of defined terms **savings product policy**: inserted (with effect on 1 April 2015), on 30 March 2017, by section 81(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EY 4 Apportionment of income of particular source or nature, and of tax credits

Default basis

(1) For a class of policies, income of a particular source or nature, and tax credits received, are apportioned between the policyholder base and shareholder base—

(a) in the same proportion as the policyholder base income relating to the particular source, nature, or credits bears to the life insurer's total gross gains relating to the particular source, nature, or credits, in the case of the policyholder base:

(b) in the same proportion as the shareholder base income relating to the particular source, nature, or credits bears to the life insurer's total gross gains relating to the particular source, nature, or credits, in the case of the shareholder base.

More equitable or reasonable basis

(2) For a class of policies, the life insurer may use a basis of apportionment that is different from the basis described in subsection (1), if that basis results in an amount, actuarially determined, that is more equitable and reasonable than an amount determined using the basis described in subsection (1).

Defined in this Act: actuarially determined, amount, class of policies, income, life insurer, policyholder base, policyholder base income, shareholder base, shareholder base income, tax credit

Section EY 4: substituted, on 1 July 2010, by section 185(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 5 Part-year tax calculations

Part-year tax calculations

(1) For their life insurance and for their general insurance contracts outstanding claims reserve, a life insurer does part-year tax calculations, described in subsection (2), if they do not have an early life regime application day and 1 July 2010 is not the first day of their income year.

First year part-year calculations: description

(2) For calculating their income tax liability for the tax year that corresponds to the income year that includes 1 July 2010, where 1 July 2010 is not the first day of the income year, the life insurer treats references, in the rules for life insurers, to an income year or a tax year as if they are references to 2 separate tax years and corresponding income years (the **part-years**) within that first tax year, divided by 1 July 2010 (for example: a rule to calculate an amount of policyholder income for an income year under the replaced rules means the calculation is done for the relevant part-year before 1 July 2010. A rule to calculate an opening reserve amount under sections EY 23 to EY 27 at the beginning of an income year under the new rules means the calculation is done on 1 July 2010, at the beginning of the relevant part-year).

Part-year calculations: effect

(3) The part-year calculations may give rise to income and deductions for the income year, but they do not create any part-year tax return obligations. The 2 part-year calculations compose 1 income tax liability for 1 income year.

Part-year calculations for transfers: application

(3B) Subsections (3C) to (5) apply where a life insurer (the **transferor**) transfers life insurance business to another life insurer (the **transferee**) and sections EY 23 to EY 27 apply to either or both of the transferor and transferee.

Part-year calculations for transfers: when non-resident transferor

(3C) If sections EY 23 to EY 27 apply to the transferee but not to the transferor, the transferee—

(a) does the calculations that would be required under this section for the transferor if sections EY 23 to EY 27 applied to the transferor; and

(b) uses the results of the calculations in the way required under this section for a transferee.

Part-year calculations for transfers

(4) A transferor to whom sections EY 23 to EY 27 apply does a part-year calculation immediately before the transfer, as described in subsection (2), for each class of policy in the transferred business, but only for their part-year ending on the day the transfer occurs. A transferee to whom sections EY 23 to EY 27 apply also does a part-year calculation for the transferred policies, as described in subsection (2), but only for their part-year starting on the day the transfer occurs. The transferee's relevant opening part-year reserve amounts under sections EY 23 to EY 27 equal the transferor's relevant closing part-year reserve amounts immediately before the transfer, and if the life reinsurance associated with a class of policies is not assigned by the transferor to the transferee, those reserve amounts are calculated without subtracting relevant life reinsurance amounts.

Class of policies transferred to insurer

(4B) If a class of policies (the **class**) is transferred by a transferor to whom sections EY 23 to EY 27 do not apply to a life insurer (the **insurer**) to whom sections EY 23 to EY 27 apply, the opening value of the reserve amounts for the class under sections EY 23 to EY 27 for the insurer is the closing value that the reserve amounts would have for the transferor if sections EY 23 to EY 27 applied to the transferor.

Part-year calculations for transfers: effect

(5) Transferor's and transferee's part-year calculations may give rise to income and deductions for the income year, but they do not create any part-year tax return obligations.

Part-year calculations: end of transitional adjustments

(6) If, for a life insurance policy, the transitional adjustment under section EY 30(7) is calculated for part of an income year, because section EY 30 ceases to apply to the policy before the end of the income year, the life insurer does part-year tax calculations for the policy for the income year, as described in subsection (2), but the income year is divided by the day that section EY

30 ceases to apply. The effect of the part-year calculations is described in subsection (3).

Part-year calculations: end of transitional adjustments

[Repealed]

(7) *[Repealed]*

Defined in this Act: amount, class of policies, deduction, early life regime application day, income, income tax liability, income year, life insurance, life insurance policies, life insurer, life reinsurance, outstanding claims reserve

Section EY 5: substituted, on 1 July 2010, by section 185(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 5(2): amended (with effect on 1 July 2010), on 30 March 2021, by section 53 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EY 5(3) heading: amended (with effect on 1 July 2010), on 7 September 2010, by section 45(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 5(3B) heading: inserted, on 1 April 2014, by section 57(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(3B): inserted, on 1 April 2014, by section 57(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(3C) heading: inserted, on 1 April 2014, by section 57(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(3C): inserted, on 1 April 2014, by section 57(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(4): amended, on 1 April 2014, by section 57(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(4): amended, on 1 April 2014, by section 57(2)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(4): amended (with effect on 1 July 2010), on 2 November 2012, by section 53(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 5(4): amended (with effect on 1 July 2010), on 7 September 2010, by section 45(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 5(4B) heading: inserted, on 1 April 2014, by section 57(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(4B): inserted, on 1 April 2014, by section 57(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 5(6) heading: substituted (with effect on 1 July 2010), on 7 September 2010, by section 45(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 5(6): substituted (with effect on 1 July 2010), on 7 September 2010, by section 45(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 5(7) heading: repealed (with effect on 1 July 2010), on 7 September 2010, by section 45(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 5(7): repealed (with effect on 1 July 2010), on 7 September 2010, by section 45(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

EY 6 Actuarial advice and guidance

The Commissioner may seek the advice of an actuary on anything that is required to be actuarially determined, or any related matter.

Defined in this Act: actuarially determined, actuary, Commissioner

Section EY 6: substituted, on 1 July 2010, by section 186(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 6: amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

EY 7 Meaning of claim

Meaning in rules for life insurers

(1) In the rules for life insurers, **claim**—

(a) means the amount that a life insurer is liable to pay under a life insurance policy because the contingency against which the life insured is covered under the policy has occurred; subsections (2) to (5) expand on "the amount that a life insurer is liable to pay":

(b) excludes a payment made by a life insurer on the transfer of some or all of its life insurance business:

(c) in the expression "claim arising", does not have the meaning given to the word "claim" in paragraph (a) or (b).

Cash and non-cash benefits

(2) For the purposes of subsection (1)(a), the amount that a life insurer is liable to pay includes—

(a) a payment on the death of a life insured:

(b) a payment on maturity:

(c) a payment of a cash bonus:

(d) a payment on the surrender of a policy:

(e) an annuity payment:

(f) a benefit other than in cash.

Advance or amount in actuarial reserves

(3) For the purposes of subsection (1)(a), the amount that a life insurer is liable to pay does not include—

(a) an advance against the security of the policy; or

(b) a bonus or other discretionary amount added to the actuarial reserves.

Amount before certain subtractions

(4) For the purposes of subsection (1)(a), the amount that a life insurer is liable to pay means the amount before the subtraction of the following amounts payable to the life insurer:

(a) an advance against the security of the policy; and

(b) an unpaid premium for the policy; and

(c) interest on an amount referred to in paragraph (a) or (b).

Amount zero

(5) For the purposes of subsection (1)(a), the amount that a life insurer is liable to pay may be zero.

Defined in this Act: actuarial reserves, amount, business, claim, interest, life insurance, life insurance policy, life insured, life insurer, pay, premium

Compare: 2004 No 35 s EY 7

Section EY 7(1) heading: amended (with effect on 1 July 2010), on 30 March 2021, by section 54(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EY 7(1): amended (with effect on 1 July 2010), on 30 March 2021, by section 54(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EY 7(1)(b): amended, on 1 July 2010, by section 187(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 7 list of defined terms **life insurance rules**: repealed (with effect on 1 July 2010), on 30 March 2021, by section 54(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EY 8 Meaning of life insurance

Meaning

(1) **Life insurance** means insurance under which—

(a) person A (the **life insurer**) is liable to provide person B (the **policyholder**) with a benefit described in subsection (2); and

(b) the life insurer is entitled to receive consideration in return, either from the policyholder or from some other person.

Benefits

(2) The benefits are—

(a) a benefit whose payment is contingent on the death of 1 or more human beings, including an annuity whose term is contingent on human life; or

(b) a benefit whose payment is contingent on the survival of 1 or more human beings to a date, or an age, specified as part of the insurance, including an annuity whose term is contingent on human life; or

(c) a benefit that is an annuity whose term is not contingent on human life, if the life insurer enters into the arrangement to provide the annuity as part of their business of providing life insurance.

Exclusion: death benefits provided under accident or medical insurance

(3) **Life insurance** does not include accident or medical insurance under which—

(a) 1 or more benefits are payable for the death of the person whose life is insured; and

(b) all the benefits referred to in paragraph (a) are—

(i) payable if the death is caused by a specified cause named in the policy; or

(ii) payable incidentally to the provision of accident or medical benefits, if the death is caused by a specified cause named in the policy.

Exclusion: death benefits provided by superannuation funds

(4) **Life insurance** does not include an arrangement in which—

(a) a superannuation fund is liable to pay, as a benefit to a beneficiary of the fund, a lump sum on—

(i) the death of 1 or more human beings specified in the trust deed; or

(ii) the survival of 1 or more human beings specified in the trust deed to a date, or an age, specified in the trust deed; and

(b) the lump sum is made up of—

(i) superannuation contributions made by or for the beneficiary; and

(ii) allocated investment earnings attributable to contributions made by or for the beneficiary; and

(iii) any other allocation from the profits of the superannuation fund attributable to contributions made by or for the beneficiary.

Defined in this Act: arrangement, business, life insurance, life insurer, pay, superannuation contribution, superannuation fund

Compare: 2004 No 35 s EY 8

EY 9 Meaning of life insurance policy

Life insurance policy means a policy to the extent to which it states the terms under which life insurance is covered.

Defined in this Act: life insurance, life insurance policy

Compare: 2004 No 35 s EY 9

EY 10 Meaning of life insurer

Meaning

(1) **Life insurer** means a person carrying on a business of providing life insurance.

Exclusion

(2) A person carrying on a business of providing life insurance in an income year is treated as not carrying on a business of providing life insurance while the person has full reinsurance.

Exclusion: Lloyd's of London

(2B) Except for the reference to life insurer in section EY 8 where Lloyd's of London is treated as a life insurer, Lloyd's of London is treated as not being a life insurer in relation to its business of providing life insurance, the premium from which is income of Lloyd's of London under section CR 3B (Lloyd's of London: income from life insurance premiums).

Inclusion

(3) An association of persons, a body of persons, or a trustee is treated as carrying on a business of providing life insurance to the extent to which—

(a) the association, body, or trustee provides life insurance; and

(b) the consideration for the provision is something other than natural love and affection.

Parties to policies treated as being unrelated

(4) Every life insurance policy entered into by the association, body, or trustee as insurer is treated as entered into with an unrelated party, even if the life insurer and the policyholder are, for example,—

(a) an association and a member of the association; or

(b) a trustee and a beneficiary of the trust.

Relationship with subpart HE

(5) Subpart HE (Mutual associations) does not apply to the business of providing life insurance of the association, body, or trustee.

Defined in this Act: business, full reinsurance, income year, life insurance, life insurance policy, life insurer, Lloyd's of London, premium, trustee

Compare: 2004 No 35 s EY 10

Section EY 10(2B) heading: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 91(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EY 10(2B): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 91(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EY 10 list of defined terms **Lloyd's of London**: inserted, on 29 March 2018 (with effect on 1 April 2017), by section 91(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section EY 10 list of defined terms **premium**: inserted, on 29 March 2018 (with effect on 1 April 2017), by section 91(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EY 11 Superannuation schemes providing life insurance

Benefits treated as life insurance

(1) The provision by a trustee of a superannuation scheme of a benefit to a member or beneficiary of the scheme is treated as the provision of life insurance if the trustee provides life insurance to any member or beneficiary, unless subsection (2) applies.

Exemption for certain schemes

(2) A trustee of a superannuation fund is treated as not carrying on the business of life insurance for an income year if the fund meets all the requirements of subsections (3) to (9) for the income year.

Fund must be registered

(3) At all times in the income year, the fund must be registered as a superannuation scheme or a workplace savings scheme on the register of managed investment schemes (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013).

Trustee cannot be a life insurance company

(4) At all times in the income year, no trustee of the fund is a company carrying on the business of providing life insurance to which the Life Insurance Act 1908 applies.

Nature of funds

(5) At all times in the income year, the fund must be 1 of the following kinds:

(a) a fund established by an employer, or a group of employers who are associated, to provide benefits only to persons who are employees of, or related by employment to, such an employer, or to another associated employer who agrees after the fund's establishment to make contributions to it:

(b) a fund constituted under the Government Superannuation Fund Act 1956 that provides benefits only to persons who are employees of, or related by employment to, an employer who agrees or is required to contribute, or on whose behalf contributions are made, to the fund:

(c) a fund constituted under the National Provident Fund Act 1950, the National Provident Fund Restructuring Act 1990, or the National Provident Fund Restructuring Amendment Act 1997 that has as its trustee the Board of Trustees of the National Provident Fund.

Only certain fund beneficiaries allowed

(6) At all times in the income year, each beneficiary of the fund must be—

(a) a natural person that is an employee of or related by employment to an employer of the kind referred to in subsection (5)(a) or (b):

(b) a natural person that is a beneficiary of the fund, in the case of a fund referred to in subsection (5)(c) (which refers to funds related to the National Provident Fund):

(c) an employer of members of the fund, to the extent of the employer's contingent interest in a fund surplus.

Significant employer superannuation contributions required

(7) At all times in the income year, each employer is required by the trust deed or Act constituting the fund to make or is making, or having made on their behalf, superannuation contributions to provide to a significant extent the fund benefits, except to the extent to which subsection (10) applies.

No avoidance effect

(8) The fund must not have been established, and must not be being used at any time in the income year, in a way that has the effect of defeating the intent and application of the rules for life insurers.

FMA approval required

(9) The trustee of the fund must have applied to the FMA for, and the FMA must have granted, approval that the fund is for the income year one that complies with subsections (3) to (8).

Exemptions to requirements of subsection (7)

(10) Subsection (7) does not apply if—

(a) the FMA is satisfied that, for the income year, subsection (7) would have been complied with but for the fund assets exceeding the accrued benefits from the fund:

(b) the fund is one referred to in subsection (5)(c) (which refers to funds related to the National Provident Fund).

Limited superannuation contributions disregarded for subsection (7)

(11) For the purposes of subsection (7), superannuation contributions that are merely nominal or that only meet the costs of administration and investment management are disregarded.

Notice by FMA

(12) The FMA must notify the trustee of a superannuation fund as soon as practicable after determining that—

(a) the fund complies with subsections (3) to (8) for an income year:

(b) the fund ceases to comply with the subsections for an income year.

Objection against FMA decision

(13) A person dissatisfied with the FMA's decision may appeal against the decision to the High Court and has no right of objection under the Tax Administration Act 1994.

(13A) A decision against which an appeal is lodged under subsection (13) continues in force unless the High Court orders otherwise.

Meaning of related by employment

(14) In this section, a person is **related by employment** to an employer if the person is—

(a) a former employee, in the case of deferred benefits relating to prior employment:

(b) a relative or dependent of an employee, in the case of benefits arising from the employee's or former employee's membership in the fund.

Defined in this Act: apply, associated, company, employee, employer, income year, life insurance, related by employment, relative, superannuation contribution, superannuation fund, superannuation scheme, trustee

Compare: 2004 No 35 s GD 8(1), (3)–(8)

Section EY 11(3): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section EY 11(5) heading: substituted (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 57(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 11(5): substituted (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 57(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 11(7) heading: amended (with effect on 1 April 2008), on 6 October 2009, by section 188(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 11(7): amended (with effect on 1 April 2008), on 6 October 2009, by section 188(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 11(8): amended (with effect on 2 November 2012), on 30 March 2021, by section 55(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EY 11(9) heading: amended, on 1 May 2011, by section 85(1) of the Financial Markets Authority Act 2011 (2011 No 5).

Section EY 11(9): amended, on 2 June 2016, by section 39(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EY 11(9): amended, on 1 May 2011, by section 85(1) of the Financial Markets Authority Act 2011 (2011 No 5).

Section EY 11(10)(a): amended, on 1 May 2011, by section 85(1) of the Financial Markets Authority Act 2011 (2011 No 5).

Section EY 11(11) heading: amended (with effect on 1 April 2008), on 6 October 2009, by section 188(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 11(11): amended (with effect on 1 April 2008), on 6 October 2009, by section 188(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 11(12) heading: amended, on 1 May 2011, by section 85(1) of the Financial Markets Authority Act 2011 (2011 No 5).

Section EY 11(12): amended, on 1 May 2011, by section 85(1) of the Financial Markets Authority Act 2011 (2011 No 5).

Section EY 11(13) heading: replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section EY 11(13): replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section EY 11(13A): inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section EY 11 list of defined terms **apply**: inserted, on 2 June 2016, by section 39(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EY 11 list of defined terms **life insurance rules**: repealed (with effect on 2 November 2012), on 30 March 2021, by section 55(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EY 11 list of defined terms **superannuation contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 188(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 12 Meaning of life reinsurance

Meaning

(1) **Life reinsurance**—

(a) means a contract of insurance between a life insurer and another person (**person C**) under which the life insurer is secured, fully or partially, against a risk by person C:

(b) does not include a contract that—

(i) secures against financial risk unless, in the contract, it is incidental to securing against life risk:

(ii) is, or is part of, a tax avoidance arrangement.

"*Fully*" *and* "*partially*"

(1B) The words "fully" and "partially" describe the extent to which the life insurer is secured against life risk; they do not describe the term for which the reinsurance is provided.

Full reinsurance

(2) The life insurer has **full reinsurance** if all the following apply:

(a) the life insurer offered or was offered or entered into a life insurance policy or policies,—

(i) in the case of a life insurer resident in New Zealand, as part of their business of providing life insurance; or

(ii) in the case of a life insurer not resident in New Zealand, as part of their New Zealand business; and

(b) the life insurer holds a life reinsurance policy or policies covering every life insurance policy described in paragraph (a); and

(c) the life insurer is fully secured against liability under the life insurance policy or policies by the life reinsurance policy or policies; and

(d) the life insurer offered or was offered or entered into the life reinsurance policy or policies in New Zealand.

Partial reinsurance

(3) The life insurer has **partial reinsurance** if all the following apply:

(a) the life insurer—

(i) holds a life reinsurance policy or policies fully securing them against liability for 1 or some, but not all, of the life insurance policies described in paragraph (b); or

(ii) holds a life reinsurance policy or policies for all the life insurance policies described in paragraph (b) but only partially securing them against liability; or

(iii) holds a life reinsurance policy or policies partially securing them against liability for 1 or some, but not all, of the life insurance policies described in paragraph (b); and

(b) the life insurer offered or was offered or entered into the life insurance policy or policies covered by the life reinsurance policy or policies,—

(i) in the case of a life insurer resident in New Zealand, as part of their business of providing life insurance; or

(ii) in the case of a life insurer not resident in New Zealand, as part of their New Zealand business; and

(c) the life insurer offered or was offered or entered into the life reinsurance policy or policies in New Zealand.

Exclusion: financial arrangements and general insurance

(4) To the extent to which a contract is a financial arrangement or is insurance that secures a life insurer against liability that arises from insurable events other than death or survival of a human being, that contract is not life reinsurance.

Other definitions

(5) In this Act,—

life financial reinsurance is a contract that may be life reinsurance under subsection (1)(a), but is not included under subsection (1)(b)

financial risk—

(a) means risk, whether or not specific to a party to the relevant arrangement relating to risk, that is contingent on a valuation or disposal of financial arrangements, or contingent on profitability or creditworthiness, or contingent on a variable such as future expenditure:

(b) does not include life risk

life reinsurer means a person in the position of person C.

Relationship with subject matter

(6) Section EZ 62 (Reinsurance transition: life financial reinsurance may be life reinsurance) overrides this section.

Defined in this Act: business, financial arrangement, financial risk, full reinsurance, life financial reinsurance, life insurance, life insurance policy, life insurer, life reinsurance, life reinsurance policy, life reinsurer, New Zealand business, offered or was offered or entered into, partial reinsurance, resident in New Zealand

Compare: 2004 No 35 s EY 11

Section EY 12(1) heading: substituted, on 1 July 2010, by section 189(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(1): substituted, on 1 July 2010, by section 189(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(1B) heading: inserted, on 1 July 2010, by section 189(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(1B): inserted, on 1 July 2010, by section 189(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(4) heading: substituted, on 1 July 2010, by section 189(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(4): substituted, on 1 July 2010, by section 189(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(5) heading: added, on 1 July 2010, by section 189(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(5): added, on 1 July 2010, by section 189(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(6) heading: added, on 1 July 2010, by section 189(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12(6): added, on 1 July 2010, by section 189(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12 list of defined terms **financial arrangement**: inserted, on 1 July 2010, by section 189(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12 list of defined terms **financial risk**: inserted, on 1 July 2010, by section 189(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 12 list of defined terms **life financial reinsurance**: inserted, on 1 July 2010, by section 189(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 13 Meaning of life reinsurance policy

Life reinsurance policy means a policy to the extent to which it states the terms under which life reinsurance is covered.

Defined in this Act: life reinsurance, life reinsurance policy

Compare: 2004 No 35 s EY 12

EY 14 Life insurance and life reinsurance: how sections relate

Life insurance definitions

(1) Sections EY 8 to EY 11 define terms relating to life insurance.

Life reinsurance definitions

(2) Sections EY 12 and EY 13 define terms relating to life reinsurance.

Life insurance term usually includes life reinsurance term

(3) A reference in this Act to any of the terms defined in sections EY 8 to EY 11 includes the equivalent term in sections EY 12 and EY 13—for example, **life insurer** includes **life reinsurer**—unless the context requires otherwise.

Defined in this Act: life insurance, life insurer, life reinsurance, life reinsurer

Compare: 2004 No 35 s EY 13

Policyholder base

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Non-participation policies

Heading: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 15 Policyholder base income: non-participation policies

What is included

(1) For an income year, a life insurer's income is included as their policyholder base income if it—

(a) relates to life insurance policies that are savings product policies and not profit participation policies; and

(b) does not relate to life risk components of premiums and claims; and

(c) is not a premium, or is a premium relating to income that is treated under subsection (5) as not relating to life risk components of premiums and claims; and

(d) is included in the amount of policyholder base income calculated under subsection (2) or (4).

Certain income: basis of apportionment

(2) If an amount of income meets the requirements of subsection (1)(a) to (c), the amount of the income that is policyholder base income is calculated using the formula—

(investment × average surrender value ÷ average savings assets)
+ de minimis amounts.

Definition of items in formula

(3) In the formula,—

(a) **investment** is the amount of income that meets the requirements of subsection (1)(a) to (c), other than income included in the item de minimis amounts:

(b) **average surrender value** is, for the savings product policies to which the income relates, the average surrender value of the policies for the income year. The life insurer may determine an equitable and reasonable basis for the measurement of the average:

(c) **average savings assets** is, for the savings product policies to which the income relates, the average market value of assets held by the life insurer for the policies for the income year. The life insurer may determine an equitable and reasonable basis for the measurement of the average:

(d) **de minimis amounts** is the amount of income meeting the requirements of subsection (1)(a) to (c) that would be treated as relating to life risk components of premiums and life reinsurance claims in the absence of subsection (5).

More equitable or reasonable basis of apportionment

(4) Despite subsections (2) and (3), for income included in the item investment in the formula in subsection (2), the life insurer may use a basis of apportionment that is different from the one described in subsections (2) and (3), if that basis results in an amount, actuarially determined, that is more equitable and reasonable than an amount determined using the basis described in subsections (2) and (3).

Treatment of de minimis life risk component amounts

(5) An amount of income relating to a policy that, but for this subsection, is an amount related to the life risk of a premium or life reinsurance claim, is treated as not relating to the relevant life risk component for the purposes of subsection (1), if—

(a) the life insurer has actuarially determined that the life risk is 1% or less of the premium or life reinsurance claim; and

(b) chooses to apply this subsection for the policy.

Defined in this Act: actuarially determined, amount, claim, income, income year, life insurance policy, life insurer, life reinsurance, life risk, life risk component, market value, premium, policyholder base income, profit participation policy, savings product policy, shareholder base income, surrender value

Section EY 15: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 15(1): replaced (with effect on 1 July 2010), on 27 February 2014, by section 58(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 15(1)(c): replaced, on 27 February 2014, by section 58(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 15(2): amended (with effect on 1 July 2010), on 27 February 2014, by section 58(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 15(2) formula: replaced, on 27 February 2014, by section 58(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 15(3)(a): replaced, on 27 February 2014, by section 58(5) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 15(3)(d): inserted, on 27 February 2014, by section 58(6) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 15(4): amended, on 27 February 2014, by section 58(7) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 15(5): amended, on 1 July 2010 (applying for income years beginning on or after 1 July 2010), by section 32(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

EY 16 Policyholder base allowable deductions: non-participation policies

What is included

(1) For an income year, a life insurer's deduction is included as their policyholder base allowable deduction if it—

(a) relates to life insurance policies that are savings product policies and not profit participation policies; and

(b) relates to income meeting the requirements of section EY 15(1)(a) to (c); and

(c) is included in the amount of policyholder base allowable deduction calculated under subsection (2).

Basis of apportionment

(2) If a deduction meets the requirements of subsection (1)(a) and (b), the amount of the deduction that is policyholder base allowable deduction is calculated using the basis for apportionment in—

(a) section EY 15(2) and (3) with necessary modifications; or

(b) section EY 15(4) with necessary modifications.

Defined in this Act: deduction, income year, life insurance policy, life insurer, policyholder base allowable deduction, profit participation policy

Section EY 16: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 16(1): replaced (with effect on 1 July 2010), on 27 February 2014, by section 59(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 16(1): amended (with effect on 1 July 2010), on 30 March 2017, by section 82 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 16(2): replaced (with effect on 1 July 2010), on 27 February 2014, by section 59(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 16 list of defined terms **premium loading**: repealed (with effect on 1 July 2010), on 27 February 2014, by section 59(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 16 list of defined terms **premium loading formula**: repealed (with effect on 1 July 2010), on 27 February 2014, by section 59(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 16 list of defined terms **policyholder base income**: repealed (with effect on 1 July 2010), on 27 February 2014, by section 59(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 16 list of defined terms **shareholder base allowable deduction**: repealed (with effect on 1 July 2010), on 27 February 2014, by section 59(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EY 16B Policyholder base allowable deductions: consideration for investment management services

For an income year and a class of policies that are savings product policies and not profit participation policies, a life insurer has a policyholder base allowable deduction equal to the amount that is—

(a) credited to the shareholder base in the income year as consideration for services provided to policyholders in administering and managing funds intended for use in meeting future policyholder claims under the policies; and

(b) not included in the policyholder base allowable deduction under section EY 16.

Defined in this Act: amount, class of policies, income year, life insurer, policyholder base allowable deduction, profit participation policy, savings product policy, shareholder base

Section EY 16B: inserted (with effect on 1 April 2015), on 30 March 2017, by section 83(1) (and see section 83(2) and (3)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Profit participation policies

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 17 Policyholder base income: profit participation policies

What is included

(1) For an income year, a life insurer has policyholder base income to the extent to which they have an amount for profit participation policies calculated using the formula—

asset base gross income × (1 − retained earnings average
− future shareholder transfers average) + net transfers.

Definition of items in formula

(2) In the formula,—

(a) **asset base gross income** is the amount of annual gross income that the life insurer would have for the policies' asset base, if—

(i) the life insurer is treated as having no assets other than the asset base; and

(ii) amounts under sections EY 28 and EY 29 are ignored:

(b) **retained earnings average** is an actuarially determined amount that is the average of the following 2 proportions:

(i) the proportion of the value of the policies' asset base that is attributable to the life insurer's shareholder's retained earnings at the end of the year before the income year:

(ii) the proportion of the value of the policies' asset base that is attributable to the life insurer's shareholder's retained earnings at the end of the income year:

(c) **future shareholder transfers average** is an actuarially determined amount that is the average of the following 2 proportions:

(i) the proportion of the value of the policies' asset base that is attributable to the value, net of tax and used in the life insurer's financial accounts, of future transfers to the life insurer's shareholders for their portions of the future profits that are able to be supported by the supporting asset base at the beginning of the income year:

(ii) the proportion of the value of the policies' asset base that is attributable to the value, net of tax and used in the life insurer's financial accounts, of future transfers to the life insurer's shareholders for their portions of the future profits that are able to be supported by the supporting asset base at the end of the income year:

(d) **net transfers** is the amount transferred to the benefit of policyholders from shareholders in relation to profit participation policies.

Meaning of supporting asset base

(3) **Supporting asset base** means the asset base for relevant policies excluding—

(a) the value of assets supporting the life insurer's policyholder unvested liabilities:

(b) the value of assets attributable to the life insurer's shareholders.

Defined in this Act: actuarially determined, amount, annual gross income, asset base, income year, life insurer, policyholder base income, profit participation policy, supporting asset base

Section EY 17: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 17(2)(b)(i): amended, on 1 July 2010, by section 33(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 17(2)(b)(ii): amended, on 1 July 2010, by section 33(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 17(2)(c)(i): amended, on 30 March 2017, by section 84(1) (and see section 84(3) and (4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 17(2)(c)(i): amended (with effect on 1 July 2010), on 27 February 2014, by section 60(1)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 17(2)(c)(ii): amended, on 30 March 2017, by section 84(2) (and see section 84(3) and (4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 17(2)(c)(ii): amended (with effect on 1 July 2010), on 27 February 2014, by section 60(1)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 17(2)(d): amended, on 1 July 2010, by section 33(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 17(3)(a): amended, on 1 July 2010, by section 33(4) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 17 list of defined terms **present value (net)**: repealed (with effect on 1 July 2010), on 27 February 2014, by section 60(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EY 18 Policyholder base allowable deductions: profit participation policies

For an income year, a life insurer has policyholder base allowable deductions equal to the amount they would have, for profit participation policies, under the formula in section EY 17(1), if—

(a) the life insurer is treated as having no assets other than the asset base; and

(b) the item **asset base gross income** is treated as being the annual total deduction for the policies' asset base; and

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

Defined in this Act: amount, annual total deduction, asset base, income year, life insurer, policyholder base allowable deduction, profit participation policy

Section EY 18: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 18(b): amended, on 1 July 2010, by section 34(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 18(c): added, on 1 July 2010, by section 34(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Shareholder base

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Non-participation policies

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 19 Shareholder base income: non-participation policies

What is included

(1) For an income year, a life insurer's income is included as their shareholder base income if it relates to life insurance policies that are not profit participation policies, and it—

(a) relates to life risk components of premiums and claims, other than for annuities, and is not described in paragraphs (b) to (db):

(b) relates to fees and commissions:

(c) relates to the life risk component of life reinsurance claims:

(d) is income meeting the requirements of section EY 15(1)(a) to (c) that is not included as their policyholder base income under section EY 15:

(db) is income relating to annuities that would meet the requirements of section EY 15(1)(a) to (c) if the annuities were treated as being savings product policies:

(e) is not otherwise accounted for in this subpart, for the income year.

Treatment of de minimis life risk component amounts

(2) An amount of income relating to a policy that, but for this subsection, is an amount related to the life risk of a premium or life reinsurance claim, is treated as not relating to the life risk component for the purposes of subsection (1), if—

(a) the life insurer has actuarially determined that the life risk is 1% or less of the premium or life reinsurance claim; and

(b) chooses to apply section EY 15(5) for the policy.

No double-counting

(3) If an amount is included as shareholder base income under sections EY 23 to EY 27, it is not included under this section.

Defined in this Act: actuarially determined, amount, claim, income year, life insurer, life insurance policy, life reinsurance, life risk, life risk component, policyholder base income, premium, profit participation policy, shareholder base income

Section EY 19: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 19(1)(a): amended (with effect on 1 July 2010), on 27 February 2014, by section 61(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 19(1)(d): amended (with effect on 1 July 2010), on 27 February 2014, by section 61(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 19(1)(db): inserted (with effect on 1 July 2010), on 27 February 2014, by section 61(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 19(2): amended, on 1 July 2010 (applying for all income years beginning on or after 1 July 2010), by section 35(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 19(3): amended, on 27 February 2014, by section 61(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EY 19B Shareholder base income: consideration credited for investment management services

For an income year and a class of policies that are savings product policies and not profit participation policies, a life insurer has shareholder base income equal to the amount that is—

(a) credited to the shareholder base in the income year as consideration for services provided to policyholders in administering and managing

funds intended for use in meeting future policyholder claims under the policies; and

(b) not included in the shareholder base income under section EY 19.

Defined in this Act: amount, class of policies, income year, life insurer, profit participation policy, savings product policy, shareholder base, shareholder base income

Section EY 19B: inserted (with effect on 1 April 2015), on 30 March 2017, by section 85(1) (and see section 85(2) and (3)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EY 20 Shareholder base allowable deductions: non-participation policies

What is included

(1) For an income year, a life insurer's deduction is included as their shareholder base allowable deduction if it relates to life insurance policies that are not profit participation policies, and it—

(a) relates to life risk components of premiums and claims, other than for annuities, and is not described in paragraphs (b) to (e):

(b) relates to fees and commissions:

(c) relates to the life risk component of life reinsurance premiums:

(d) is a deduction that—

(i) relates to income that is included in the item investment in the formula in section EY 15(2) or meets the requirements of section EY 19(1)(db); and

(ii) is not included in the life insurer's policyholder base allowable deduction under section EY 16:

(e) is a premium payback amount, and—

(i) section EY 19 applies or has applied to include the original premium as shareholder base income; and

(ii) section EY 30(7) does not apply or has not applied to calculate a transitional amount for the original premium:

(f) is not otherwise accounted for in this subpart, for the income year.

No double-counting

(2) If an amount is included as shareholder base allowable deduction under sections EY 23 to EY 27, it is not included under this section.

Defined in this Act: amount, claim, deduction, income year, life insurance policy, life insurer, life reinsurance, life risk component, policyholder base allowable deduction, premium, premium payback amount, profit participation policy, shareholder base allowable deduction, shareholder base income

Section EY 20: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 20(1)(d): replaced (with effect on 1 July 2010), on 27 February 2014, by section 62(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 20(2): amended, on 27 February 2014, by section 62(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Profit participation policies

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 21 Shareholder base income: profit participation policies

What is included

(1) For an income year, a life insurer has shareholder base income to the extent to which they have an amount for profit participation policies calculated using the formula—

$$\text{asset base gross income} \times (\text{retained earnings average} + \text{future shareholder transfers average}) - \text{net transfers}.$$

Definition of items in formula

(2) In the formula,—

(a) **asset base gross income** is the amount of annual gross income that the life insurer would have for the profit participation policies' asset base, if—

(i) the life insurer is treated as having no assets other than the asset base; and

(ii) amounts under sections EY 28 and EY 29 are ignored:

(b) **retained earnings average** is an actuarially determined amount that is the average of the following 2 proportions:

(i) the proportion of the value of the policies' asset base that is attributable to the life insurer's shareholder's retained earnings at the end of the year before the income year:

(ii) the proportion of the value of the policies' asset base that is attributable to the life insurer's shareholder's retained earnings at the end of the income year:

(c) **future shareholder transfers average** is an actuarially determined amount that is the average of the following 2 proportions:

(i) the proportion of the value of the policies' asset base that is attributable to the value, net of tax and used in the life insurer's financial accounts, of future transfers to the life insurer's shareholders for their portions of the future profits that are able to be supported by the supporting asset base at the beginning of the income year:

(ii) the proportion of the value of the policies' asset base that is attributable to the value, net of tax and used in the life insurer's financial accounts, of future transfers to the life insurer's shareholders for their portions of the future profits that are able to be supported by the supporting asset base at the end of the income year:

(d) **net transfers** is the amount transferred to the benefit of policyholders from shareholders in relation to profit participation policies.

Defined in this Act: actuarially determined, amount, annual gross income, asset base, income, income year, life insurer, profit participation policy, shareholder base income, supporting asset base

Section EY 21: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 21(2)(b)(i): amended, on 1 July 2010, by section 36(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 21(2)(b)(ii): amended, on 1 July 2010, by section 36(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 21(2)(c)(i): amended, on 30 March 2017, by section 86(1) (and see section 86(3) and (4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 21(2)(c)(i): amended (with effect on 1 July 2010), on 27 February 2014, by section 63(1)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 21(2)(c)(ii): amended, on 30 March 2017, by section 86(2) (and see section 86(3) and (4)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 21(2)(c)(ii): amended (with effect on 1 July 2010), on 27 February 2014, by section 63(1)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EY 21(2)(d): amended, on 1 July 2010, by section 36(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 21 list of defined terms **present value (net)**: repealed (with effect on 1 July 2013), on 27 February 2014, by section 63(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EY 22 Shareholder base allowable deductions: profit participation policies

For an income year, a life insurer has shareholder base allowable deductions equal to the amount they would have, for profit participation policies, under the formula in section EY 21(1) if—

(a) the life insurer is treated as having no assets other than the asset base; and

(b) the item **asset base gross income** is treated as being the annual total deduction for the policies' asset base; and

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

Defined in this Act: amount, annual total deduction, asset base, income year, life insurer, profit participation policy, shareholder base allowable deduction

Section EY 22: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 22(b): amended, on 1 July 2010, by section 37(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 22(c): added, on 1 July 2010, by section 37(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Non-participation policies: reserves

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 23 Reserving amounts for life insurers: non-participation policies

Reserves

(1) This section and sections EY 24 to EY 27 apply to calculate, a life insurer's reserving amounts for life insurance policies, other than annuities, that have a life risk component and that are not profit participation policies.

Actuarial determination

(2) All reserving amounts must be actuarially determined, for each class of policies that includes life insurance policies to which this section applies.

Positive and negative amounts: shareholder base income or shareholder base allowable deduction

(3) If a reserving amount calculated under sections EY 24 to EY 27 is a positive amount, the life insurer has that amount as income included in their shareholder base income. If a reserving amount calculated under sections EY 24 to EY 27 is a negative amount, the life insurer has that amount as a deduction included in their shareholder base allowable deductions.

Which reserve can be used when?

(4) For an income year and a class of policies, a life insurer has a reserving amount described in—

- (a) section EY 24, for outstanding claims reserves (the **outstanding claims reserving amount**):
- (b) section EY 25, for premium smoothing reserves (the **premium smoothing reserving amount**) if the life insurer chooses to calculate a premium smoothing reserving amount and the PSR periods for policies in the class of policies begins, continues or ends in the income year:
- (c) section EY 26, for unearned premium reserves (the **unearned premium reserving amount**), if the life insurer chooses to not calculate a premium smoothing reserving amount:
- (d) section EY 27, for capital guarantee reserves (the **capital guarantee reserving amount**).

Choice

(5) Despite subsection (4)(b) and (c), a life insurer may not change between calculating a premium smoothing reserving amount and an unearned premium reserving amount for a class of policies once the premium smoothing reserving amount is used for the class of policies. If a policy in a class of policies does not meet the relevant requirements described in subsection (6), then a life insurer has an unearned premium reserving amount for that class of policy.

Meaning of PSR period

(6) **PSR period** means, for an income year and a policy in a class of policies, a period—

(a) that is a year or more in length; and

(b) that is the income year or is a period that begins, continues, or ends in the income year and begins or ends in another income year, and

(c) for which—

(i) the amounts of the life risk components of premiums payable in the period are level or substantially level:

(ii) there is a material mismatch between the timing of life risk and the timing of the life risk component of premiums payable in the period.

Defined in this Act: actuarially determined, amount, class of policies, deduction, income year, life insurance policy, life insurer, life risk, life risk component, premium, profit participation policy, PSR period, shareholder base allowable deduction, shareholder base income

Section EY 23: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 23(1): amended, on 30 March 2017 (applying for income years beginning after this date), by section 87(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 23(2): amended, on 30 March 2017, by section 87(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 23(4): amended, on 30 March 2017, by section 87(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 23(6): replaced, on 30 March 2017, by section 87(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EY 24 Outstanding claims reserving amount: non-participation policies not annuities

Calculation of reserving amount

(1) For an income year (the **current year**), a life insurer has an outstanding claims reserving amount for a class of policies calculated using the formula—

opening outstanding claims reserve − closing outstanding claims reserve.

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **opening outstanding claims reserve** is—

(i) if subparagraphs (ii), (iii), and (iv) do not apply, the amount of the life insurer's closing outstanding claims reserve for the class of policies, for the income year before the current year (the **prior year**); or

(ii) if the life insurer has no closing outstanding claims reserve for the prior year, the amount that would be the outstanding claims

reserve for the class of policies, using subsections (3) and (4) with necessary modifications, calculated at the end of the prior year, but using a basis consistent with the one that the insurer used for tax purposes in that prior year (for example, if liability for claims incurred but not reported was not accounted for, for tax purposes, in the prior year, the opening balance calculation does not take into account liability for claims incurred but not reported); or

(iii) if the current year is the first year in which the insurer adopts IFRS 17 for accounting, the amount of the insurer's reserve for outstanding claims liability for the class of policies, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year; or

(iv) if the insurer does not adopt IFRS 17 in the current year and the current year is the first year in which the insurer applies the definition of **present value (gross)**, the amount of the insurer's reserve for outstanding claims liability for the class of policies, calculated at the end of the prior year using the basis the insurer used for tax purposes in that prior year:

(b) **closing outstanding claims reserve** is the amount of the life insurer's outstanding claims reserve calculated under subsections (3) and (4) for the class of policies at the end of the current year.

Outstanding claims reserve calculation

(3) A life insurer's outstanding claims reserve is calculated for the relevant policies using the formula—

life risk claims incurred but not reported + life risk claims reported + risk adjustment.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **life risk claims incurred but not reported** is the actuarially determined estimate of present values (gross) for the life risk components of claims not yet reported to the life insurer before the end of the current year, but the insured-against event has occurred. The life risk components must take into account the probability of the claims being paid, and future expenses for administering the claims, but the present value (gross) of relevant life reinsurance claims must be subtracted from the total:

(b) **life risk claims reported** is the present values (gross) of the life risk components of claims reported but not yet paid. The life risk components must take into account the probability of the claims being paid, and future expenses for administering the claims, but the present values (gross) of relevant life reinsurance claims must be subtracted from the total:

(c) **risk adjustment** is the appropriate adjustment for the life risk components of claims described in paragraph (a) or (b), to the extent to which the adjustment is actuarially determined, reflects the uncertainty of the estimates that arise from the use of the relevant best estimate assumptions, and is not already included in the life risk components of the claims.

Determining the present value (gross) of life risk components of claims

(5) For the purposes of calculating a life insurer's outstanding claims reserve under this section for a class of policies, **present value (gross)** for the life risk component of a claim under a life insurance policy or life reinsurance policy that is part of the class means the present value of the life risk component that is included in the outstanding claims reserve of the life insurer, calculated—

(a) using the discount rates that would be used in calculating the present value, gross of tax, of the life risk component for the purposes of the financial statements of the life insurer; and

(b) gross of tax; and

(c) net of GST.

Defined in this Act: amount, best estimate assumptions, claim, class of policies, GST, IFRS 17, income year, life insurance policy, life insurer, life reinsurance, life reinsurance policy, life risk, life risk component, outstanding claims reserve, present value (gross), tax

Section EY 24: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 24(2)(a)(i): amended (with effect on 1 January 2023), on 31 March 2023, by section 65(1) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(2)(a)(ii): amended (with effect on 1 January 2023), on 31 March 2023, by section 65(2) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(2)(a)(ii): amended (with effect on 1 July 2010), on 21 December 2010, by section 58(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 24(2)(a)(ii): amended (with effect on 1 July 2010), on 7 September 2010, by section 46(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 24(2)(a)(iii): inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(3) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(2)(a)(iv): inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(3) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(3) formula: amended (with effect on 1 January 2023), on 31 March 2023, by section 65(4)(a) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(3) formula: amended (with effect on 1 January 2023), on 31 March 2023, by section 65(4)(b) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(4)(a): amended (with effect on 1 January 2023), on 31 March 2023, by section 65(5) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(4)(c): amended (with effect on 1 January 2023), on 31 March 2023, by section 65(6)(a) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(4)(c): amended (with effect on 1 January 2023), on 31 March 2023, by section 65(6)(b) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(5) heading: inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(7) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24(5): inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(7) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24 list of defined terms **GST**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(8) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24 list of defined terms **IFRS 17**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(8) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24 list of defined terms **life insurance policy**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(8) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24 list of defined terms **life reinsurance policy**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(8) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24 list of defined terms **mortality profit**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EY 24 list of defined terms **outstanding claims reserve**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(8) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section EY 24 list of defined terms **tax**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 65(8) (and see section 65(9) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

EY 25 Premium smoothing reserving amount: non-participation policies not annuities

Calculation of reserving amount

(1) For an income year (the **current year**), a life insurer has a premium smoothing reserving amount for a class of policies, during the policies' PSR periods, calculated using the formula—

opening premium smoothing reserve − closing premium smoothing reserve.

Definition of items in formula

(2) In the formula,—

(a) **opening premium smoothing reserve** is—

(i) the amount of the life insurer's closing premium smoothing reserve for the class of policies, for the income year (the **prior year**) before the current year; or

(ii) the amount that would be the premium smoothing reserve for the class of policies, using the principles in subsection (3) with necessary modifications, calculated at the end of the prior year, if the life insurer has no closing premium smoothing reserve for the prior year:

(b) **closing premium smoothing reserve** is the amount of the life insurer's premium smoothing reserve calculated under the principles in subsection (3) for the class of policies, calculated at the end of the current year.

Reserving amount: calculation

(3) For policies in a class of policies and for PSR periods of the policies, reserving amounts must be calculated using the principles—

(a) for an income year, the sum of a reserving amount and the life risk component of premiums equals the expected life risk proportion; and

(b) for PSR periods, the sum of a reserving amount and the life risk component of premiums equals the total life risk component of premiums recognised for financial reporting purposes; and

(c) the amount in the premium smoothing reserve does not include amounts for policies for which all obligations have ceased.

Best estimate assumptions for PSR

(4) Closing and opening premium smoothing reserve amounts must be actuarially determined, using best estimate assumptions.

Special grouping rule for the purposes of best estimate assumptions

(5) For the purposes of determining premium smoothing reserve amounts, life insurance policies may be grouped together if the policies have in common,—

(a) substantially the same contractual terms and conditions, other than their PSR periods; and

(b) substantially the same assumptions for pricing their life risk.

Meaning of expected life risk proportion

(6) In this section, **expected life risk proportion** means, for life insurance policies in a class of policies and an income year, the proportion of the premiums that fairly reflects the proportion of the life risk and the life risk renewal expenses, for the term of the policy, expected to be borne in the income year and is determined from the corresponding proportions calculated, for each PSR period that begins, continues, or ends in the income year,—

(a) as at the beginning of the income year or the beginning of the PSR period, whichever is later; and

(b) assuming that the policies still exist at the end of the income year or the end of the PSR period, whichever is earlier.

Defined in this Act: amount, actuarially determined, best estimate assumptions, class of policies, expected life risk proportion, income year, life insurance policy, life insurer, life risk, life risk component, premium, PSR period

Section EY 25: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 25(2)(a)(ii): amended (with effect on 1 July 2010), on 7 September 2010, by section 47(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 25(3)(a): amended (with effect on 1 July 2010 and applying for the income year including 1 July 2010 and later income years), on 30 March 2017, by section 88(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 25(3) heading: replaced, on 30 March 2017 (applying for income years beginning after this date), by section 88(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 25(3): replaced, on 30 March 2017 (applying for income years beginning after this date), by section 88(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 25(6): replaced, on 30 March 2017 (applying for income years beginning after this date), by section 88(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EY 26 Unearned premium reserving amount: non-participation policies not annuities

Calculation of reserving amount

(1) For an income year (the **current year**), a life insurer has an unearned premium reserving amount for a class of policies calculated using the formula—

opening unearned premium reserve − closing unearned premium reserve.

Definition of items in formula

(2) In the formula,—

(a) **opening unearned premium reserve** is—

(i) the amount of the life insurer's closing unearned premium reserve for the class of policies, for the income year before the current year; or

(ii) the amount that would be the unearned premium reserve for the class of policies, using subsection (3) with necessary modifications, calculated at the end of the prior year, if the life insurer has no closing unearned premium reserve for the income year before the current year:

(b) **closing unearned premium reserve** is the amount of the life insurer's unearned premium reserve under subsection (3) for the class of policies, calculated at the end of the current year.

Unearned premium reserve

(3) A life insurer's unearned premium reserve is the amount of the premium in the current year or a prior year, for the relevant policies, that relates to life risk components and relevant costs, in income years after the current year, but subtracting relevant life reinsurance premiums.

Defined in this Act: amount, class of policies, income year, life insurer, life reinsurance, life risk component

Section EY 26: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 26(2)(a)(ii): amended (with effect on 1 July 2010), on 7 September 2010, by section 48(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

EY 27 Capital guarantee reserving amount: non-participation policies not annuities

Calculation of reserving amount

(1) For an income year (the **current year**), a life insurer has a reserving amount for a class of policies calculated using the formula—

opening capital guarantee reserve − closing capital guarantee reserve.

Definition of items in formula

(2) In the formula,—

(a) **opening capital guarantee reserve** is—

(i) the amount of the life insurer's closing capital guarantee reserve for the class of policies, for the income year before the current year; or

(ii) the amount that would be the capital guarantee reserve for the class of policies, using subsection (3) with necessary modifications, calculated at the end of the income year before the current year, if the life insurer has no closing capital guarantee reserve for the income year before the current year:

(b) **closing capital guarantee reserve** is the amount of the life insurer's capital guarantee reserve under subsection (3) for the class of policies, calculated at the end of the current year.

Capital guarantee reserve

(3) A life insurer's capital guarantee reserve is the net amount of credits and debits on account of a risk-linked provision for future obligations in relation to a guarantee, for the class of policies, by the life insurer that capital invested will be returned or that a minimum return on capital will be paid.

Reflex in policyholder base

(4) For the current year, if the reserving amount under this section is positive, the life insurer has that amount as a deduction included in their policyholder base

allowable deductions. For the current year, if the reserving amount under this section is negative, the life insurer has that amount as income included in their policyholder base income.

Reflex in policyholder base: exception

(5) Despite subsection (4), for the current year, the life insurer does not have that amount as income included in their policyholder base income to the extent to which the amount represents payment on account of lost capital in the policyholder base.

Defined in this Act: amount, class of policies, income year, life insurer, pay, policyholder base, policyholder base allowable deduction, policyholder base income

Section EY 27: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 27(2)(a)(ii): amended (with effect on 1 July 2010), on 7 September 2010, by section 49(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Shareholder base other profit: profit participation policies

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 28 Shareholder base other profit: profit participation policies that are existing business

Calculation of income

(1) For an income year, a life insurer has an amount, for profit participation policies that are existing business, that is calculated using the formula—

other profit × gate ÷ (1 + gate).

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **other profit** is the amount calculated for the income year under subsection (4):

(b) **gate** is the proportion of a policyholder's share of profits from the asset base that is used in the formula that calculates a transfer to the benefit of the life insurer's shareholders from the profits of the asset base, as described in paragraph (a)(iii) of the definition of **profit participation policy**.

Formula: negative amounts and positive amounts

(3) If, for an income year, the formula in subsection (1) calculates a positive amount, that amount is included as income in the life insurer's shareholder base income. If it is a negative amount, then that amount is included as a deduction in the life insurer's shareholder base allowable deductions.

Other profit

(4) For the purposes of the item **other profit** in subsection (2), an amount is calculated, for the income year (the **current year**) for profit participation policies that are existing business, using the following formula:

(premiums − premiums estimate) − (claims − claims estimate)
− (closing liabilities − estimated closing liabilities).

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **premiums** is the amount of premiums for policies for the current year, but subtracting relevant life reinsurance premiums:

(b) **premiums estimate** is the actuarially determined total amount of premiums that the life insurer expected, using best estimate assumptions, to receive in the current year for policies that were in force at the start of the current year or are first entered into in the current year, after subtracting the value, net of tax and used in the life insurer's financial accounts, of relevant life reinsurance premiums for the current year:

(c) **claims** is the amount of claims for the current year, after subtracting relevant life reinsurance claims:

(d) **claims estimate** is the actuarially determined total amount of claims that the life insurer expected, using best estimate assumptions, to receive in the current year for policies that were in force at the start of the current year or are first entered into in the current year, after subtracting the value, net of tax and used in the life insurer's financial accounts, of relevant life reinsurance claims for the current year:

(e) **closing liabilities** is the total amount, determined as at the end of the current year for policies that are in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year:

(f) **estimated closing liabilities** is the total amount, estimated as at the beginning of the current year for policies that are in force at the start of the current year and expected to be in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year.

Policy liability

(6) For the purposes of subsection (5), the policy liability for a policy is an amount that is actuarially determined for the policy using best estimate assumptions and that—

(a) is the total amount of future claims, future expenditure or loss, and future tax payments, reduced by the amount of future premiums; and

(b) is obtained using present values that are net of tax and used in the life insurer's financial accounts and allowing for life reinsurance premiums and life reinsurance claims; and

(c) does not include bonus declarations that vest after the current year.

Basis of best estimate assumptions in actuarially determining items

(7) The same best estimate assumptions must be used for actuarially determining amounts under subsections (5) and (6). The assumptions may be appropriate for the start of the year, or for the end of the year, but once the choice is made between start of the year and end of the year, that basis may not be changed.

Meaning of existing business

(8) For the purposes of this section and section EY 29, **existing business** means, for a policy, that it is—

(a) issued on or before 30 June 2009:

(b) issued after 30 June 2009, if—

(i) issued on the same substantial and material terms, conditions, and bonus entitlements as profit participation policies that the life insurer issued on or before 30 June 2009, ignoring any annual increase in life insurance cover that is less than 10% or less than annual percentage change in the Consumers Price Index (all groups):

(ii) issued as the result of conversion rights in a policy issued on or before 30 June 2009:

(c) the replacement of another policy (the **replaced policy**) caused by a life insurer being sold, or selling or transferring its rights and obligations under the replaced policy, and—

(i) the replaced policy was existing business under this subsection; and

(ii) the replaced policy and the policy have the same substantial and material terms, conditions, and bonus entitlements ignoring any annual increase in life insurance cover that is less than 10% or is less than the annual percentage change in the Consumers Price Index (all groups).

(9) In this section, **Consumers Price Index (all groups)** means the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index.

Defined in this Act: actuarially determined, amount, best estimate assumptions, claim, existing business, income year, life insurance, life insurance policy, life insurer, life reinsurance, premium, profit participation policy

Section EY 28: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 28(4) formula: amended, on 30 March 2017 (applying for income years beginning on or after this date), by section 89(1)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(4) formula: amended, on 30 March 2017 (applying for income years beginning on or after this date), by section 89(1)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(5)(b): amended, on 30 March 2017, by section 89(2) (and see section 89(9) and (10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(5)(d): amended, on 30 March 2017, by section 89(3) (and see section 89(9) and (10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(5)(e): replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 89(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(5)(f): replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 89(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(6) heading: replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 89(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(6): replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 89(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(7): amended, on 30 March 2017 (applying for income years beginning on or after this date), by section 89(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 28(8) **existing business** paragraph (a): amended (with effect on 1 July 2010), on 2 November 2012, by section 54(1)(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 28(8) **existing business** paragraph (b)(i): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section EY 28(8) **existing business** paragraph (b)(ii): amended (with effect on 1 July 2010), on 2 November 2012, by section 54(1)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 28(8) **existing business** paragraph (c): inserted (with effect on 1 July 2010), on 2 November 2012, by section 54(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 28(8) **existing business** paragraph (c)(ii): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section EY 28(9): inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section EY 28 list of defined terms **present value (net)**: repealed, on 30 March 2017, by section 89(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EY 29 Shareholder base other profit: profit participation policies that are new business

Calculation of income

(1) For an income year, a life insurer has an amount, for profit participation policies that are new business, that is calculated using the formula—

(other profit × gate ÷ (1 + gate)) − previous negative amount.

Definition of items in formula

(2) In the formula in subsection (1),—

(a) **other profit** is the amount calculated for the income year under subsections (5) to (9):

(b) **gate** is the proportion of a policyholder's share of profits from the asset base that is used in the formula that calculates a transfer to the benefit of the life insurer's shareholders from the profits of the asset base, as described in paragraph (a)(iii) of the definition of **profit participation policy**:

(c) **previous negative amount** is the amount from the previous year described in subsections (3) and (4).

Formula: negative amounts and positive amounts

(3) If, for an income year, the formula in subsection (1) calculates a positive amount, that amount is included as income in the life insurer's shareholder base income. If it is a negative amount, then that amount is not included as a deduction in the life insurer's shareholder base allowable deductions, but *see* subsection (4).

Negative amounts: carry forward

(4) The amount by which the amount calculated using the formula in subsection (1) is less than zero is carried forward to the next income year, to be used under this section in the formula as the item **previous negative amount** in that next year.

Other profit

(5) For the purposes of the item **other profit** in subsection (2), an amount is calculated, for the income year (the **current year**) for profit participation policies that are new business, using the following formula:

(premiums − premiums estimate) − (claims − claims estimate)
− (closing liabilities − estimated closing liabilities).

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **premiums** is the amount of premiums for policies for the current year, but subtracting relevant life reinsurance premiums:

(b) **premiums estimate** is the amount of valuation premiums that the life insurer expected, using best estimate assumptions, to receive in the current year for policies that are in force at the start of the current year, or are first entered into in the current year, after subtracting the value, net of tax and used in the life insurer's financial accounts, of relevant life reinsurance premiums for the current year:

(c) **claims** is the amount of claims for the current year, after subtracting relevant life reinsurance claims:

(d) **claims estimate** is the actuarially determined amount of claims that the life insurer expected, using best estimate assumptions, to receive in the current year for policies that are in force at the start of the current year, or are first entered into in the current year, ignoring surrenders and after subtracting the value, net of tax and used in the life insurer's financial accounts, of relevant life reinsurance claims for the current year:

(e) **closing liabilities** is the total amount, determined as at the end of the current year for policies that are in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year:

(f) **estimated closing liabilities** is the total amount, estimated as at the beginning of the current year for policies that are in force at the start of the current year and expected to be in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year.

Meaning of valuation premiums

(7) In this section, **valuation premiums** means the amount of premiums payable for a policy, actuarially determined by reference to the premium formula used when the policy was first entered into, or, if the premium formula is unavailable, by reference to mortality, expense, and other assumptions applicable to premiums for similar policies at the beginning of the income year in which the policy was first entered into. The valuation premiums must not include any allowance for future bonus declarations or future shareholder profits. The amount of the valuation premium for a policy must not change, unless significant changes to the policy justify changing the valuation premium.

Policy liability

(8) For the purposes of subsection (6), the policy liability for a policy is an amount that is actuarially determined for the policy using best estimate assumptions and that—

(a) is the greater of the current surrender value of the policy and the amount that is the total amount of future mortality and maturity claims, future expenditure or loss, and future tax payments, reduced by the amount of future valuation premiums; and

(b) is obtained using present values that are net of tax and used in the life insurer's financial accounts and allowing for relevant life reinsurance premiums and relevant life reinsurance claims; and

(c) does not include bonus declarations that vest after the current year; and

(d) does not include an allowance for surrenders or the payment of surrender values.

Basis of best estimate assumptions in actuarially determining items

(9) The same best estimate assumptions must be used for actuarially determining amounts under subsections (6), (7), and (8). The assumptions may be appropriate for the start of the year, or for the end of the year, but once the choice is made between start of the year and end of the year, the assumptions must not be changed.

Meaning of new business

(10) For the purposes of this section, **new business** means, for a policy, that it is not existing business under section EY 28.

Defined in this Act: actuarially determined, amount, best estimate assumptions, claim, existing business, income year, life insurance policy, life insurer, life reinsurance, new business, premium, profit participation policy, valuation premiums

Section EY 29: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 29(5) formula: amended, on 30 March 2017 (applying for income years beginning on or after this date), by section 90(1)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(5) formula: amended, on 30 March 2017 (applying for income years beginning on or after this date), by section 90(1)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(6)(b): amended, on 30 March 2017, by section 90(2) (and see section 90(9) and (10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(6)(d): amended, on 30 March 2017, by section 90(3) (and see section 90(9) and (10)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(6)(e): replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 90(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(6)(f): replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 90(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(8) heading: replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 90(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(8): replaced, on 30 March 2017 (applying for income years beginning on or after this date), by section 90(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29(9): amended, on 30 March 2017 (applying for income years beginning on or after this date), by section 90(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EY 29 list of defined terms **present value (net)**: repealed, on 30 March 2017, by section 90(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Transitional adjustments and annuities

Heading: inserted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 30 Transitional adjustments: life risk

When this section applies: treatment of old and new policies

(1) This section applies to life insurance policies described in subsections (2) to (4). For the purposes of this section, a policy (the **new policy**) is treated as being issued at the same time as another policy (the **old policy**) that the new policy replaces, if the replacement is caused by—

(a) reinstating the old policy after either a lapse in premium payments or cancellation by the insured, if the new policy comes into force within 90 days of the lapse or cancellation, and the life insurer treats the new policy and old policy the same; or

(b) the life insurer being sold, or the life insurer selling or transferring its rights and obligations under the old policy.

Separation of products into separate policies for purposes of transitional adjustment

(1B) If a life insurance policy is comprised of 2 or more life insurance product types that are capable of being sold separately, and the life insurance cover amounts for each product type are separately identified in the policy, then each of the product types may be treated as a separate life insurance policy for the purposes of this section.

Life insurance policies

(2) This section applies to a life insurance policy, excluding an annuity, a multiple life policy through which the life insurer can look to the individual lives covered, credit card repayment insurance, and a workplace group policy, if the policy is issued by the life insurer before the grandparenting start day or if the life insurer receives an application and a deposit in money before the grandparenting start day for the policy which is issued after that day, and—

(a) the life insurer has no policyholder base income or policyholder base allowable deduction for the policy; and

(b) the policy meets the relevant requirements for the relevant period described in subsection (5)(a) to (c); and

(c) the amount of life insurance cover at the finish of a cover review period, or at the finish of any shorter period, if the life insurer chooses to measure within the cover review period, has not increased by more than the greater of 10% and the percentage change in the Consumers Price Index (all groups) for the relevant period, as compared to the amount of

life insurance cover at the beginning of the relevant cover review period; and

(d) no new or replacement individual life is covered for a period beginning after the grandparenting start day.

Multiple life policies

(3) This section applies to a multiple life policy through which the life insurer can look to either the individual lives covered or a relevant underlying life insurance policy, if the multiple life policy (the **policy**) is issued by the life insurer before the grandparenting start day or if the life insurer receives an application and a deposit in money before the grandparenting start day for the policy which is issued after that day, and—

(a) the life insurer has no policyholder base income or policyholder base allowable deduction for the policy; and

(b) the policy meets the requirements for the period described in subsection (5)(c), or, looking through to the individual lives covered or relevant underlying life insurance policy, to the extent to which the policy meets the requirements for the period described in subsection (5)(a), (b), or (c); and

(c) to the extent to which, looking through to and in relation to the individual lives covered or relevant underlying policy,—

(i) the cover was first in place before the grandparenting start day:

(ii) the multiple life policy is a life reinsurance policy that was first in place before the grandparenting start day; and

(d) the substantial and material terms and conditions of the policy do not change on or after the grandparenting start day; and

(e) either—

(i) to the extent to which, looking through to the individual lives covered, the amount of life insurance cover at the finish of a cover review period, or at the finish of any shorter period if the life insurer chooses to measure within the cover review period, has not increased by more than the greater of 10% and the percentage change in the Consumers Price Index (all groups) for the relevant period, as compared to the amount of life insurance cover at the beginning of the relevant cover review period; or

(ii) in the case of a policy that is life reinsurance, to the extent to which a relevant underlying life insurance policy is, or would be ignoring section EY 10(2), one that this subsection or subsection (2) applies to.

Credit card repayment insurance and workplace group policies

(4) This section applies to a credit card repayment insurance and to a workplace group policy, if the policy is issued by the life insurer before the grandparenting start day or if the life insurer receives an application and a deposit in money before the grandparenting start day, and—

(a) the life insurer has no policyholder base income or policyholder base allowable deduction for the policy; and

(b) the policy, if it is a credit card repayment insurance, meets the requirements for the period described in subsection (5)(c), or, if it is a workplace group policy, meets the requirements for the period described in subsection (5)(d); and

(c) *[Repealed]*

(d) the substantial and material terms and conditions of the policy do not change on or after the grandparenting start day.

Requirements and periods for which this section applies

(5) The following are the requirements and periods for the purposes of subsections (2)(b), (3)(b), and (4)(b), for a policy:

(a) for a life insurance policy for which only 1 premium is ever payable, or for which the amount of each premium is the same, the period that—

(i) starts on the grandparenting start day; and

(ii) finishes on the day that the policy ceases to be in force:

(b) for a life insurance policy for which the premium is set for a continuous period (the **continuous rate period**) beginning before the grandparenting start day, and for which there is no increase in the premium during the continuous rate period other than an increase meeting the requirements of subsection (5BA), the period that—

(i) starts on the grandparenting start day; and

(ii) ends on the later of the day that is the last day of the continuous rate period and whichever day described in paragraph (c)(i) and (ii) is earlier:

(c) for a life insurance policy for which the premium may vary each year, the period that starts on the grandparenting start day and ends on the earlier of the following:

(i) the day that the policy expires:

(ii) the day that is before the 5 years anniversary of the grandparenting start day:

(d) for a life insurance policy for which the premium may vary each year, the period that starts on the grandparenting start day and ends on the earlier of the following:

(i) the day that the policy expires:

(ii) the day that is before the 3 years anniversary of the grandparenting start day.

Requirements under subsection (5)(b) for premium increase

(5BA) The requirements referred to in subsection (5)(b) for an increase in the premium under a life insurance policy in a year in the continuous rate period are that—

(a) the increase is made under an agreement entered into before the grandparenting start day; and

(b) the increase arises from a policy benefit that produces an increase, under a formula in the agreement, in the sum assured under the policy; and

(c) the increase in the sum assured under the policy during the year does not exceed the greater of 3% and the percentage change in the Consumers Price Index (all groups) during the period that is the basis for the calculation, under the formula referred to in paragraph (b), of the increase in the sum assured.

When this section does not apply: life insurance cover increase for whole cover review period

(5B) This section does not apply for a policy for the whole of an income year if a cover review period finishes in the year and, for that cover review period, there has been an increase in the amount of life insurance cover as described in subsection (2)(c) or (3)(e) and the life insurer has not made an election for measuring within the cover review period under those subsections.

When this section does not apply: continuity

(5C) This section does not apply for a policy for any period after this section has ceased to apply for the policy.

When this section does not apply: once-only opt out

(6) This section does not apply to a class of policies after the life insurer irrevocably chooses in a notice received by the Commissioner that this section does not apply for the class.

Adjustment

(7) A life insurer has an amount of shareholder base allowable deduction for a policy calculated using the following formula, to the extent to which this section applies for the relevant income year for the policy—

premiums − total net reserving amounts − (1.2 × expected death strain).

Definition of items in formula

(8) In the formula,—

(a) **premiums** is the life insurer's total premiums for the income year or part of the income year, as applicable, for the policy, but subtracting relevant life reinsurance premiums:

(b) **total net reserving amounts** is the total of reserving amounts for the income year or part of the income year, as applicable, for the policy, under section EY 25 or EY 26 (as applicable), but treating amounts that are shareholder base income as negative amounts, and amounts that are shareholder base allowable deductions as positive amounts:

(c) **expected death strain** is the amount calculated under the expected death strain formula (life) in accordance with sections EZ 53 to EZ 60 (which relate to the transitional adjustment for expected death strain) for the income year or part of the income year, as applicable, for the policy.

Negative amounts

(9) If subsection (7) gives a negative amount for a policy, it is ignored for that policy.

Meaning of cover review period

(10) **Cover review period** means—

(a) the relevant income year, if the life insurer has not chosen a different period under paragraph (b):

(b) a period of a year that has a starting and anniversary date that the life insurer irrevocably chooses, for a class of policies, in a return of income for the tax year corresponding to the income year in which the grandparenting start day is included.

Meaning of credit card repayment insurance

(11) **Credit card repayment insurance** means a life insurance policy, if the benefits of the cover are for the repayment of an outstanding debt balance of a credit card, or life reinsurance to the extent to which it reinsures such a life insurance policy.

Meaning of employer sponsored group policies

[Repealed]

(12) *[Repealed]*

Meaning of grandparenting start day

(13) **Grandparenting start day** means—

(a) 1 July 2010, if paragraph (b) does not apply:

(b) a life insurer's early life regime application day, if the life insurer irrevocably chooses that day as their grandparenting start day.

Meaning of multiple life policy

(14) **Multiple life policy**—

(a) means a life insurance policy with multiple individuals' life insurance cover grouped under it, if the group of individuals is identified in the policy:

(b) does not include—

(i) a workplace group policy:

(ii) credit card repayment insurance:

(iii) life reinsurance to the extent to which it reinsures a workplace group policy or credit card repayment insurance.

Meaning of workplace group policy

(15) **Workplace group policy** means a life insurance policy with multiple individuals' life insurance cover grouped under it, or life reinsurance to the extent to which it reinsures such a life insurance policy, if—

(a) the individuals under the policy are—

(i) a group that includes, or consists of, a class of employees of an employer or group of employers, and may include 1 or more of the employers or directors of the employers, and the policy is sponsored by the employers or by the trustees of a superannuation scheme:

(ii) members of a union registered under the Employment Relations Act 2000 or members of an industry association, and the union or association is the sponsor of the policy:

(iii) the spouses, civil union partners, and de facto partners of employees or members described in subparagraphs (i) and (ii); and

(b) in the case of the sponsor being the employer,—

(i) the employer is required to offer an employee who is a member of the relevant class the opportunity to join the life insurance policy; and

(ii) the life insurer and the employer have entered an agreement about who pays the premium.

(16) In this section, **Consumers Price Index (all groups)** means the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index.

Defined in this Act: amount, apply, Commissioner, cover review period, credit card repayment insurance, class of policies, early life regime application day, grandparenting start day, group life master policy, income year, life insurance, life insurance policy, life insurer, life reinsurance, notice, pay, policyholder base allowable deduction, policyholder base income, premium, shareholder base allowable deduction, shareholder base income, workplace group policy, year

Section EY 30: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 30(1)(a): replaced (with effect on 1 July 2010), on 2 November 2012, by section 55(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 30(1)(a): replaced (with effect on 1 July 2010), on 2 November 2012, by section 55(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 30(1)(b): amended (with effect on 1 July 2010), on 2 November 2012, by section 55(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 30(1B) heading: inserted (with effect on 1 July 2010), on 7 September 2010, by section 50(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(1B): inserted (with effect on 1 July 2010), on 7 September 2010, by section 50(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(2): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(2): amended, on 1 July 2010, by section 38(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(2)(c): substituted (with effect on 1 July 2010), on 7 September 2010, by section 50(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(2)(c): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section EY 30(2)(d): added (with effect on 1 July 2010), on 7 September 2010, by section 50(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(3) heading: substituted (with effect on 1 July 2010), on 7 September 2010, by section 50(4)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(3): amended (with effect on 1 July 2010), on 2 November 2012, by section 55(3)(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 30(3): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(4)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(3)(b): amended (with effect on 1 July 2010), on 2 November 2012, by section 55(3)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 30(3)(b): amended (with effect on 1 July 2010), on 21 December 2010, by section 59(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 30(3)(b): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(4)(c) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(3)(b): amended, on 1 July 2010, by section 38(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(3)(c): replaced (with effect on 1 July 2010), on 2 November 2012, by section 55(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EY 30(3)(e): substituted (with effect on 1 July 2010), on 21 December 2010, by section 59(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 30(3)(e)(i): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section EY 30(4) heading: amended, on 1 July 2010, by section 38(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(4): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(6) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(4): amended, on 1 July 2010, by section 38(4) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(4)(b): substituted, on 1 July 2010, by section 38(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(4)(c): repealed, on 1 July 2010, by section 38(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(5): amended, on 1 July 2010, by section 38(6) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(5)(b): replaced (with effect on 1 July 2010), on 26 June 2019, by section 65(1) (and see section 65(4) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EY 30(5)(c)(ii): amended, on 1 July 2010, by section 38(7) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(5)(d): added, on 1 July 2010, by section 38(7) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(5BA) heading: inserted (with effect on 1 July 2010), on 26 June 2019, by section 65(2) (and see section 65(4) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EY 30(5BA): inserted (with effect on 1 July 2010), on 26 June 2019, by section 65(2) (and see section 65(4) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EY 30(5BA)(c): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section EY 30(5BA)(c): amended (with effect on 1 July 2010), on 23 March 2020, by section 114(1) (and see section 114(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EY 30(5B) heading: inserted (with effect on 1 July 2010), on 7 September 2010, by section 50(8) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(5B): inserted (with effect on 1 July 2010), on 7 September 2010, by section 50(8) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(5C) heading: inserted (with effect on 1 July 2010), on 7 September 2010, by section 50(8) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(5C): inserted (with effect on 1 July 2010), on 7 September 2010, by section 50(8) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(7): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(9) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(8)(a): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(10) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(8)(b): amended (with effect on 1 July 2010), on 21 December 2010, by section 59(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 30(8)(b): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(11) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(8)(c): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(12) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(11) heading: substituted, on 1 July 2010, by section 38(8) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(11): substituted, on 1 July 2010, by section 38(8) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(11): amended (with effect on 1 July 2010), on 7 September 2010, by section 50(13) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(12) heading: repealed, on 1 July 2010, by section 38(9) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(12): repealed, on 1 July 2010, by section 38(9) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(14) heading: substituted (with effect on 1 July 2010), on 7 September 2010, by section 50(14) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(14): substituted (with effect on 1 July 2010), on 7 September 2010, by section 50(14) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(14): amended, on 1 July 2010, by section 38(10) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(15) heading: added, on 1 July 2010, by section 38(11) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30(15): substituted (with effect on 1 July 2010), on 7 September 2010, by section 50(15) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30(16): inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section EY 30 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EY 30 list of defined terms **employer sponsored group policy**: repealed, on 1 July 2010, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30 list of defined terms **life insurance policy**: inserted (with effect on 1 July 2010), on 26 June 2019, by section 65(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EY 30 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EY 30 list of defined terms **pay**: inserted (with effect on 1 July 2010), on 7 September 2010, by section 50(16) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EY 30 list of defined terms **premium**: inserted (with effect on 1 July 2010), on 26 June 2019, by section 65(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section EY 30 list of defined terms **quarter**: repealed (with effect on 1 July 2010), on 23 March 2020, by section 114(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section EY 30 list of defined terms **workplace group policy**: added, on 1 July 2010, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EY 30 list of defined terms **year**: inserted (with effect on 1 July 2010), on 26 June 2019, by section 65(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

EY 31 Annuities

When this section applies

(1) This section applies when a life insurance policy is an annuity.

Adjustment

(2) For the income year, a life insurer has an amount calculated for the relevant annuities using the formula—

closing actuarial reserves − (0.99 × expected death strain).

Definition of items in formula

(3) In the formula,—

(a) **closing actuarial reserves** is the life insurer's closing actuarial reserves (active annuities), calculated in accordance with section EZ 59(2) (Meaning of actuarial reserves):

(b) **expected death strain** is the amount calculated under the expected death strain formula (active annuities) in accordance with sections EZ 53 to EZ 60 (which relate to the transitional adjustment for expected death strain) for the income year.

Positive and negative amounts

(4) If the formula in subsection (2) gives a positive amount, the life insurer has that amount as income included in their shareholder base income. If the formula in subsection (2) gives a negative amount, the life insurer has that amount as a deduction included in their shareholder base allowable deductions.

Defined in this Act: amount, income year, life insurance policy, life insurer, shareholder base allowable deduction, shareholder base income

Section EY 31: substituted, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 32 Mortality profit formula: when partial reinsurance exists

[Repealed]

Section EY 32: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 33 Mortality profit formula: individual result may be negative only in some cases

[Repealed]

Section EY 33: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 34 Mortality profit formula: negative result

[Repealed]

Section EY 34: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 35 How discontinuance profit is calculated

[Repealed]

Section EY 35: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 36 Discontinuance profit for income year

[Repealed]

Section EY 36: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 37 Discontinuance profit formula (existing policies)

[Repealed]

Section EY 37: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 38 Discontinuance profit formula (new policies)

[Repealed]

Section EY 38: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 39 Discontinuance profit formula (existing policies): when partial reinsurance exists

[Repealed]

Section EY 39: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 40 Discontinuance profit formula (new policies): when partial reinsurance exists

[Repealed]

Section EY 40: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 41 Discontinuance profit formulas: individual result may never be negative

[Repealed]

Section EY 41: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 42 How policyholder income is calculated

[Repealed]

Section EY 42: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 43 Policyholder income formula

[Repealed]

Section EY 43: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 43B Policyholder income formula: FDR adjustment

[Repealed]

Section EY 43B: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 43C Policyholder income formula: PILF adjustment

[Repealed]

Section EY 43C: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 44 Policyholder income formula: when partial reinsurance exists

[Repealed]

Section EY 44: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 45 Policyholder income formula: when life insurance business transferred

[Repealed]

Section EY 45: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 46 Income from disposal of property

[Repealed]

Section EY 46: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EY 47 Deductions for disposal of property

[Repealed]

Section EY 47: repealed, on 1 July 2010, by section 190(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Non-resident life insurers

EY 48 Non-resident life insurers with life insurance policies in New Zealand

When this section applies

(1) This section applies when a life insurer not resident in New Zealand offers or is offered or enters into life insurance policies in New Zealand.

Income having source in New Zealand

(2) The life insurer's income from the business of providing life insurance, as determined under this section, is income that has a source in New Zealand.

Shareholder base and policyholder base

(3) The life insurer's income and deductions are apportioned between their policyholder base or shareholder base under the provisions of this subpart to the extent to which the income or deductions relate to—

(a) life insurance policies that the life insurer, as insurer, offered or was offered or entered into in New Zealand:

(b) life reinsurance policies held by the life insurer that relate exclusively to life insurance policies described in paragraph (a).

Other income

(4) The life insurer's income from the business of providing life insurance, other than under the provisions of this subpart, is determined only in relation to the life insurer's New Zealand business.

Defined in this Act: business, discontinuance profit formula, income, life insurance, life insurance policy, life insurer, life reinsurance policy, mortality profit formula, New Zealand, New Zealand business, non-resident, offered or was offered or entered into, policyholder income formula, premium loading formula, resident in New Zealand, source in New Zealand

Compare: 2004 No 35 s EY 47

Section EY 48(2) heading: substituted, on 21 December 2010, by section 60(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 48(2): amended, on 21 December 2010, by section 60(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 48(3) heading: substituted, on 1 July 2010, by section 193(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 48(3): substituted, on 1 July 2010, by section 193(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 48(4): amended, on 1 July 2010, by section 193(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EY 48 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 60(3)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section EY 48 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 60(3)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

EY 49 Non-resident life insurer becoming resident

Non-resident life insurer may apply

(1) A life insurer not resident in New Zealand may apply to be treated for its New Zealand business as resident in New Zealand on and after the first day of a particular income year.

Application

(2) The life insurer applies by—

(a) completing an application specifying the particular income year; and

(b) giving the application to the Commissioner not less than 20 working days before the start of the particular income year.

Commissioner may grant

(3) The Commissioner may grant the application.

Company resident in New Zealand

(4) If the application is granted, the life insurer's New Zealand business is treated, on and after the first day of the particular income year, as being carried on by a company resident in New Zealand in which the life insurer holds all the issued shares.

Life insurer agent for company

(5) The life insurer is treated as carrying on its New Zealand business as agent for the company and is liable, as agent for the company, to pay amounts payable to the Commissioner and to provide returns of income and other information required by the Commissioner.

Company and life insurer separate persons

(6) The life insurer and the company are treated as being separate persons in relation to the life insurer's New Zealand business.

Defined in this Act: agent, amount, apply, Commissioner, company, income year, life insurer, New Zealand business, non-resident, pay, resident in New Zealand, return of income, share, working day

Compare: 2004 No 35 s EY 48

Section EY 49(2)(a): amended, on 2 June 2016, by section 40(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EY 49 list of defined terms **apply**: inserted, on 2 June 2016, by section 40(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

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Life insurance

EZ 1 Life insurers acquiring property before 1 April 1988

When this section applies

(1) This section applies when section DZ 2 (Life insurers acquiring property before 1 April 1988) applies.

Amount of deduction

(2) The amount of the deduction is calculated using the formula—

(specific liability ÷ total liability) × property sum.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) to (9).

Specific liability

(4) **Specific liability** is the amount in the life insurer's total liability on the last day of the 1987–88 income year for the following matters covered by the life insurer's Life Insurance Fund:

(a) superannuation policies; and

(b) pre-1983 mortgage repayment insurance policies; and

(c) annuities that have been granted.

Total liability

(5) **Total liability** is the life insurer's liability for life insurance policies on the last day of the 1987–88 income year.

Property sum

(6) The **property sum** is calculated under whichever is relevant of subsections (7) to (9).

Property acquired before last day of 1982–83 income year

(7) For property acquired on or before the last day of the 1982–83 income year, the property sum is calculated by subtracting the specified base cost for 1983 income year property from the market value of the property on 1 April 1988.

Property acquired after end of 1982–83 income year: not financial arrangement

(8) For property acquired after the end of the 1982–83 income year that is not a financial arrangement, the property sum is calculated by subtracting the cost price or acquisition value of the property from the market value of the property on 1 April 1988.

Property acquired after end of 1982–83 income year: financial arrangement

(9) For property acquired after the end of the 1982–83 income year that is a financial arrangement, the property sum is the base price adjustment for the arrangement, calculated as if the arrangement had matured on 1 April 1988 but using the formula in section EW 31 (Base price adjustment formula).

Timing of deduction

(10) The life insurer is allowed the deduction in the income year in which they dispose of the property.

Defined in this Act: amount, deduction, financial arrangement, income year, Life Insurance Fund, life insurance policy, life insurer, property, specified base cost for 1983 income year property, superannuation policy

Compare: 2004 No 35 s EZ 1

EZ 2 Deductions for disposal of property: 1982–83 and 1989–90 income years

Deduction

(1) For the purposes of this Act, for property to which both the following apply, the amount of the deduction is the market value of the property on the last day of the 1989–90 income year:

(a) the property is land or buildings acquired on or before the last day of the 1989–90 income year; and

(b) the profit from the property's disposal on or before the last day of the 1989–90 income year, had it been disposed of then at a profit, would have been a capital profit or gain and not a profit on disposal of an investment subject to income tax under section 204 of the Income Tax Act 1976 (as that section was immediately before its repeal and substitution by section 13(1) of the Income Tax Amendment Act (No 2) 1990).

Deduction

(2) For the purposes of this Act, for property to which both the following apply, the amount of the deduction is the specified base cost for 1983 income year property:

(a) the property was acquired on or before the last day of the 1982–83 income year; and

(b) subsection (1) does not apply to the property.

Defined in this Act: amount, deduction, income year, property, specified base cost for 1983 income year property

Compare: 2004 No 35 s EZ 2

Section EZ 2(1) heading: substituted, on 1 July 2010, by section 194(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 2(1): amended, on 1 July 2010, by section 194(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 2(2) heading: substituted, on 1 July 2010, by section 194(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 2(2): amended, on 1 July 2010, by section 194(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Petroleum mining

EZ 3 Petroleum development expenditure from 1 October 1990 to 15 December 1991

Timing of deduction

(1) Expenditure that is allowed as a deduction under section DZ 3 (Petroleum mining: development expenditure from 1 October 1990 to 15 December 1991) must be deducted in equal amounts over the 10 years starting with the later of—

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

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

Petroleum mining operations outside New Zealand

(2) This section applies with any necessary modifications to a petroleum miner who undertakes petroleum mining operations that are—

(a) outside New Zealand and undertaken through a branch or a controlled foreign company; and

(b) substantially the same as the petroleum mining activities governed by this Act.

Partnership interests

(3) For the purposes of this section, a partner is treated as having a share or interest in a petroleum permit or other property of a partnership to the extent of their income interest in the partnership.

Disposal of part of asset

(4) For the purposes of this section, references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: amount, commercial production, controlled foreign company, deduction, dispose, income year, New Zealand, petroleum, petroleum miner, petroleum mining operations, petroleum permit

Compare: 2004 No 35 s EZ 3

Livestock

EZ 4 Valuation of livestock bailed or leased as at 2 September 1992

When this section applies

(1) This section applies when—

(a) an owner of livestock valued a class of livestock for the 1991–92 income year under section 86 of the Income Tax Act 1976 (as that section was in force before its repeal by section 21 of the Income Tax Amendment Act (No 2) 1993); and

(b) either—

(i) the livestock was, as at 2 September 1992, at the use of a person under a bailment, lease, or other agreement that the owner entered into on or before that date, or was, on or before that date, livestock that was subject to a binding contract to bail or lease the livestock to a person, or otherwise allow them to use the livestock; or

(ii) the class of livestock was not one that the owner had on hand in the previous income year, but was a class that, as at 2 September 1992, was at the use of a person under a bailment, lease, or other agreement that the owner entered into on or before that date.

Rolling average value

(2) The owner may value the livestock at a value equal to 70% of the rolling average value of that class of livestock.

When subsection (2) applies

(3) Subsection (2) applies for the 1992–93 income year and any later income year in which the livestock continues to be bailed, leased, or otherwise used by the person under the bailment, lease, or other agreement.

Number of livestock valued

(4) The number of specified livestock of a class that may be valued under this section is the number that is the least of—

(a) the number of livestock of the class bailed, leased, or otherwise used (or, for a binding contract entered into before 2 September 1992 but not yet applying, the number of livestock of that class provided for in the contract); and

(b) the number of livestock of the class bailed, leased, or otherwise used as at the end of the 1992–93 income year; and

(c) the lesser of the opening and closing number of stock of the class bailed, leased, or otherwise used in a later income year up to and including the income year in which the livestock is being valued.

Meaning of rolling average value

(5) In this section, **rolling average value**, for an income year and a class of specified livestock, means one-third of the sum of the national average market values set for that income year and each of the 2 previous income years for livestock of that class.

Defined in this Act: class, income year, lease, national average market value, rolling average value, specified livestock

Compare: 2004 No 35 s EZ 4

EZ 4B Cattle destroyed because of *Mycoplasma bovis*: spreading

When this section applies

(1) This section applies when—

(a) a person who owns or carries on a business has mixed-age cows on hand at the start of an income year (the **cull year**) before the 2028–29 income year that they—

(i) use for breeding in the ordinary course of carrying on the business; and

(ii) valued under the national standard cost scheme or the cost price method in the previous income year; and

(b) in the cull year, some or all of the person's cattle (the **destroyed cattle**) are destroyed, because of *Mycoplasma bovis*, pursuant to—

(i) a power exercised under section 121 of the Biosecurity Act 1993:

(ii) a direction given under section 122 of that Act; and

(c) either,—

(i) if the cull year is before the 2019–20 income year, the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person has on hand at the end of the income year following the cull year is at least 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year; or

(ii) in any other case, the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person expects to have on hand at the end of the income year following the cull year is at least 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year.

Timing of income

(2) The person may choose to allocate the amount of income calculated using the formula in subsection (5) equally between the 6 income years following the cull year.

Timing of deduction

(3) When a person makes an election under subsection (2), part of any deduction that the person is allowed for the value that their livestock valued under subpart EC (Valuation of livestock) had at the end of the income year before the cull year, as calculated under section EC 2 (Valuation of livestock), is allocated equally between the 6 income years following the cull year. The part must reflect the value, as calculated under that section at the end of the income year before the cull year using whichever of the national standard cost scheme or the cost price method the person used in the income year before the cull year, of the same number of each class of livestock to which the amount of income allocated under subsection (2) relates.

Business ceasing

(4) If the person stops owning or carrying on the business in an income year (the **cessation year**) before the seventh income year following the cull year, to the extent to which it has not been allocated to income years before the cessation year,—

(a) the amount of income calculated using the formula in subsection (5) is allocated to the cessation year; and

(b) the part of any deduction allocated under subsection (3) is allocated to the cessation year.

First formula

(5) The formula referred to in subsections (2) and (4) is—

$$\Sigma(\text{number} \times (\text{sale proceeds} + \text{compensation}) \div \text{culled stock}).$$

Definition of items in formula

(6) The items in the formula in subsection (5) are defined in subsections (7) to (11).

Σ

(7) **Σ** is the symbol for the summation of the amounts calculated using the formula in the brackets that follow that symbol for each of the following classes of each of the beef cattle and dairy cattle types of livestock:

(a) rising 1 year heifers:

(b) rising 2 year heifers:

(c) mixed-age cows:

(d) breeding bulls.

Number

(8) **Number**, for a class of livestock, is the number that is the lesser of the following 2 numbers, or the first number if they are the same:

(a) the number that is the greater of zero and the number calculated using the formula in subsection (12):

(b) the number of livestock of that class that—

(i) were breeding stock or stock that the person expected to be capable of, and intended to be used for, breeding upon reaching maturity; and

(ii) the person valued under the national standard cost scheme or the cost price method in the income year before the cull year.

Sale proceeds

(9) **Sale proceeds**, for a class of livestock, is the amount of income the person derives as consideration for the disposal of livestock of that class, including their carcasses, that are part of the destroyed cattle.

Compensation

(10) **Compensation**, for a class of livestock, is the amount of income the person derives that is compensation to which the person is entitled under section 162A of the Biosecurity Act 1993 and that the person receives by the end of the income year following the cull year, but only to the extent to which that compensation is for—

(a) any excess of the value of the destroyed cattle that belong to that class used in the calculation of that compensation over the amount of income described in subsection (9) for that class; and

(b) any excess of the cost of replacement cattle of the same class that the person acquires and intends to be used for breeding over the amount of income that would, in the absence of this paragraph, be described in this subsection.

Culled stock

(11) **Culled stock**, for a class of livestock, is the number of livestock of that class that are part of the destroyed cattle.

Second formula

(12) The formula referred to in subsection (8) is—

valuation method breeding stock + culled stock – opening stock.

Definition of items in second formula

(13) In the formula in subsection (12), for a class of livestock,—

(a) **valuation method breeding stock** is the number of livestock of that class that—

(i) were breeding stock or stock that the person expected to be capable of, and intended be used for, breeding upon reaching maturity; and

(ii) the person valued under the national standard cost scheme or the cost price method in the income year before the cull year:

(b) **culled stock** is the number of livestock of that class that are part of the destroyed cattle:

(c) **opening stock** is the number of livestock of that class that the person had on hand at the start of the cull year.

How elections made

(14) A person makes an election under subsection (2) by notifying the Commissioner,—

(a) if the cull year is the 2020–21 income year or an earlier income year, by the date of filing their return of income for the 2020–21 income year; or

(b) in any other case, by the date of filing their return of income for the cull year.

Elections irrevocable

(15) An election made under subsection (2) cannot be revoked.

When election treated as never having been made

(16) A person who makes an election under subsection (2) is treated as never having made the election if the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person has on hand at the end of the income year following the cull year is less than 75% of the number of mixed-age cows valued under the national standard cost scheme or the cost price method that the person had on hand at the start of the cull year.

Relationship with sections CG 6 and DB 49

(17) This section overrides sections CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) and DB 49 (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements).

Defined in this Act: amount, business, class, Commissioner, cost price, deduction, income, income year, national standard cost scheme, notify, return of income

Section EZ 4B: inserted (with effect on 1 April 2017), on 30 March 2021, by section 56(1) (and see section 56(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EZ 5 Reduction: bloodstock not previously used for breeding in New Zealand: pre-1 August 2006

Bloodstock to which this section applies

(1) This section applies to bloodstock that—

(a) was not used for breeding in New Zealand before 16 December 1991; and

(b) before a person (**person A**) acquired it, was not used for breeding in New Zealand by any other person, unless—

(i) the other person transferred the bloodstock to person A under a relationship agreement to which section FB 18 (Bloodstock) applies; or

(ii) the other person and person A were companies in the same wholly-owned group at the time person A acquired the bloodstock from the other person; and

(c) section EC 39(1) or (2) (First income year in breeding business) applies to,—

(i) before 1 August 2006; or

(ii) for an income year ending on or after 1 August 2006, if a requirement of paragraphs (a) to (c) of section EC 39(1) or (2) is first met before 1 August 2006.

Stallion

(2) For the purposes of sections EC 39 and EC 40 (which relate to bloodstock), the reduction applying to the value of a stallion is 25% of the cost price of the stallion unless person A chooses to value the stallion by the reducing value method.

Stallion valued by reducing value method

(3) When person A chooses to value the stallion by the reducing value method, the reduction applying to the value of the stallion is 37.5% of its cost price in the first income year and 37.5% of its opening value in each later income year. Person A must give notice to the Commissioner of their election in their return of income for the first income year.

Broodmare when first used before 1 April 2001

(4) For the purposes of sections EC 39 and EC 40, the reduction applying to the value of a broodmare is calculated using the formula—

$$1.25 \times \text{cost price of broodmare} \div (15 - \text{age of broodmare}).$$

Definition of item in formula

(5) In the formula in subsection (4), **age of broodmare** is—

(a) 12 years of age; or

(b) the actual age in years, if the broodmare is 11 years of age or less at the end of the income year.

Broodmare when first used on or after 1 April 2001 but before 1 August 2006

(6) For the purposes of sections EC 39 and EC 40, the reduction applying to the value of a broodmare to which section EC 39(2) applies is calculated using the formula—

$$1.25 \times \text{cost price of broodmare} \div (11 - \text{age of broodmare}).$$

Definition of item in formula

(7) In the formula in subsection (6), **age of broodmare** is—

(a) 8 years of age; or

(b) the actual age in years, if the broodmare is 7 years of age or less at the end of the income year.

Defined in this Act: bloodstock, broodmare, Commissioner, company, cost price, income year, New Zealand, notice, relationship agreement, return of income, stallion, wholly-owned group, year

Compare: 2004 No 35 s EZ 4B

Section EZ 5(1)(b)(i): amended (with effect on 1 April 2008), on 24 February 2016, by section 156(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 5 list of defined terms **matrimonial agreement**: repealed (with effect on 1 April 2008), on 24 February 2016, by section 156(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 5 list of defined terms **relationship agreement**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 156(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 6 Reduction: broodmare previously used for breeding in New Zealand: pre-1 August 2006

Broodmare to which this section applies

(1) This section applies to a broodmare that section EC 39(1) or (2) (First income year in breeding business) applies to,—

(a) before 1 August 2006; or

(b) for an income year ending on or after 1 August 2006, if a requirement of paragraphs (a) to (c) of section EC 39(1) or (2) is first met before 1 August 2006.

Broodmare when first used before 1 April 2001

(2) For the purposes of sections EC 39 and EC 40 (which relate to bloodstock), the reduction applying to the value of a broodmare to which section EC 39(1) applies and sections EC 41 (Reduction: bloodstock not previously used for breeding in New Zealand) and EZ 5 do not apply is calculated using the formula—

cost price of broodmare ÷ (15 − age of broodmare).

Definition of item in formula

(3) In the formula in subsection (2), **age of broodmare** is—

(a) 12 years of age; or

(b) the actual age in years, if the broodmare is 11 years of age or less at the end of the income year.

Broodmare when first used on or after 1 April 2001 but before 1 August 2006

(4) For the purposes of sections EC 39 and EC 40, the reduction applying to the value of a broodmare to which section EC 39(2) applies and sections EC 41 and EZ 5 do not apply is calculated using the formula—

cost price of broodmare ÷ (11 − age of broodmare).

Definition of item in formula

(5) In the formula in subsection (4), **age of broodmare** is—

(a) 8 years of age; or

(b) the actual age in years, if the broodmare is 7 years of age or less at the end of the income year.

Defined in this Act: broodmare, cost price, income year, year

Compare: 2004 No 35 s EZ 4C

EZ 6B National minimum price threshold for 2019 calendar year

The national minimum price threshold for the 2019 calendar year for each class of bloodstock set out in schedule 18C, column 2 (Breeds and classes of bloodstock) is set at—

(a) $84,000 for standardbred yearling fillies; and

(b) $119,000 for standardbred yearling colts; and

(c) $467,000 for thoroughbred yearling fillies; and

(d) $402,000 for thoroughbred yearling colts.

Defined in this Act: bloodstock, national minimum price threshold

Section EZ 6B: inserted (with effect on 1 January 2019), on 18 March 2019, by section 183 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Patent rights

EZ 7 Acquiring patent rights before 1 April 1993

When this section applies

(1) This section applies when section DZ 8 (Acquiring patent rights before 1 April 1993) applies.

Amount of deduction

(2) The amount of the deduction is the expenditure that the person has incurred in acquiring the patent rights.

Amount when patent rights expired or disposed of

(3) If, before the expiry of the patent rights, the rights have come to an end or have been disposed of, the person is allowed a deduction of an amount that bears to the total sum of the expenditure on the acquisition of the rights the same proportion as the unexpired term of the rights when they came to an end or were disposed of bears to their unexpired term at the date of their acquisition. An amount that the person has otherwise been allowed as a deduction is not included.

Timing of deduction: subsection (2)

(4) The deduction referred to in subsection (2) is allocated to the income years in relation to which the term of the patent rights that is unexpired at the date of acquisition applies.

Timing of deduction: subsection (3)

(5) The deduction referred to in subsection (3) is allocated to the income year in which the rights have come to an end or been disposed of.

Defined in this Act: amount, deduction, income year, patent rights

Compare: 2004 No 35 s EZ 5

Section EZ 7 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 7(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 7(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 7(3): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 7(4): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Leases of land

EZ 8 Premium paid on land leased before 1 April 1993

When this section applies

(1) This section applies when section DZ 9 (Premium paid on land leased before 1 April 1993) applies.

Amount of deduction

(2) The amount of the deduction is the premium paid on the grant or renewal of the lease. If person A does not use the land for the whole of a tax year, the amount of the deduction is reduced proportionately.

Amount when lease or renewal granted to another person

(3) If the lease or the renewal of the lease is granted to another person, the deduction must not be more than the amount of the premium paid by person A on the acquisition of the lease.

Timing of deduction

(4) The deduction is allocated evenly to the income years in relation to which the term of the lease applies.

Meaning of term of the lease

(5) In this section, **term of the lease**, for a lease of indefinite duration, means the minimum period it has to run.

Defined in this Act: amount, deduction, income year, lease, pay, premium, tax year, term of the lease

Compare: 2004 No 35 s EZ 6

Transitional rule: treatment of income from disposal of land to the Crown

Heading: inserted (with effect on 26 August 2024), on 29 March 2025, by section 56 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

EZ 8B Disposal of land to the Crown

Despite the repeal of section EI 8 (Disposal of land to the Crown) by the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025, section EI 8 continues to have effect on or after 26 August 2024 for a person who derives income from disposing of any of their land to the Crown if—

(a) the disposal occurs before 26 August 2024:

(b) the person has relied on a binding ruling made by the Commissioner before 26 August 2024 involving allocation of income under section EI 8 as it was before its repeal by section 49 of that Act.

Defined in this Act: binding ruling, Commissioner, dispose, income, land

Section EZ 8B: inserted (with effect on 26 August 2024), on 29 March 2025, by section 56 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Depreciation

EZ 9 Pool method for items accounted for by globo method for 1992–93 income year

If a person chooses the pool method for an item of property of a kind described in section EE 66(3)(c) (Meaning of poolable property), they must also choose to treat as a single pool all such items of property they still own that they accounted for at the end of their 1992–93 income year within the same globo account.

Defined in this Act: income year, pool, pool method

Compare: 2004 No 35 s EZ 8

EZ 10 Pool items accounted for by globo method for 1992–93 income year

Limit on amount of income

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

depreciation allowed − income.

Definition of items in formula

(2) In the formula,—

(a) **depreciation allowed** is the total of deductions for amounts of depreciation loss that the person has been allowed in all earlier income years

for all items in the pool, including amounts allowed before the person's 1993–94 income year under the globo accounting method:

(b) **income** is all amounts of income under section EE 22(5)(a) in all previous income years.

Defined in this Act: amount, Commissioner, depreciable property, depreciation loss, income year, pool

Compare: 2004 No 35 s EZ 9

EZ 11 Amounts of depreciation recovery income and depreciation loss for part business use up to 2004–05 income year

For the purposes of sections EE 49(1)(b)(ii) and EE 50(5)(b)(ii) (which relate to depreciation for partial income-producing use), the item is an item of property to which 1 or more of the following applies:

(a) the item is, at any time during the period the person owns it, subject to section FB 7 of the Income Tax Act 2004:

(b) the item is, at any time during the period the person owns it, subject to section EG 2(1)(d) or (e) of the Income Tax Act 1994:

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

(d) the item was, in the 1992–93 income year or an earlier income year, an item that the person did not use wholly in deriving assessable income or carrying on a business for the purpose of deriving assessable income and for which, consequently, the person was allowed a smaller deduction for depreciation under section 108 of the Income Tax Act 1976 than they would have been allowed if they had used the item wholly for 1 of those purposes.

Defined in this Act: assessable income, business, income year

Compare: 2004 No 35 s EZ 10

EZ 12 Amount of depreciation loss for item acquired from associated person on or before 23 September 1997

When this section applies

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

Exclusions

(2) This section does not apply—

(a) if the item is acquired under a relationship agreement in circumstances to which section FB 21 (Depreciable property) applies; or

(b) if the item is listed in schedule 14 (Depreciable intangible property) and the price that person A pays is income of the associated person; or

(c) if the item is not listed in schedule 14 and the Commissioner is of the opinion that the circumstances are such that a person should be allowed a deduction for an amount of depreciation loss for the item based on the actual price or other consideration given for it.

No greater amount of depreciation loss

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

Amount of depreciation loss dealt with under section EE 48

(4) If the associated person has an amount of depreciation loss that has been dealt with under section EE 48 (Effect of disposal or event), person A has an amount of depreciation loss for the item based on the total of—

(a) all amounts dealt with under section EE 48; and

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

When subsection (6) applies and does not apply

(5) Subsection (6) applies when, on or before 23 September 1997, the holder of management rights created under the Radiocommunications Act 1989 grants a licence right under that Act to an associated person. However, it does not apply when the Crown acting by and through the Secretary of Commerce is named as the manager under section 11(1) of the Radiocommunications Act 1989.

Licence right price

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

Defined in this Act: amount, associated person, Commissioner, depreciation loss, pay, relationship agreement

Compare: 2004 No 35 s EZ 11

EZ 13 Annual rate for item acquired on or after 1 April 1993 and before end of person's 1994–95 income year

What this section is about

(1) This section is about the annual rate that applies to an item of depreciable property that a person acquires before the end of their 1994–95 income year (not including fixed life intangible property or excluded depreciable property, for which rates are set in sections EE 33 (Annual rate for fixed life intangible property) and EZ 15 respectively).

Rate

(2) The rate is—

(a) the item's economic rate, if the item is not a building that has an economic rate or provisional rate of more than 0% due to an estimated useful life of 50 years or more; or

(b) the pre-1993 depreciation rate described in section EZ 14, if the person chooses under that section; or

(c) 0%, for a building that has an economic rate or provisional rate of more than 0% due to an estimated useful life of 50 years or more.

Defined in this Act: annual rate, building, depreciable property, economic rate, estimated useful life, excluded depreciable property, fixed life intangible property, income year, provisional rate

Compare: 2004 No 35 s EZ 12

Section EZ 13(2) heading: substituted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 85(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 13(2): substituted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 85(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 13(2)(a): amended, on 1 April 2024, by section 69(1) (and see section 69(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EZ 13(2)(c): amended, on 1 April 2024, by section 69(2) (and see section 69(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EZ 13 list of defined terms **building**: inserted, on 1 April 2024, by section 69(3)(b) (and see section 69(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EZ 13 list of defined terms **building**: repealed, on 1 April 2020, by section 13(3)(a) (and see section 13(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EZ 13 list of defined terms **estimated useful life**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 85(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 13 list of defined terms **provisional rate**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 85(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 13 list of defined terms **residential building**: repealed, on 1 April 2024, by section 69(3)(a) (and see section 69(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 14 Pre-1993 depreciation rate

Scope of election

(1) A person may choose the pre-1993 depreciation rate for all items, or any item, that they acquire before the end of their 1994–95 income year excluding buildings that have an economic rate or provisional rate of more than 0% due to an estimated useful life of 50 years or more.

How election made

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

Election unchangeable

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

Moving from diminishing value to straight-line and vice versa

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

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

(i) rounding the diminishing value rate to the nearest rate specified in schedule 10, column 1 (Straight-line equivalents of diminishing value rates of depreciation); and

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

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

(i) rounding the straight-line rate to the nearest rate specified in schedule 10, column 2; and

(ii) taking the equivalent diminishing value rate specified in column 1 of the schedule.

Pre-1993 depreciation rate

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

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

Definition of items in formula

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

Section 108 rate

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

Section 108A rate

(8) **Section 108A rate** is the rate of additional deduction under section 108A of the Income Tax Act 1976, as in force for the 1992–93 tax year, for which the item was eligible for the 1992–93 tax year.

Section 113A rate

(9) **Section 113A rate** is the rate of supplementary deduction under section 113A of the Income Tax Act 1976 for which the item was eligible for the 1992–93 tax year.

Defined in this Act: building, Commissioner, diminishing value rate, economic rate, estimated useful life, income year, provisional rate, return of income, standard balance date, straight-line rate, tax year

Compare: 2004 No 35 s EZ 13

Section EZ 14(1): amended, on 1 April 2024, by section 70(1) (and see section 70(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EZ 14(1): amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 86(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 14 list of defined terms **building**: inserted, on 1 April 2024, by section 70(2)(b) (and see section 70(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section EZ 14 list of defined terms **building**: repealed, on 1 April 2020, by section 14(2)(a) (and see section 14(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section EZ 14 list of defined terms **economic rate**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 86(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 14 list of defined terms **estimated useful life**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 86(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 14 list of defined terms **provisional rate**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 86(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section EZ 14 list of defined terms **residential building**: repealed, on 1 April 2024, by section 70(2)(a) (and see section 70(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 15 Annual rate for excluded depreciable property: 1992–93 tax year

What this section is about

(1) This section is about the annual rate that applies to an item of excluded depreciable property.

Rate

(2) The rate is the section 108 rate, without adding the section 108A rate or the other sections rate. The rates referred to in this subsection are described in subsections (3) to (5).

Section 108 rate

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

Section 108A rate

(4) **Section 108A rate** means the rate of additional deduction under section 108A of the Income Tax Act 1976, as in force for the 1992–93 tax year, for which the item was eligible for the 1992–93 tax year.

Other sections rate

(5) **Other sections rate** means a rate of additional or supplementary deduction under section 113A or any other provision of the Income Tax Act 1976 for which the item was eligible for the 1992–93 tax year.

Amount of depreciation loss under any other provision

(6) If a person has an additional amount of depreciation loss for an income year for an item of excluded depreciable property under section EZ 16 or EZ 17 or any other provision of this Act,—

(a) the rate applicable to the item under subsection (2) may be adjusted to incorporate the additional amount of depreciation loss in a manner prescribed or allowed by the Commissioner; and

(b) when an adjusted rate is applied to the item, the person does not have a separate amount of depreciation loss for the item under section EZ 16 or EZ 17 or the other provision.

Changing rate

(7) A person applying the rate in subsection (2) has the following choices:

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

(i) rounding the diminishing value rate to the nearest rate specified in schedule 10, column 1 (Straight-line equivalents of diminishing value rates of depreciation); and

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

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

(i) rounding the straight-line rate to the nearest rate specified in schedule 10, column 2; and

(ii) taking the equivalent diminishing value rate specified in column 1 of the schedule.

Defined in this Act: annual rate, Commissioner, depreciation loss, diminishing value rate, excluded depreciable property, prescribed, standard balance date, straight-line rate, tax year

Compare: 2004 No 35 s EZ 14

EZ 16 Amount of depreciation loss for plant or machinery additional to section EZ 15 amount

When this section applies

(1) This section applies when a person carrying on a business in New Zealand incurs, wholly for the purpose of the business, capital expenditure in acquiring, installing, or extending plant or machinery that—

(a) is excluded depreciable property; and

(b) is—

(i) plant or machinery that is normally in operation for an average of at least 16 hours each working day and is not normally in operation for 24 hours each working day:

(ii) plant or machinery that is normally in operation for 24 hours each working day.

Exclusions

(2) This section does not apply to—

(a) aluminium smelting plant or machinery:

(b) cars:

(c) petroleum refining plant or machinery:

(d) ships, aircraft, or hovercraft:

(e) plant or machinery for which a deduction by way of a fixed rate was denied under section 108 of the Income Tax Act 1976 for the 1992–93 income year or an earlier relevant income year:

(f) plant or machinery for which the Commissioner did not prescribe a differential rate for more than 1 shift operation when determining under section 108 of the Income Tax Act 1976 the rate of depreciation for the 1992–93 income year or an earlier relevant income year.

Additional amount of depreciation loss

(3) The person has an amount of depreciation loss for the plant or machinery under this section in addition to any amounts of depreciation loss that they have for the plant or machinery under section EZ 15.

Relevant income years

(4) The person has the additional amount of depreciation loss in the first, second, third, fourth, and fifth income years in which the plant or machinery is used in deriving assessable income.

Rate

(5) The rate of the additional amount of depreciation loss is,—

(a) for plant or machinery described in subsection (1)(b)(i), 3% of the diminishing value of the plant or machinery in each income year:

(b) for plant or machinery described in subsection (1)(b)(ii), 6% of the diminishing value of the plant or machinery in each income year.

Defined in this Act: amount, assessable income, business, car, Commissioner, depreciation loss, excluded depreciable property, income year, New Zealand, petroleum, working day

Compare: 2004 No 35 s EZ 15

EZ 17 Additional amount of depreciation loss: between 16 December 1991 and 1 April 1994

When this section applies

(1) This section applies when a person incurs expenditure of the kind described in subsection (2) in—

(a) the acquisition or installation of a qualifying asset; or

(b) the making of a qualifying improvement to an item the person owns.

Expenditure described

(2) The expenditure is expenditure of a capital nature, excluding any amount of input tax applying to the supply of the qualifying asset or qualifying improvement to the person.

Additional amount of depreciation loss

(3) The person has an amount of depreciation loss for the asset or item under this section in addition to any amount of depreciation loss they have for it under subpart EE (Depreciation) and section EZ 16. This subsection is overridden by section EE 48(2) (Effect of disposal or event).

Amount

(4) The additional amount of depreciation loss for an income year is 25% of the lesser of—

(a) the amount of depreciation loss that the person has under subpart EE and section EZ 16 for the asset or item and for the income year; and

(b) the amount of depreciation loss that the person would have had under subpart EE and section EZ 16 for the asset or item and the income year had its value been equal to its qualifying capital value.

Defined in this Act: acquire, amount, depreciation loss, income year, qualifying capital value, qualifying asset, qualifying improvement

Compare: 2004 No 35 s EZ 16

EZ 18 Section EZ 17 amount of depreciation loss when items transferred between companies in wholly-owned group before 1 April 1993

When this section applies

(1) This section applies when, before 1 April 1993, a company in a wholly-owned group of companies disposes of a qualifying asset, or an item to which the company has made a qualifying improvement, to another company in the same wholly-owned group.

Transferee has amount of depreciation loss

(2) The transferee company has an amount of depreciation loss under section EZ 17 for the period after the disposal as if the transferee company were the same person as the transferor company.

Amount

(3) The amount of depreciation loss that the transferor company has under section EZ 17 for the asset or item for the income year in which the disposal occurs must be subtracted when the amount of depreciation loss that the transferee company has under section EZ 17 for the income year is calculated.

How definitions affected

(4) This section applies despite any limitations in the definitions of **new asset**, **New Zealand-new asset**, **qualifying asset**, **qualifying capital value**, and **qualifying improvement** as to the identity of the person for whom an asset or item or improvement will be treated as a qualifying asset or qualifying improvement.

Defined in this Act: amount, company, depreciation loss, dispose, income year, new asset, New Zealand-new asset, qualifying asset, qualifying capital value, qualifying improvement, wholly-owned group of companies

Compare: 2004 No 35 s EZ 17

EZ 19 Section EZ 17 amount of depreciation loss when person previously exempt from tax acquires item

When this section applies

(1) This section applies when a person who has derived nothing but exempt income—

(a) starts in an income year to derive income that is not exempt income; and

(b) would have had an amount of depreciation loss under section EZ 17 for an item and an income year if the person had been deriving income that was not exempt income at the time they acquired the item to which section EZ 17 applies or made a qualifying improvement to the item to which section EZ 17 applies.

How qualifying capital value determined

(2) The item's qualifying capital value is determined as if the person had had an amount of depreciation loss for the period during which they derived nothing but exempt income.

Defined in this Act: amount, depreciation loss, exempt income, income, income year, qualifying capital value, qualifying improvement

Compare: 2004 No 35 s EZ 18

EZ 20 Adjusted tax value for software acquired before 1 April 1993

What this section applies to

(1) This section applies to any of the following items for the acquisition of which a person was allowed a deduction before 1 April 1993:

(a) the copyright in software:

(b) the right to use the copyright in software:

(c) the right to use software.

Meaning of adjusted tax value

(2) The **adjusted tax value** of the item is its cost to the person minus all deductions that the person was allowed for it.

Defined in this Act: acquire, adjusted tax value

Compare: 2004 No 35 s EZ 19

EZ 21 Sections EE 45 and EE 47: permanent removal: allowance before 1 April 1995

Section EE 45(11)

(1) For the purposes of section EE 45(11) (Consideration for purposes of section EE 44), the consideration that a person derives from the event described in subsection (2) is the item's market value. Two qualifications are—

(a) if the person makes a taxable supply, "market value" means the market value minus any goods and services tax (GST) that would be charged on the supply; and

(b) this subsection does not apply to a transfer under a relationship agreement.

Section EE 47(10)

(2) For the purposes of section EE 47(10) (Events for purposes of section EE 44), the ninth event is the cessation of use in New Zealand, and the taking out of New Zealand for use outside New Zealand, of an item of property for which a first-year allowance has been granted under section 112(1) to (7) of the Income Tax Act 1976, except when the item—

(a) has been taken out of New Zealand temporarily; and

(b) will, after its return to New Zealand, be used in or for the purpose of a business in New Zealand.

Defined in this Act: business, GST, New Zealand, relationship agreement, taxable supply

Compare: 2004 No 35 s EZ 20

EZ 22 Base value and total deductions in section EE 56: before 1 April 1995

Base value in section EE 56 when section 108 of the Income Tax Act 1976 applies

(1) For the purposes of section EE 56 (Formula), this subsection applies when a person could have been allowed a deduction for depreciation for an item under section 108 of the Income Tax Act 1976 for the 1992–93 income year and they have owned the item continuously since the 1992–93 income year. **Base value** is the amount at which the item was recorded in the person's accounts for taxation purposes for the 1992–93 income year.

Section EE 57(3)(d)

(2) For the purposes of section EE 57(3)(d) (Base value in section EE 56 when none of sections EE 58, EE 59, and EZ 22(1) applies),—

(a) the expenditure is expenditure for which a person has been allowed a deduction for depreciation under any of sections 108 to 108N or section 113A of the Income Tax Act 1976; or

(b) the expenditure is expenditure for which a person has been allowed a deduction for depreciation under any other provision of the Income Tax Act 1976.

Section EE 58(1)(e)(ii)

(3) For the purposes of section EE 58(1)(e)(ii) (Base value in section EE 56 when no previous deduction), the item is one for which the person could not have been allowed a depreciation deduction under section 108 of the Income Tax Act 1976 for the 1992–93 income year.

Section EE 60(2)(c)

(4) For the purposes of section EE 60(2)(c) (Total deductions in section EE 56), the provision is section 117(5) of the Income Tax Act 1976.

Defined in this Act: amount, income year

Compare: 2004 No 35 s EZ 21

EZ 23 Economic rate for plant or equipment acquired before 1 April 2005 and buildings acquired before 19 May 2005

What this section is about

(1) This section is about setting the economic depreciation rate that applies to items of a kind of depreciable property if—

(a) the kind of depreciable property is not fixed life intangible property, or excluded depreciable property, for which an economic rate cannot be set; and

(b) the items are—

(i) plant or equipment acquired before 1 April 2005:

(ii) buildings acquired before 19 May 2005:

(iii) buildings acquired on or after 19 May 2005, as relationship property or from a company in the same wholly-owned group of companies, from a person who applied to the item an economic depreciation rate set under this section or a corresponding provision.

Rate set by Commissioner

(2) The Commissioner sets the rate from time to time by—

(a) following the procedure set out in this section; and

(b) issuing a determination under section 91AAF of the Tax Administration Act 1994.

Procedure for setting economic rate

(3) To set the diminishing value rate for a kind of item of depreciable property, the Commissioner—

(a) gets a figure by applying the formula in subsection (4) to items of that kind; and

(b) rounds the figure up or down to the nearest rate specified in schedule 12, column 1 (Old banded rates of depreciation); and

(c) sets the same rate for some or all of the kinds of items of depreciable property that are similar to one another, if the Commissioner thinks it is appropriate to do so having regard to—

(i) the rate calculated for each kind; and

(ii) the reduction in compliance costs that is likely to be achieved.

Formula

(4) The formula is—

$$1 - ((\text{residual value} \div \text{cost})^{(1 \div \text{estimated useful life})}).$$

Definition of items in formula

(5) In the formula,—

(a) **residual value** is the greater of—

(i) estimated residual market value, which is defined in section EE 67 (Other definitions):

(ii) 13.5% of cost:

(b) **cost** is the cost of items of the kind to which the formula is applied:

(c) **estimated useful life** is defined in section EE 63 (Meaning of estimated useful life).

Defined in this Act: Commissioner, depreciable property, diminishing value rate, economic rate, estimated residual market value, estimated useful life, excluded depreciable property, fixed life intangible property

Compare: 2004 No 35 s EZ 21B

EZ 23BA Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased

When this section applies

(1) This section applies when—

(a) a person, before the 2017–18 income year, acquires an aircraft engine or an aircraft including an unpriced aircraft engine; and

(b) the person is required to perform aircraft engine overhauls on the aircraft engine when operating an aircraft; and

(c) for the purposes of section EE 56 (Formula), the item base value used to calculate the adjusted tax value of the aircraft engine or aircraft for income years before the 2017–18 income year includes an amount corresponding to the cost of an aircraft engine overhaul of the aircraft engine; and

(d) the person does not make an election under section EJ 26 (Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft) for the 2017–18 income year.

Base value reduced by cost of overhaul

(2) The item base value referred to in subsection (1)(c) for the aircraft engine or aircraft is reduced at the beginning of the 2017–18 income year by the included amount referred to in that paragraph.

Adjusted tax value reduced by depreciated cost of overhaul

(3) The adjusted tax value of the aircraft engine or aircraft is reduced at the beginning of the 2017–18 income year by the proportion of the adjusted tax value that corresponds to the depreciated cost to the person of the aircraft engine overhaul referred to in subsection (1)(c).

Total deductions increased by reduction in base value

(4) For the purposes of section EE 60, an amount equal to the difference between the reduction required by subsection (2) and the reduction required by subsection (3) is included as a decrease in the item total deductions for the aircraft engine or aircraft.

Fair and reasonable proportion of base value and adjusted tax value

(5) For the purposes of subsections (2) and (3), the proportion of the base value or adjusted tax value that corresponds to the cost or depreciated cost to the person of the aircraft engine overhaul is the amount that is fair and reasonable, taking into consideration—

(a) the principles used in determining the amount of a deduction allowed under section DW 5 (Aircraft operators: aircraft engines and aircraft engine overhauls) for an aircraft engine or aircraft in the 2017–18 or a later income year:

(b) historical figures for the cost of an aircraft engine overhaul as a proportion of the cost of a similar aircraft and engine.

Defined in this Act: adjusted tax value, aircraft engine, aircraft engine overhaul, unpriced aircraft engine

Section EZ 23BA: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 91(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EZ 23BA(4): replaced, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 92(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

EZ 23B Property acquired after depreciable property affected by Canterbury earthquakes

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2024–25 income year when the person,—

(a) in or before the current year, receives insurance or compensation (the **earthquake compensation**) for items of depreciable property (the **affected property**), each of which is—

(i) not depreciable intangible property; and

(ii) included in 1 of the categories (an **affected class**) of the person's depreciable property referred to in subsection (10)(b); and

(iii) included in an affected class that is not linked with a replacement interest under section EZ 23BB; and

(b) is entitled to the earthquake compensation because each item of the affected property, as a result of a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011, is affected by—

(i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or

(ii) a disposal and reacquisition under section EZ 23C or EZ 70; and

(c) would have, in the absence of this section, from the earthquake compensation for the affected property in the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and

(d) has a total amount of depreciation loss under section EE 48 for the affected property in the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in paragraph (c) by an amount (the **excess recovery**); and

(e) plans in the current year to acquire depreciable property (the **replacement property**) meeting the requirements of subsection (7); and

(f) notifies the Commissioner under subsection (9)—

(i) specifying the affected property and affected class; and

(ii) linking, for the purposes of this section, each item of acquired replacement property with an affected class.

Suspended recovery income

(2) For an affected class, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery that remains at the beginning of the current year after—

(a) adjustment under subsections (3) and (6) for an earlier income year; and

(b) attribution to an earlier income year by subsection (8).

Depreciation recovery income

(2B) The person has an amount of depreciation recovery income for the current year equal to the amount of suspended recovery income that is attributed to the current year by subsection (8).

Effect of acquiring item of replacement property if suspended recovery income from affected property not in pool

(3) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person does not use the pool method, the amount given by subsection (4)—

(a) is treated as not being included in the amount of the person's expenditure on the replacement item, for the purposes of determining—

(i) under section EE 16(4) (Amount resulting from standard calculation) the item value or cost for the replacement item, if the person uses the diminishing value method or straight-line method for the replacement item; or

(ii) under section EE 22 (Cases affecting pool) the cost of the replacement item, if the person uses the pool method for the replacement item; and

(b) is a reduction in the amount of the suspended recovery income for the affected class.

Amount of reduction: expenditure on replacement item and suspended recovery income

(4) The amount of the reduction under subsection (3)(a) or (b) for a replacement item and an affected class of affected property for which the person does not use the pool method is—

(a) zero, if the cost of the affected class equals or is less than the person's total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class; or

(b) the amount calculated using the formula—

limited replacement cost × excess ÷ affected cost.

Definition of items in formula

(5) In the formula,—

(a) **limited replacement cost** is the lesser of the following:

(i) the amount by which the cost of the affected class exceeds the total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class:

(ii) the amount of the expenditure on the replacement item:

(b) **excess** is the excess recovery for the affected class:

(c) **affected cost** is the total cost for the person of the affected class.

Effect of acquiring item of replacement property if suspended recovery income from affected property in pool

(6) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person uses the pool method,—

(a) the amount of the person's expenditure on the replacement item is treated as being reduced, by the amount equal to the lesser of the amount of expenditure on the replacement item and the amount of suspended recovery income for the affected property after the acquisition of other replacement property before the replacement item, for the purposes of determining—

(i) the adjusted tax value of the replacement item, if subparagraphs (ii) or (iii) do not apply; or

(ii) the cost of the replacement item for the straight-line method, if that method is used to determine depreciation loss for the replacement item; or

(iii) the adjusted tax value of the pool of the replacement item, if the person uses the pool method for the replacement item; and

(b) the amount of the suspended recovery income for the affected class is reduced by the amount of the treated reduction under paragraph (a).

Requirements for replacement property

(7) An item of replacement property for a person must—

(a) *[Repealed]*

(b) *[Repealed]*

(c) be included in the same category under subsection (10)(b) as the affected class with which the person links the item, if the affected class is described in subsection (10)(b)(i) or (ii); and

(d) be located in greater Christchurch as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011, if the item is a building or commercial fit-out.

Attribution of suspended recovery income to income year: other events

(8) The person has, in the current year, an amount of depreciation recovery income for an affected class equal to the amount of suspended recovery income for the affected class—

(a) at the end of the current year, if that year is the 2023–24 income year and neither of paragraphs (b) and (c) apply earlier; or

(b) when in the current year the person decides not to acquire more replacement property, if neither of paragraphs (a) and (c) apply earlier; or

(c) when in the current year the person goes into liquidation or becomes bankrupt, if neither of paragraphs (a) and (b) apply earlier.

Notice of election for affected property

(9) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance or compensation for affected property must notify the Commissioner—

(a) for the earliest income year (the **estimate year**) in which the amount of the insurance or compensation for the affected property can be reasonably estimated, by the later of 31 January 2012 and the date on which the return of income is filed for the estimate year; and

(b) if the current year is after the estimate year,—

(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and

(ii) for the current year, by the date on which the return of income is filed for the current year.

Contents of notice of election

(10) A notice under subsection (9) must—

(a) describe the items of affected property; and

(b) indicate in which of the following categories each item of affected property is included:

(i) a building not referred to in subparagraph (iii):

(ii) commercial fit-out not referred to in subparagraph (iii):

(iii) depreciable property for which the person uses the pool method:

(iv) depreciable property not referred to in subparagraphs (i) to (iii); and

(c) give details of each item of replacement property acquired in the current year and the affected class to which the person is linking the item; and

(d) give the amount of the expenditure on the replacement item and the reduction under subsection (3) or (6) of that expenditure for the purposes of determining adjusted tax value or depreciation loss; and

(e) give the amount, for the affected class, of the suspended recovery income at the end of the current year.

Disposal of replacement property: reduction in cost treated as depreciation loss

(11) For the purposes of section EE 48, the amount by which a person's expenditure on a replacement item is treated as being reduced under subsection (3) or (6)

is an amount of depreciation loss for the item for which the person has been allowed a deduction.

Removal of link by election under section EZ 23BB

(11B) If a person in the current year has an amount of suspended recovery income for an affected class of buildings and has made an election under this section to link replacement property (the **linked property**) to the affected class and has not incurred expenditure in acquiring the linked property,—

(a) the person may choose to make an election under section EZ 23BB linking the affected class with replacement property, which may include linked property:

(b) a consequence of an election referred to in paragraph (a) is that the affected class and the linked property are treated as not being linked under this section for the current year.

Order of acquisition for items acquired at same time

(11C) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.

Relationship to subpart EE

(12) This section overrides subpart EE (Depreciation).

Defined in this Act: adjusted tax value, amount, assessable income, building, commercial building, commercial fit-out, depreciable intangible property, depreciable property, depreciation loss, depreciation recovery income, income year, liquidation, notice, notify, pool, pool method, return of income, straight-line method

Section EZ 23B: inserted (with effect on 4 September 2010), on 29 August 2011, by section 43 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section EZ 23B(1) heading: replaced (with effect on 4 September 2010), on 27 February 2014, by section 64(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(1): replaced (with effect on 4 September 2010), on 27 February 2014, by section 64(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(1): amended (with effect on 4 September 2010), on 18 March 2019, by section 184(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 23B(1)(f): amended, on 2 June 2016, by section 41(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 23B(2) heading: replaced (with effect on 4 September 2010), on 27 February 2014, by section 64(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(2): replaced (with effect on 4 September 2010), on 27 February 2014, by section 64(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(2B) heading: inserted (with effect on 4 September 2010), on 27 February 2014, by section 64(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(2B): inserted (with effect on 4 September 2010), on 27 February 2014, by section 64(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(3): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(3)(b): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(2)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(4): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(3)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(4)(a): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(3)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(5)(a)(i): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(5)(b): amended (with effect on 4 September 2010), on 30 June 2014, by section 98(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EZ 23B(5)(c): amended (with effect on 4 September 2010), on 30 June 2014, by section 98(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EZ 23B(6): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(5)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(6)(a): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(5)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(6)(a)(ii): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(5)(c) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(6)(b): amended (with effect on 4 September 2010), on 27 February 2014, by section 64(5)(d) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(7)(a): repealed (with effect on 4 September 2010), on 27 February 2014, by section 64(6) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(7)(b): repealed (with effect on 4 September 2010), on 27 February 2014, by section 64(6) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(7)(d): amended (with effect on 1 April 2020), on 30 March 2022, by section 98(1) (and see section 98(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23B(8) heading: replaced (with effect on 4 September 2010), on 27 February 2014, by section 64(7) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(8): replaced (with effect on 4 September 2010), on 27 February 2014, by section 64(7) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(8)(a): amended (with effect on 4 September 2010), on 18 March 2019, by section 184(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 23B(9): amended, on 2 June 2016, by section 41(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 23B(10)(b)(i): amended (with effect on 1 April 2020), on 30 March 2022, by section 98(2) (and see section 98(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23B(11B) heading: inserted (with effect on 4 September 2010), on 27 February 2014, by section 64(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(11B): inserted (with effect on 4 September 2010), on 27 February 2014, by section 64(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(11B): amended (with effect on 1 April 2020), on 30 March 2022, by section 98(3) (and see section 98(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23B(11C) heading: inserted (with effect on 4 September 2010), on 27 February 2014, by section 64(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B(11C): inserted (with effect on 4 September 2010), on 27 February 2014, by section 64(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23B list of defined terms **grandparented structure**: repealed (with effect on 1 April 2020), on 30 March 2022, by section 98(4) (and see section 98(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23B list of defined terms **notify**: inserted, on 2 June 2016, by section 41(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EZ 23BB Interest in property acquired after depreciable property affected by Canterbury earthquakes

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2024–25 income year when the person,—

(a) in or before the current year, receives insurance or compensation (the **earthquake compensation**) for items of depreciable property (the **affected property**), each of which is—

(i) not depreciable intangible property; and

(ii) not property for which the person uses the pool method; and

(iii) included in 1 of the categories (an **affected class**) of the person's depreciable property referred to in subsection (11)(b); and

(iv) not linked with replacement property under section EZ 23B or has a link with replacement property that may be removed under section EZ 23B(11B); and

(b) is entitled to the earthquake compensation because each item of the affected property, as a result of a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011, is affected by—

(i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or

(ii) a disposal and reacquisition under section EZ 23C or EZ 70; and

(c) would have, in the absence of this section, from the earthquake compensation for the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and

(d) has a total amount of depreciation loss under section EE 48 for the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in paragraph (c) by an amount (the **excess recovery**); and

(e) has in the current year an interest (a **replacement interest**) in a voting interest in a company (the **owning company**) having the purpose of acquiring depreciable property (the **replacement property**) meeting the requirements of subsection (6); and

(f) holds the voting interest in the owning company or is the settlor of a trust of which the trustee holds the voting interest; and

(g) notifies the Commissioner under subsection (10).

Suspended recovery income

(2) For a replacement interest, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery, for the affected property with which the replacement interest is linked under subsections (10) and (11), that remains at the beginning of the current year after—

(a) adjustment under subsections (3), (8), and (9) for an earlier income year; and

(b) attribution to an earlier income year by subsections (8) to (10).

Effect of acquiring interest in replacement property if suspended recovery income from affected class

(3) If the person acquires a replacement interest and links the replacement interest with an affected class, the amount calculated using the formula in subsection (4)—

(a) is an amount of suspended recovery income for the replacement interest; and

(b) is a reduction in the amount of the depreciation recovery income for the affected class.

Suspended recovery income for replacement interest and reduction of suspended recovery income for affected class

(4) The amount under subsection (3)(a) and (b) for a replacement interest and affected class is—

(a) zero, if the cost of the affected property in the affected class equals or is less than the total of the fractional interest values for other replacement interests acquired by the person before the replacement interest; or

(b) the amount calculated using the formula—

limited replacement cost × excess ÷ affected cost.

Definition of items in formula

(5) In the formula,—

(a) **limited replacement cost** is the lesser of—

(i) the fractional interest value of the replacement interest:

(ii) the amount by which the total cost for the person of the affected property in the affected class exceeds the total amount of the fractional interest values of other replacement interests acquired by the person before the replacement interest:

(b) **excess** is the excess recovery for the affected class:

(c) **affected cost** is the total cost for the person of the affected property in the affected class.

Requirements for replacement property

(6) An item of replacement property for a person or owning company must—

(a) be included in the same category under subsection (11)(b) as the affected class with which the person links the item, if the affected class is described in subsection (11)(b)(i) or (ii); and

(b) be located in greater Christchurch as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011, if the item is a building or commercial fit-out.

Depreciation recovery income and suspended recovery income

(7) The amount of suspended recovery income for a person's replacement interest is not depreciation recovery income for the person arising from the replacement interest unless it is attributed to an income year by subsections (8) and (9).

Depreciation recovery income: disposal of replacement property by owning company

(8) If the owning company in which a person has a replacement interest disposes of the replacement property in an income year, and subsection (9) does not apply earlier,—

(a) the person has, in the income year for the replacement interest, an amount of depreciation recovery income equal to the fractional interest value of the replacement interest calculated under subsection (12); and

(b) the suspended recovery income for the replacement interest is reduced by the amount referred to in paragraph (a).

Depreciation recovery income: other events

(9) The person has, in an income year, an amount of depreciation recovery income equal to the suspended recovery income for a replacement interest and affected property, and the suspended recovery income for the replacement interest and affected property is reduced to zero,—

(a) at the end of the income year, if—

(i) the income year is the 2023–24 income year; and

(ii) the owning company does not acquire the replacement property relating to the replacement interest and the affected property before the end of the income year; and

(iii) neither of paragraphs (b) and (c) apply earlier; or

(b) when in the income year the person disposes of the replacement interest, if neither of paragraphs (a) and (c) apply earlier; or

(c) when in the income year the person goes into liquidation or becomes bankrupt, if neither of paragraphs (a) and (b) apply earlier.

Notice of election for affected property

(10) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from earthquake compensation must give notice under this section, or under section EZ 23B for years before the current year, to the Commissioner—

(a) for the earliest income year (the **estimate year**) in which the amount of the earthquake compensation for the affected property can be reasonably estimated, by the later of 31 January 2012 and the date on which the return of income is filed for the estimate year; and

(b) if the current year is after the estimate year,—

(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and

(ii) for the current year, by the date on which the return of income is filed for the current year.

Contents of notice of election

(11) A notice under subsection (10) for the current year must—

(a) describe the affected property; and

(b) indicate in which of the following categories each item of affected property is included:

(i) a building:

(ii) commercial fit-out:

(iii) depreciable property not referred to in subparagraphs (i) and (ii); and

(c) indicate which items of affected property were linked with replacement property under section EZ 23B before the current year; and

(d) give details of each item of replacement property in which a replacement interest is held in the current year, and the affected class to which the person is linking the replacement interest; and

(e) for each replacement interest held in the current year, give the amount of the expenditure by the owning company on the replacement property, the shareholding of the person's holding entity in the owning company, and the shareholding of the person in, or the fraction of the trust corpus that has been settled by the person on, the person's holding entity; and

(f) for each category of replacement property, give the amount of the suspended recovery income at the end of the current year; and

(g) for each category of replacement property, give the amount of depreciation recovery income for the current year.

Formula for calculating fractional interest value

(12) For a person with a replacement interest in replacement property, the fractional interest value of the replacement interest for the purposes of this section is the value calculated using the formula—

person's fractional interest × replacement expenditure.

Definition of items in formula

(13) In the formula,—

(a) **person's fractional interest** is—

(i) the voting interest of the person in the owning company; or

(ii) the fraction calculated by multiplying the voting interest in the owning company held by the trustee of a trust of which the person is a settlor by the fraction of the trust corpus that has been settled by the person:

(b) **replacement expenditure** is the amount of the expenditure by the owning company on the replacement property.

Order of acquisition for items acquired at same time

(14) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are

treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.

Relationship to subpart EE

(15) This section overrides subpart EE (Depreciation).

Defined in this Act: adjusted tax value, amount, assessable income, building, commercial building, commercial fit-out, depreciable property, depreciation loss, depreciation recovery income, income year, liquidation, notice, notify, return of income, settlor

Section EZ 23BB: inserted (with effect on 4 September 2010), on 27 February 2014, by section 65 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 23BB(1): amended (with effect on 4 September 2010), on 18 March 2019, by section 185(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 23BB(1)(g): amended, on 2 June 2016, by section 42(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 23BB(9)(a)(i): amended (with effect on 4 September 2010), on 18 March 2019, by section 185(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 23BB(10): amended, on 2 June 2016, by section 42(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 23BB(11)(b)(i): amended (with effect on 1 April 2020), on 30 March 2022, by section 99(1) (and see section 99(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23BB list of defined terms **grandparented structure**: repealed (with effect on 1 April 2020), on 30 March 2022, by section 99(2) (and see section 99(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23BB list of defined terms **notify**: inserted, on 2 June 2016, by section 42(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 23BB list of defined terms **settlor**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 23BC Property acquired after depreciable property affected by Hurunui/Kaikōura earthquakes

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2019–20 income year when the person,—

(a) in or before the current year, receives insurance or compensation (the **earthquake compensation**) for items of depreciable property (the **affected property**), each of which is—

(i) not depreciable intangible property; and

(ii) included in 1 of the categories (an **affected class**) of the person's depreciable property referred to in subsection (11)(b); and

(b) is entitled to the earthquake compensation because each item of the affected property, as a result of a Hurunui/Kaikōura earthquake as

that term is defined in section 4 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016, is affected by—

(i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or

(ii) a disposal and reacquisition under section EZ 78; and

(c) would have, in the absence of this section, from the earthquake compensation for the affected property in the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and

(d) has a total amount of depreciation loss under section EE 48 for the affected property in the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in paragraph (c) by an amount (the **excess recovery**); and

(e) plans in the current year to acquire depreciable property (the **replacement property**) meeting the requirements of subsection (8); and

(f) notifies the Commissioner under subsection (10)—

(i) specifying the affected property and affected class; and

(ii) linking, for the purposes of this section, each item of acquired replacement property with an affected class.

Suspended recovery income

(2) For an affected class, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery that remains at the beginning of the current year after—

(a) adjustment under subsections (4) and (7) for an earlier income year; and

(b) attribution to an earlier income year by subsection (9).

Depreciation recovery income

(3) The person has an amount of depreciation recovery income for the current year equal to the amount of suspended recovery income that is attributed to the current year by subsection (9).

Effect of acquiring item of replacement property if suspended recovery income from affected property not in pool

(4) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person does not use the pool method, the amount given by subsection (5)—

(a) is treated as not being included in the amount of the person's expenditure on the replacement item, for the purposes of determining—

(i) under section EE 16(4) (Amount resulting from standard calculation) the item value or cost for the replacement item, if the person

uses the diminishing value method or straight-line method for the replacement item; or

(ii) under section EE 22 (Cases affecting pool) the cost of the replacement item, if the person uses the pool method for the replacement item; and

(b) is a reduction in the amount of the suspended recovery income for the affected class.

Amount of reduction: expenditure on replacement item and suspended recovery income

(5) The amount of the reduction under subsection (4)(a) or (b) for a replacement item and an affected class of affected property for which the person does not use the pool method is—

(a) zero, if the cost of the affected class equals or is less than the person's total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class; or

(b) the amount calculated using the formula—

limited replacement cost × excess ÷ affected cost.

Definition of items in formula

(6) In the formula,—

(a) **limited replacement cost** is the lesser of—

(i) the amount by which the cost of the affected class exceeds the total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class:

(ii) the amount of the expenditure on the replacement item:

(b) **excess** is the excess recovery for the affected class:

(c) **affected cost** is the total cost for the person of the affected class.

Effect of acquiring item of replacement property if suspended recovery income from affected property in pool

(7) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person uses the pool method,—

(a) the amount of the person's expenditure on the replacement item is treated as being reduced, by the amount equal to the lesser of the amount of expenditure on the replacement item and the amount of suspended recovery income for the affected property after the acquisition of other replacement property before the replacement item, for the purposes of determining—

(i) the adjusted tax value of the replacement item, if subparagraphs (ii) or (iii) do not apply; or

(ii) the cost of the replacement item for the straight-line method, if that method is used to determine depreciation loss for the replacement item; or

(iii) the adjusted tax value of the pool of the replacement item, if the person uses the pool method for the replacement item; and

(b) the amount of the suspended recovery income for the affected class is reduced by the amount of the treated reduction under paragraph (a).

Requirements for replacement property

(8) An item of replacement property for a person must—

(a) be included in the same category under subsection (11)(b) as the affected class with which the person links the item, if the affected class is described in subsection (11)(b)(i), (ii), (vii), or (viii); and

(b) if the item is a building or commercial fit-out, be located in an earthquake-affected area, as that term is defined in section 4 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016, relating to—

(i) the Canterbury Regional Council (Environment Canterbury), the Hurunui District Council, the Kaikoura District Council, or the Marlborough District Council, if the affected property is located in an earthquake-affected area relating to 1 of those councils; or

(ii) the Wellington City Council, the Hutt City Council, or the Wellington Regional Council (Greater Wellington), if the affected property is located in an earthquake-affected area relating to 1 of those councils.

Attribution of suspended recovery income to income year: other events

(9) The person has, in the current year, an amount of depreciation recovery income for an affected class equal to the amount of suspended recovery income for the affected class—

(a) at the end of the current year, if that year is the 2021–22 income year and neither of paragraphs (b) and (c) apply earlier; or

(b) when in the current year the person decides not to acquire more replacement property, if neither of paragraphs (a) and (c) apply earlier; or

(c) when in the current year the person goes into liquidation or becomes bankrupt, if neither of paragraphs (a) and (b) apply earlier.

Notice of election for affected property

(10) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance or compensation for affected property must notify the Commissioner—

(a) for the earliest income year (the **estimate year**) in which the amount of the insurance or compensation for the affected property can be reason-

ably estimated, by the later of 31 January 2018 and the date on which the return of income is filed for the estimate year; and

(b) if the current year is after the estimate year,—

(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and

(ii) for the current year, by the date on which the return of income is filed for the current year.

Contents of notice of election

(11) A notice under subsection (10) must—

(a) describe the items of affected property; and

(b) indicate in which of the following categories each item of affected property is included:

(i) a building not referred to in subparagraphs (iii) and (iv):

(ii) commercial fit-out not referred to in subparagraphs (v) and (vi):

(iii) buildings for which the person uses the pool method and that are located in an earthquake-affected area, as that term is defined in section 4 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016, (the **earthquake-affected area**) relating to the Canterbury Regional Council (Environment Canterbury), the Hurunui District Council, the Kaikoura District Council, or the Marlborough District Council:

(iv) buildings for which the person uses the pool method and that are located in an earthquake-affected area relating to the Wellington City Council, the Hutt City Council, or the Wellington Regional Council (Greater Wellington):

(v) commercial fit-outs for which the person uses the pool method and that are located in an earthquake-affected area relating to the Canterbury Regional Council (Environment Canterbury), the Hurunui District Council, the Kaikoura District Council, or the Marlborough District Council:

(vi) commercial fit-outs for which the person uses the pool method and that are located in an earthquake-affected area relating to the Wellington City Council, the Hutt City Council, or the Wellington Regional Council (Greater Wellington):

(vii) depreciable property for which the person uses the pool method, other than a building or commercial fit-out:

(viii) depreciable property not referred to in subparagraphs (i) to (vii); and

(c) give details of each item of replacement property acquired in the current year and the affected class to which the person is linking the item; and

(d) give the amount of the expenditure on the replacement item and the reduction under subsection (4) or (7) of that expenditure for the purposes of determining adjusted tax value or depreciation loss; and

(e) give the amount, for each affected class, of the suspended recovery income at the end of the current year.

Disposal of replacement property: reduction in cost treated as depreciation loss

(12) For the purposes of section EE 48, the amount by which a person's expenditure on a replacement item is treated as being reduced under subsection (4) or (7) is an amount of depreciation loss for the item for which the person has been allowed a deduction.

Order of acquisition for items acquired at same time

(13) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.

Relationship to subpart EE

(14) This section overrides subpart EE (Depreciation).

Defined in this Act: adjusted tax value, amount, building, commercial fit-out, depreciable intangible property, depreciable property, depreciation loss, depreciation recovery income, diminishing value method, income year, liquidation, notice, notify, pool, pool method, return of income, straight-line method

Section EZ 23BC: inserted, on 30 March 2017 (applying for the 2015–16 and later income years), by section 92(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section EZ 23BC(8)(b): amended (with effect on 1 April 2020), on 30 March 2022, by section 100(1) (and see section 100(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23BC(11)(b)(i): amended (with effect on 1 April 2020), on 30 March 2022, by section 100(2) (and see section 100(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23BC(11)(b)(iii): amended (with effect on 1 April 2020), on 30 March 2022, by section 100(3) (and see section 100(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23BC(11)(b)(iv): amended (with effect on 1 April 2020), on 30 March 2022, by section 100(4) (and see section 100(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23BC(11)(b)(vii): amended (with effect on 1 April 2020), on 30 March 2022, by section 100(5) (and see section 100(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section EZ 23BC list of defined terms **grandparented structure**: repealed (with effect on 1 April 2020), on 30 March 2022, by section 100(6) (and see section 100(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EZ 23BD Loss on disposal of grandparented structure

[Repealed]

Section EZ 23BD: repealed (with effect on 1 April 2020), on 28 March 2024, by section 71(1) (and see section 71(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 23BE Property acquired after depreciable property affected by North Island flooding events

When this section applies

(1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,—

(a) in or before the current year, receives insurance or compensation (the **flood compensation**) for items of depreciable property (the **affected property**), each of which is—

(i) not depreciable intangible property; and

(ii) included in one of the categories (an **affected class**) of the person's depreciable property referred to in subsection (12)(b); and

(b) is entitled to the flood compensation because each item of the affected property, as a result of a North Island flooding event, is affected by—

(i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or

(ii) a disposal and reacquisition under section EZ 83; and

(c) would have, in the absence of this section, from the flood compensation for the affected property in the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and

(d) has a total amount of depreciation loss under section EE 48 for the affected property in the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in paragraph (c) by an amount (the **excess recovery**); and

(e) plans in the current year to acquire depreciable property (the **replacement property**) meeting the requirements of subsection (8); and

(f) notifies the Commissioner under subsection (10)—

(i) specifying the affected property and affected class; and

(ii) linking, for the purposes of this section, each item of acquired replacement property with an affected class.

Suspended recovery income

(2) For an affected class, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery that remains at the beginning of the current year after—

(a) adjustment under subsections (4) and (7) for an earlier income year; and

(b) attribution to an earlier income year by subsection (9).

Depreciation recovery income

(3) The person has an amount of depreciation recovery income for the current year equal to the amount of suspended recovery income that is attributed to the current year by subsection (9).

Effect of acquiring item of replacement property if suspended recovery income from affected property not in pool

(4) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person does not use the pool method, the amount given by subsection (5)—

(a) is treated as not being included in the amount of the person's expenditure on the replacement item for the purposes of determining,—

(i) under section EE 16(4) (Amount resulting from standard calculation), the item value or cost for the replacement item, if the person uses the diminishing value method or straight-line method for the replacement item; or

(ii) under section EE 22 (Cases affecting pool), the cost of the replacement item, if the person uses the pool method for the replacement item; and

(b) is a reduction in the amount of the suspended recovery income for the affected class.

Amount of reduction: expenditure on replacement item and suspended recovery income

(5) The amount of the reduction under subsection (4)(a) or (b) for a replacement item and an affected class of affected property for which the person does not use the pool method is—

(a) zero, if the cost of the affected class equals or is less than the person's total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class; or

(b) the amount calculated using the formula—

limited replacement cost × excess ÷ affected cost.

Definition of items in formula

(6) In the formula,—

(a) **limited replacement cost** is the lesser of—

(i) the amount by which the cost of the affected class exceeds the total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class:

(ii) the amount of the expenditure on the replacement item:

(b) **excess** is the excess recovery for the affected class:

(c) **affected cost** is the total cost for the person of the affected class.

Effect of acquiring item of replacement property if suspended recovery income from affected property in pool

(7) If the person acquires a replacement item and links the replacement item with an affected class of affected property for which the person uses the pool method,—

(a) the amount of the person's expenditure on the replacement item is treated as being reduced by the amount equal to the lesser of the amount of expenditure on the replacement item and the amount of suspended recovery income for the affected property after the acquisition of other replacement property before the replacement item for the purposes of determining—

(i) the adjusted tax value of the replacement item, if subparagraph (ii) or (iii) does not apply; or

(ii) the cost of the replacement item for the straight-line method, if that method is used to determine depreciation loss for the replacement item; or

(iii) the adjusted tax value of the pool of the replacement item, if the person uses the pool method for the replacement item; and

(b) the amount of the suspended recovery income for the affected class is reduced by the amount of the treated reduction under paragraph (a).

Requirements for replacement property

(8) An item of replacement property for a person must—

(a) be included in the same category under subsection (12)(b) as the affected class with which the person links the item if the affected class is described in subsection (12)(b)(i), (ii), (v), or (vi); and

(b) be located in New Zealand, if the item is a building or commercial fit-out.

Attribution of suspended recovery income to income year: other events

(9) The person has, in the current year, an amount of depreciation recovery income for an affected class equal to the amount of suspended recovery income for the affected class—

(a) at the end of the current year, if that year is the 2027–28 income year and neither of paragraphs (b) and (c) apply earlier; or

(b) when in the current year the person decides not to acquire more replacement property, if neither of paragraphs (a) and (c) apply earlier; or

(c) when in the current year the person goes into liquidation or becomes bankrupt, if neither of paragraphs (a) and (b) apply earlier.

Notice of election for affected property

(10) A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance or compensation for affected property must notify the Commissioner,—

(a) for the earliest income year (the **estimate year**) in which the amount of the insurance or compensation for the affected property can be reasonably estimated, by the later of 30 April 2024 and the date on which the return of income is filed for the estimate year; and

(b) if the current year is after the estimate year,—

(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and

(ii) for the current year, by the date on which the return of income is filed for the current year.

Later deadline for notice of election

(11) The Commissioner may allow the person to file the notice under subsection (10) at a later time if the Commissioner considers there are exceptional circumstances.

Contents of notice of election

(12) A notice under subsection (10) must—

(a) describe the items of affected property; and

(b) indicate in which of the following categories each item of affected property is included:

(i) a building not referred to in subparagraph (iii):

(ii) commercial fit-out not referred to in subparagraph (iv):

(iii) buildings for which the person uses the pool method:

(iv) commercial fit-out for which the person uses the pool method:

(v) depreciable property for which the person uses the pool method, other than a building or commercial fit-out:

(vi) depreciable property not referred to in subparagraphs (i) to (v); and

(c) give details of each item of replacement property acquired in the current year and the affected class to which the person is linking the item; and

(d) give the amount of the expenditure on the replacement item and the reduction under subsection (4) or (7) of that expenditure for the purposes of determining adjusted tax value or depreciation loss; and

(e) give the amount, for each affected class, of the suspended recovery income at the end of the current year.

Disposal of replacement property: reduction in cost treated as depreciation loss

(13) For the purposes of section EE 48, the amount by which a person's expenditure on a replacement item is treated as being reduced under subsection (4) or (7) is an amount of depreciation loss for the item for which the person has been allowed a deduction.

Order of acquisition for items acquired at same time

(14) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.

Relationship to subpart EE

(15) This section overrides subpart EE (Depreciation).

Defined in this Act: acquire, adjusted tax value, amount, commercial fit-out, Commissioner, deduction, depreciable intangible property, depreciable property, depreciation loss, depreciation recovery income, diminishing value method, dispose, income year, liquidation, New Zealand, North Island flooding events, notice, notify, pool, pool method, return of income, straight-line method

Section EZ 23BE: inserted (with effect on 1 April 2022), on 28 March 2024, by section 72(1) (and see section 72(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 23C Insurance for Canterbury earthquake damage of property: treatment as disposal and reacquisition

[Repealed]

Section EZ 23C: repealed, on 1 April 2016 (applying for the 2016–17 and later income years), by section 66(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EZ 23D Insurance for Canterbury earthquake damage of property: limit on depreciation recovery income

[Repealed]

Section EZ 23D: repealed, on 1 April 2016 (applying for the 2016–17 and later income years), by section 66(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EZ 23E Item treated as available for use if access restricted due to Canterbury earthquake

[Repealed]

Section EZ 23E: repealed, on 1 April 2016 (applying for the 2016–17 and later income years), by section 66(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EZ 23F Insurance for Canterbury earthquake damage causing disposal: optional timing rule for income, deductions

[Repealed]

Section EZ 23F: repealed, on 1 April 2016 (applying for the 2016–17 and later income years), by section 66(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EZ 23G Insurance for repairs of Canterbury earthquake damage: optional timing rule for income, deductions

[Repealed]

Section EZ 23G: repealed, on 1 April 2016 (applying for the 2016–17 and later income years), by section 66(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Definitions

EZ 24 Meaning of new asset

Meaning

(1) **New asset** means an item of property that a person owns to which subsections (2) to (4) apply and to which subsection (5) does not apply.

Acquisition date

(2) The item is—

(a) acquired by the person in the period starting on 16 December 1991 and ending with the close of 31 March 1993, other than under a binding contract that they entered into before 16 December 1991; or

(b) acquired by the person in the period starting on 1 April 1993 and ending with the close of 31 March 1994, under a binding contract that they entered into in the period starting on 16 December 1991 and ending with the close of 31 March 1993; or

(c) one to which all the following apply:

(i) it was acquired by the person before 16 December 1991 as trading stock; and

(ii) it was used by the person as a capital item for the first time in the period starting on 16 December 1991 and ending with the close of 31 March 1993; and

(iii) it qualified for a deduction for depreciation under section 108 of the Income Tax Act 1976 in the period starting on 16 December 1991 and ending with the close of 31 March 1993.

Used before 1 April 1994

(3) The item is used by the person before 1 April 1994.

Not used by anyone previously

(4) The item is—

(a) not acquired by any other person before the date on which the person acquired it; and

(b) not used by any other person before the date on which the person acquired it; and

(c) not held for use by any other person before the date on which the person acquired it; and

(d) not an item or part of an item that qualified for a deduction for depreciation under the Income Tax Act 1976 for a period before the date on which the person acquired it.

Exclusion

(5) A constructed item that a person owns is not a new asset if—

(a) its construction started before 16 December 1991 (but this paragraph does not apply to the extent to which the item is trading stock to which subsection (2)(c) applies); or

(b) its construction started on or after 16 December 1991 under a binding contract that the person entered into before 16 December 1991; or

(c) its construction was not completed before 1 April 1994; or

(d) the item was not first used by the person before 1 April 1994.

Defined in this Act: acquire, new asset, trading stock

Compare: 2004 No 35 s EZ 22

EZ 25 Meaning of New Zealand-new asset

Meaning

(1) **New Zealand-new asset** means an item of property that a person owns to which subsections (2) to (5) apply.

Not new

(2) The item is not a new asset.

Date of acquisition

(3) The item is—

(a) acquired by the person in the period starting on 16 December 1991 and ending with the close of 31 March 1993, other than under a binding contract that they entered into before 16 December 1991; or

(b) acquired by the person in the period starting on 1 April 1993 and ending with the close of 31 March 1994, under a binding contract that they entered into in the period starting on 16 December 1991 and ending with the close of 31 March 1993; or

(c) one to which all the following apply:

(i) it was acquired by the person before 16 December 1991 as trading stock; and

(ii) it was used by the person as a capital item for the first time in the period starting on 16 December 1991 and ending with the close of 31 March 1993; and

(iii) it qualified for a deduction for depreciation under section 108 of the Income Tax Act 1976 in the period starting on 16 December 1991 and ending with the close of 31 March 1993.

Used before 1 April 1994

(4) The item is used by the person before 1 April 1994.

Not used

(5) The item is—

(a) not used in New Zealand before the date on which the person acquired it; and

(b) not an item or part of an item that qualified for a deduction for depreciation under the Income Tax Act 1976 for a period before the date on which the person acquired it.

Defined in this Act: acquire, new asset, New Zealand, New Zealand-new asset, trading stock

Compare: 2004 No 35 s EZ 23

EZ 26 Meaning of qualifying capital value

Meaning

(1) **Qualifying capital value** means, for an income year,—

(a) for a qualifying asset that a person owns, the amount calculated for the income year using the formula in subsection (2); or

(b) for an item that a person owns that is not a qualifying asset but to which they have made a qualifying improvement, the amount calculated for the income year using the formula in subsection (7).

Formula

(2) The formula referred to in subsection (1)(a) is—

(acquisition cost + improvement cost) − item's depreciation.

Definition of items in formula

(3) The items in the formula in subsection (2) are defined in subsections (4) to (6).

Acquisition cost

(4) **Acquisition cost** is the amount of capital expenditure the person incurs in acquiring the asset or item. In the case of a constructed item, the amount of capital expenditure is reduced by the amount of capital expenditure the person incurs on the construction on or after 1 April 1993, other than under a binding contract that the person entered into before 1 April 1993.

Improvement cost

(5) **Improvement cost** is the amount of capital expenditure, if any, the person incurs in making a qualifying improvement to the asset or item.

Item's depreciation

(6) **Item's depreciation** is the amount of depreciation loss for which the person has been allowed a deduction for the qualifying capital value of the asset or item in earlier income years, not including an amount of depreciation loss calculated using the straight-line method.

Formula

(7) The formula referred to in subsection (1)(b) is—

capital expenditure − improvement's depreciation.

Definition of items in formula

(8) The items in the formula in subsection (7) are defined in subsections (9) and (10).

Capital expenditure

(9) **Capital expenditure** is the amount of capital expenditure the person incurs for the improvement.

Improvement's depreciation

(10) **Improvement's depreciation** is the amount of depreciation loss for which the person has been allowed a deduction for the qualifying capital value of the improvement in earlier income years, not including an amount of depreciation loss calculated using the straight-line method.

Defined in this Act: acquire, amount, depreciation loss, income year, qualifying asset, qualifying capital value, qualifying improvement, straight-line method

Compare: 2004 No 35 s EZ 24

EZ 27 Meaning of qualifying improvement

Meaning

(1) **Qualifying improvement**, for a person's income year, means an improvement of an item that the person owns, if all the following apply:

(a) the person incurred the expenditure on the improvement—

(i) in the period starting on 16 December 1991 and ending with the close of 31 March 1993, other than under a binding contract they entered into before 16 December 1991; or

(ii) in the period starting on 1 April 1993 and ending with the close of 31 March 1994, under a binding contract they entered into in the period starting on 16 December 1991 and ending with the close of 31 March 1993; and

(b) the person used the item in its improved form before 1 April 1994; and

(c) the person is allowed a deduction for depreciation under the Income Tax Act 1976 for the improvement for the income year.

Exclusions

(2) **Qualifying improvement** does not include—

(a) an improvement to a building; or

(b) an improvement requiring construction, if—

(i) the construction started before 16 December 1991; or

(ii) the construction started on or after 16 December 1991 under a binding contract that the person entered into before 16 December 1991; or

(iii) the construction was not completed before 1 April 1994; or

(iv) the improvement was not first used by the person before 1 April 1994.

Defined in this Act: income year, qualifying improvement

Compare: 2004 No 35 s EZ 25

EZ 28 Meaning of qualifying asset

Qualifying asset means—

(a) a new asset, other than a building, that a person owns in an income year and for which they are allowed a deduction for depreciation under the Income Tax Act 1976 for the income year; or

(b) a New Zealand-new asset, other than a building or a car, that a person owns in an income year and for which they are allowed a deduction for depreciation under the Income Tax Act 1976 for the income year.

Defined in this Act: car, income year, new asset, New Zealand-new asset, qualifying asset

Compare: 2004 No 35 s EZ 26

Accident insurance

EZ 29 Private insurers under Accident Insurance Act 1998

When this section applies

(1) This section applies when an insurer, as defined in paragraph (a) of the definition of **insurer** in section 13 of the Accident Insurance Act 1998, has a reserve in a tax year to cover the following, all of which relate to events covered by the Accident Insurance Act 1998 occurring before the end of the tax year:

(a) claims that have been made with the insurer but have not been settled before the end of the tax year; and

(b) claims that are expected to be made with the insurer in relation to events that the insurer knows about; and

(c) an estimate of claims that have not been reported to the insurer in relation to events that the insurer does not know about.

Adjustment to deduction

(2) When the closing value of the reserve for a tax year is more than the opening value, the deduction that the insurer is allowed is adjusted by an amount equal to the amount calculated using the formula—

closing value − opening value.

Adjustment to income

(3) When the opening value of the reserve for a tax year is more than the closing value, the income of the insurer is adjusted by an amount equal to the amount calculated using the formula—

opening value − closing value.

Amount

(4) The reserve at the end of the tax year is—

(a) an amount calculated by an actuary applying subsection (5) and adopted by the insurer for financial reporting purposes; or

(b) if no such amount has been calculated, an amount determined by the Commissioner, who may seek the advice of an actuary in determining it.

Calculation or determination of reserve

(5) A person calculating or determining the amount of a reserve under subsection (4) must ensure that the amount has regard to—

(a) generally accepted accounting practice; and

(b) generally accepted actuarial practice; and

(c) the present value of expected future payments.

Link with subpart DA

(6) This section supplements the general permission. The general limitations still apply.

Defined in this Act: actuary, amount, Commissioner, deduction, general limitation, general permission, generally accepted accounting practice, pay, supplement, tax year

Compare: 2004 No 35 s EZ 27

Section EZ 29(4)(b): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

EZ 30 Base premium for 1998–99 premium year under Accident Insurance Act 1998

Discount payment date

(1) An amount of base premium for the 1998–99 premium year that is paid on or before the discount payment date is treated as expenditure in the tax year in which the discount payment date falls if the discount payment date is before

the date on the invoice that specifies when payment is due. This subsection overrides section EF 3(1) (Accident compensation levies and premiums).

Monthly instalment plan

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

Some definitions

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

Defined in this Act: amount, base premium for the 1998–99 premium year, discount payment date, interest, monthly instalment plan, pay, tax year

Compare: 2004 No 35 s EZ 28

Controlled foreign company and foreign investment fund rules

EZ 31 Disclosure restrictions on grey list CFCs before 2011–12

[Repealed]

Section EZ 31: repealed (with effect on 30 June 2009), on 6 October 2009, by section 195(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 32 Terminating exemption for grey list FIF investing in Australasian listed equities

[Repealed]

Section EZ 32: repealed, on 2 November 2012, by section 62 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

EZ 32B Transitional rule for IFRS reporting

[Repealed]

Section EZ 32B: repealed (with effect on 1 April 2008), on 6 October 2009, by section 196 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 32C Treatment in section EX 20C of currency effects on CFC's borrowing

[Repealed]

Section EZ 32C: repealed (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 63(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

EZ 32D Value of asset fraction: CFC with excessive debt funding and loan entered before 21 June 2012

When this section applies

(1) This section applies when a CFC is excessively debt funded under section EX 20D (Adjustment of cost fraction for excessively debt funded CFC) and

entered before 21 June 2012 a financial arrangement (an **old funding arrangement**) that provides funds for the CFC.

(2) The amount of the item **apportioned funding income** for the CFC is the sum of—

(a) an amount calculated using the formula in section EX 20B(4B)(b) (Net attributable CFC income or loss) with—

(i) a value for the item **funding income** that is the amount of funding income relating to the old funding arrangements of the CFC; and

(ii) a value for the item **asset fraction** that is the amount of the item **cost fraction** calculated under section EX 20D(10):

(b) an amount calculated using the formula in section EX 20B(4B)(b) with a value for the item **funding income** that is the amount of funding income relating to financial arrangements of the CFC that are not old funding arrangements.

Relationship with section EX 20B

(3) This section overrides section EX 20B(4B)(b).

Defined in this Act: CFC, financial arrangement

Section EZ 32D: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 64(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EZ 32D(2)(a): amended (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 99(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EZ 32D(2)(b): amended (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 30 June 2014, by section 99(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EZ 32D(3) heading: amended (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 99(2)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EZ 32D(3): amended (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), by section 99(2)(b) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EZ 32E Change in section EX 20B for income of CFC insurer: interest on terminal tax

When section applies

(1) This section applies when a person has a liability for terminal tax (the **resulting liability**)—

(a) for an income year beginning on or after 1 July 2009; and

(b) relating to a return of income provided to the Commissioner before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (the **amending Act**) receives the Royal assent; and

(c) that the person would not have but for the replacement by the amending Act of section EX 20B(3)(f) (Attributable CFC amount) coming into force on 1 July 2009.

No liability for interest for period

(2) The person is not liable to pay interest under Part 7 of the Tax Administration Act 1994 in relation to the resulting liability for the period beginning with 1 July 2009 and ending on the later of—

(a) 30 June 2012:

(b) a date fixed by the Commissioner for the payment of the resulting liability.

Relationship with Tax Administration Act 1994

(3) This section overrides Part 7 of the Tax Administration Act 1994.

Defined in this Act: Commissioner, income year, return of income, terminal tax

Section EZ 32E: inserted (with effect on 30 June 2009) on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 65(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section EZ 32E list of defined terms **tax position**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 32F Applicable accounting standard for section EX 21E: former generally accepted accounting practice without IFRS

When this section applies

(1) This section applies when—

(a) a person (the **interest holder**) with an interest in a CFC is applying section EX 21E (Non-attributing active CFC: Test based on accounting standard) for an accounting period to determine whether the CFC is a non-attributing active CFC for the person; and

(b) section GB 15C (Arrangements related to accounting test for non-attributing active CFC) does not apply.

Former generally accepted accounting practice without IFRS for CFC

(2) The interest holder may use former generally accepted accounting practice without IFRS for the CFC and the accounting period if the interest holder or another person is a company resident in New Zealand that—

(a) has no revenue under former Financial Reporting Standard 34 and former Financial Reporting Standard 35; and

(b) is an issuer under section 4 of the former Financial Reporting Act in neither of the current and preceding accounting periods; and

(c) is not required by section 19 of the former Financial Reporting Act to file its accounts with the Registrar of Companies; and

(d) is not a large company under section 19A(1)(b) of the former Financial Reporting Act; and

(e) does not have accounts that are prepared and audited under generally accepted accounting practice with IFRS; and

(f) is not a subsidiary of a company having accounts that—

(i) include the accounts of the subsidiary; and

(ii) are prepared and audited, or required to be prepared, under generally accepted accounting practice with IFRS; and

(g) has accounts that—

(i) include the accounts of the CFC; and

(ii) comply with former generally accepted accounting practice without IFRS; and

(iii) meet the audit requirements of section EX 21C(8).

Former generally accepted accounting practice without IFRS for CFC's test group

(3) The interest holder may use former generally accepted accounting practice without IFRS for the CFC's test group under section EX 21D(1) (Non-attributing active CFC: default test) if the interest holder or another person is a company resident in New Zealand that—

(a) has no revenue under former Financial Reporting Standard 34 and former Financial Reporting Standard 35; and

(b) is an issuer under section 4 of the former Financial Reporting Act in neither of the current and preceding accounting periods; and

(c) is not required by section 19 of the former Financial Reporting Act to file its accounts with the Registrar of Companies; and

(d) is not a large company under section 19A(1)(b) of the former Financial Reporting Act; and

(e) does not have accounts that are prepared and audited under generally accepted accounting practice with IFRS; and

(f) is not a subsidiary of a company having accounts that—

(i) include the accounts of the subsidiary; and

(ii) are prepared and audited, or required to be prepared, under generally accepted accounting practice with IFRS; and

(g) has accounts that—

(i) include the accounts of the members of the CFC's test group; and

(ii) comply with former generally accepted accounting practice without IFRS; and

(iii) meet the audit requirements of section EX 21C(8).

Terms relating to generally accepted accounting practice before repeal of Financial Reporting Act 1993

(4) In this section and section EX 21E,—

former Financial Reporting Act means the Financial Reporting Act 1993—

(a) as it was before being repealed under the Financial Reporting Act 2013; and

(b) treated as if it applied to resident companies for the purposes of this section and section EX 21E

former Financial Reporting Standard 34 means the Financial Reporting Standard 34 issued under the former Financial Reporting Act as the standard was before the repeal of the Financial Reporting Act 1993 under the Financial Reporting Act 2013

former Financial Reporting Standard 35 means the Financial Reporting Standard 35 issued under the former Financial Reporting Act as the standard was before the repeal of the Financial Reporting Act 1993 under the Financial Reporting Act 2013

former financial reporting standards without IFRS means the financial reporting standards, other than IFRSs, approved or issued under the former Financial Reporting Act 1993 as the standards were before the repeal of the Financial Reporting Act 1993 under the Financial Reporting Act 2013

former generally accepted accounting practice without IFRS means the generally accepted accounting practice in New Zealand,—

(a) as the practice was before the repeal of the Financial Reporting Act 1993 under the Financial Reporting Act 2013; and

(b) for persons who under the former Financial Reporting Act are not required to use IFRS but are required to comply with the former financial reporting standards without IFRS

generally accepted accounting practice with IFRS means the generally accepted accounting practice in New Zealand including IFRSs and the framework for differential reporting for entities applying the New Zealand equivalents to the international financial standards reporting regime.

Defined in this Act: accounting period, CFC, company, former Financial Reporting Act, former Financial Reporting Standard 34, former Financial Reporting Standard 35, former financial reporting standards without IFRS, former generally accepted accounting practice without IFRS, generally accepted accounting practice, generally accepted accounting practice with IFRS, IFRS, non-attributing active CFC, resident in New Zealand

Section EZ 32F: inserted, on 1 April 2014, by section 95 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

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

When this section applies

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

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

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

(c) the person—

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

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

No FIF income or loss from interest

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

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

Section EZ 32G: inserted (with effect on 1 April 2014), on 24 February 2016, by section 157 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Old financial arrangements rules

EZ 33 Application of old financial arrangements rules

The old financial arrangements rules apply to financial arrangements entered into on or after the implementation date and before 20 May 1999.

Compare: 2004 No 35 s EZ 30

EZ 34 Election to apply financial arrangements rules in subpart EW

Despite section EZ 33, a person may elect to apply the financial arrangements rules by calculating a transitional adjustment under section EZ 51.

Compare: 2004 No 35 s EZ 31

EZ 35 Accruals in relation to income and expenditure in respect of financial arrangements

(1) For the purpose of calculating the amount deemed to be income or expenditure of any person under subsections (2) to (7), regard must be had to,—

(a) if the person is a holder in relation to the financial arrangement,—

(i) the amount of all consideration paid and to be paid to the person in relation to the financial arrangement; and

(ii) any amount remitted and to be remitted by the person in relation to the financial arrangement; and

(iii) the acquisition price of the financial arrangement in relation to the person; and

(b) if the person is an issuer in relation to the financial arrangement,—

(i) the amount of all consideration paid and to be paid by the person in relation to the financial arrangement; and

(ii) the acquisition price of the financial arrangement in relation to the person.

(2) Subject to this section, where any person is a holder or an issuer of a financial arrangement, the amount that is deemed to be income or expenditure of that person in respect of the financial arrangement in any income year is an amount calculated using the yield to maturity method so as to result in the allocation to each income year of an amount that is fair and reasonable, and such amount so allocated to each income year is income deemed to be derived by or expenditure deemed to be incurred by the person in respect of the financial arrangement in the income year:

provided that the Commissioner must accept an alternative method to the yield to maturity method, that has regard to the principles of accrual accounting, and—

(a) conforms with commercially acceptable practice; and

(b) except to the extent that the Commissioner may otherwise allow under subsection (8), is adopted by the person and is or will be consistently applied in respect of all such financial arrangements for financial reporting purposes; and

(c) results in the allocation to each income year of amounts that are not materially different from amounts that would be calculated but for this proviso.

(3) Notwithstanding subsection (2), but subject to the other provisions of this section, where in any income year the total value of all financial arrangements of which a person is a holder or an issuer has on no day within that income year exceeded $1,500,000 or such greater amount as the Governor-General may by Order in Council declare for the purposes of this section,—

(a) the person may calculate income or expenditure for that income year in respect of those financial arrangements by using the straight-line method so as to result in the allocation to that income year and subsequent income years of amounts that are fair and reasonable in respect of those arrangements; and

(b) where the straight-line method is used under paragraph (a), that method must be used by the person in respect of all financial arrangements of which the person was the holder or issuer during that income year; and

(c) where the person has in accordance with this subsection calculated income or expenditure using the straight-line method in respect of a financial arrangement for any income year, the person must, unless the Commissioner notifies them that they are otherwise authorised, continue to use that method in respect of that financial arrangement for any subsequent income year, until the maturity, remittance, sale, or other transfer of the arrangement, notwithstanding that the total value of all financial arrangements of which the person is holder or issuer may at any time in any such subsequent income year exceed $1,500,000 or such other amount as may be declared for the purposes of this section,—

and any amount calculated in respect of a financial arrangement in accordance with this subsection is income deemed to be derived by or expenditure deemed to be incurred by the person in respect of the financial arrangement for the relevant income year.

(3B) An Order in Council under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(4) For the purposes of subsection (3), a person must take into account financial arrangements to which subpart EW applies.

(5) For the purposes of subsection (3),—

(a) the value of any financial arrangement to be taken into account in determining whether the total value of all financial arrangements of which a person is the holder or issuer on any day exceeds $1,500,000 or such other amount as may be declared for the purposes of this section is,—

(i) in the case of a fixed principal financial arrangement, the nominal or face value of the arrangement; and

(ii) in the case of a variable principal debt instrument, the amount owing by or to the person under the arrangement on the relevant day; and

(iii) in the case of a financial arrangement to which subpart EW applies, the value determined under that subpart; and

(b) in the first income year for which income or expenditure is calculated under subsection (3) in respect of a financial arrangement that—

(i) was acquired or issued by the person in a previous income year; and

(ii) continues to be held or issued by the person at the end of the first income year for which income or expenditure is calculated under subsection (3),—

the amount of income or expenditure of the person in respect of that financial arrangement for that first income year is an amount calculated in accordance with the following formula:

$$a - b - c + d$$

where—

a is the sum of all amounts that would have been income derived by the person in respect of the financial arrangement if the straight-line method referred to in subsection (3) had been applied to the financial arrangement from the date it was acquired or issued by the person until the end of that first income year

b is the sum of all amounts that would have been expenditure incurred by the person in respect of the financial arrangement if the straight-line method referred to in subsection (3) had been applied to the financial arrangement from the date it was acquired or issued by the person until the end of that first income year

c is the sum of all amounts of income deemed to have been derived by the person in respect of the financial arrangement before the commencement of that first income year

d is the sum of all amounts deemed to have been expenditure incurred by the person in respect of the financial arrangement before the commencement of that first income year;—

and any amount so calculated is, if a positive amount, deemed to be income derived by the person in that first income year and, if a negative amount, deemed to be expenditure incurred by the person in that first income year.

(6) Where it is not possible to calculate an amount to be deemed to be income or expenditure in respect of a financial arrangement using the yield to maturity method as provided for in subsection (2) or (in a case to which subsection (3) applies) the straight-line method as provided for in subsection (3), the amount that is deemed to be income or expenditure of the person in any income year is an amount calculated by the person—

(a) using the method, if any, prescribed by the Commissioner for the financial arrangement in a determination made under section 90(1)(c) of the Tax Administration Act 1994:

provided that the Commissioner must accept an alternative method to the method prescribed in any such determination that has regard to the principles of accrual accounting, and—

(i) conforms with commercially acceptable practice; and

(ii) except to the extent that the Commissioner may otherwise allow under subsection (8), is adopted by the person and is or will be consistently applied in respect of all such financial arrangements for financial reporting purposes; and

(iii) results in the allocation to each income year of amounts that are not materially different from the amounts that would be calculated, but for this proviso; and

(b) in the absence of any such determination, by applying a method that meets the requirements of subparagraphs (i) and (ii) of the proviso to paragraph (a) and that results in the allocation to each income year of an amount that, having regard to the tenor of subsection (2), is fair and reasonable;—

and such amount of income or expenditure so allocated to each income year is income deemed to be derived or, as the case may be, expenditure deemed to be incurred by the person in the income year.

(7) Notwithstanding subsections (2) and (6), the Commissioner must accept an alternative method for calculating the amount to be deemed to be income or expenditure of the person, in respect of a financial arrangement, to the methods provided for under subsections (2) and (6), if the alternative method has regard to market valuation, and—

(a) conforms with commercially acceptable practice; and

(b) except to the extent that the Commissioner may otherwise allow under subsection (8), is adopted by the person and is or will be consistently applied in respect of all such financial arrangements for financial reporting purposes; and

(c) either—

(i) the business of the person comprises dealing in such financial arrangements; or

(ii) the financial arrangement is a forward or future contract for foreign exchange, or a futures contract; and

(d) the market, the method, and the source of the information used to determine the market values have been approved by the Commissioner under a determination issued under section 90(1)(e) of the Tax Administration Act 1994; and

(e) the person and any other person who is a holder (where the person is an issuer) or an issuer (where the person is a holder) of the financial arrangement are not associated persons;—

and such amount of income or expenditure so calculated is income deemed to be derived or, as the case may be, expenditure deemed to be incurred by the person in respect of the financial arrangement in the income year:

provided that where income or expenditure in respect of a financial arrangement has been calculated by a person under this subsection, income or expenditure in respect of that financial arrangement must, except as otherwise allowed under subsection (8), continue to be calculated on that basis by that person until the maturity, remittance, sale, or other transfer of the arrangement.

(8) Where a method of calculating income or expenditure in respect of a financial arrangement fails to meet the requirements of paragraph (b) of the proviso to subsection (2) or subparagraph (ii) of the proviso to subsection (6)(a) or (7)(b) by virtue of the fact that the method is not or will not be consistently applied by a person in respect of all such financial arrangements for financial reporting purposes, that method is nevertheless deemed to meet the relevant one of those provisions where the method—

(a) appropriately reflects the dominant purpose for which the person acquired or issued the financial arrangement (or each such arrangement); and

(b) has been and will be consistently applied by the person in respect of the particular financial arrangement (or each such financial arrangement) for the purposes of the old financial arrangements rules for every income year during its term (except to the extent that the Commissioner approves or may approve a change in method under the circumstances or conditions specified in a determination under section 90(1)(f) of the Tax Administration Act 1994); and

(c) is not adopted for purposes that include the purpose of tax avoidance; and

(d) has been approved by the Commissioner for adoption in the circumstances applicable to the taxpayer either by notice to the taxpayer or in a determination issued under section 90 of the Tax Administration Act 1994.

(9) Subsections (2) to (7) do not apply—

(a) to a cash basis holder; or

(b) in relation to a financial arrangement and a person, in any income year where section EZ 38 applies to that person and to that financial arrangement; or

(c) in relation to a financial arrangement where—

(i) the financial arrangement is held by a trustee upon trust for the management of compensation paid for personal injury where that compensation is paid under the Workers Compensation Act 1956 or the Accident Compensation Act 1972 or the Accident Compensation Act 1982 or the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Compensation Act 2001 or an order of court; and

(ii) the trustee is, or if it were a natural person would be, a cash basis holder in respect of the financial arrangement.

(10) For the purposes of this section, the Commissioner may determine whether and to what extent any issuer or class of issuers is not required to comply with this

section in relation to expenditure incurred or income derived in respect of any class of financial arrangements, having regard to—

(a) the nature and amount of the expenditure incurred or income derived by the issuer or class of issuers in respect of financial arrangements of that class; and

(b) the costs of the issuer or class of issuers in complying with this section in relation to the class of financial arrangements; and

(c) whether, in respect of that issuer or class of issuers and that class of financial arrangements, the application of the discretion given to the Commissioner under this subsection would result in a material difference in the amount of deductions or income allocated to any income year, in relation to the amount that would have been allocated had the discretion not been exercised.

(11) The Commissioner may at any time cancel any determination made in respect of any person or class of persons under subsection (10).

Compare: 2004 No 35 s EZ 32

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EZ 35(3)(c): amended, on 2 June 2016, by section 43 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 35(3B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EZ 35(9)(c)(i): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

EZ 36 Excepted financial arrangement that is part of financial arrangement

The amount of the income deemed to be derived or the expenditure deemed to be incurred by a person in respect of a financial arrangement under the old financial arrangements rules does not include the amount of any income, gain or loss, or expenditure, that is solely attributable to an excepted financial arrangement that is part of the financial arrangement.

Compare: 2004 No 35 s EZ 33

EZ 37 Cash basis holder

(1) Subject to this section, a natural person is a cash basis holder in respect of financial arrangements held by that person in any income year, where—

(a) either—

(i) the income derived by that person in that income year in respect of those financial arrangements, calculated in accordance with subpart EW or section EZ 35 or EZ 38, as the case may be, does not exceed $70,000 (or such greater amount as the Governor-General may by Order in Council declare (*see* subsection (10))); or

(ii) the total value of financial arrangements held by the person in the income year does not exceed at any time in the income year $600,000 (or such greater amount as the Governor-General may by Order in Council declare (*see* subsection (10))), the value in respect of each financial arrangement being,—

(A) in the case of a fixed principal financial arrangement, the greater of the acquisition price of the arrangement or the nominal or face value of the arrangement; and

(B) in the case of a variable principal debt instrument, the amount of money owing to the person according to the arrangement; and

(C) in the case of a financial arrangement to which subpart EW applies, the value determined under that subpart; and

(b) the difference between the following amounts does not exceed $20,000 (or such greater amount as the Governor-General may by Order in Council declare (*see* subsection (10))):

(i) the amount of income that would be calculated by the person for the income year—

(A) using, at the option of the person, either the yield to maturity method or the straight-line method referred to in section EZ 35(3) (regardless of whether or not the person is entitled or has opted to use that method) or in accordance with subpart EW, as the case may be, or, where it is not possible to calculate an amount of income or expenditure in respect of the financial arrangements by using either of those methods, an alternative method approved by the Commissioner; and

(B) under either section EW 31 or EZ 38—

in respect of financial arrangements held by the person at the end of the income year; and

(ii) the amount of income that would be calculated by the person for the income year in respect of financial arrangements held by the person at the end of the income year if the person were a cash basis holder.

(2) For the purposes of subsection (1), a person must take into account financial arrangements to which subpart EW applies.

(3) Notwithstanding anything in subsection (1), the Commissioner may,—

(a) where the Commissioner is satisfied, having regard to the tenor of section EZ 35(2), that treatment of a class of financial arrangements other than under section EZ 35 results in a fair and reasonable allocation of income or expenditure among income years, deem natural persons to be cash basis holders in respect of such financial arrangements; and

(b) where the Commissioner is satisfied that a class of financial arrangements has been structured and promoted with the objective of postponing any liability to income tax which would have arisen had those financial arrangements not been so structured, deem natural persons not to be cash basis holders in respect of such financial arrangements.

(4) In any income year where a person who was a cash basis holder in the previous income year ceases to be a cash basis holder, the person must take into account, in calculating income or deductions for the income year, an accruals basis adjustment, in respect of every financial arrangement (other than arrangements that are already dealt with according to section EZ 35 or in respect of which the Commissioner has exercised the discretion given under subsection (3)(a)) acquired in a previous income year and held by the person at the end of the income year equal to an amount calculated in accordance with the following formula:

$$a - b - c + d$$

where—

a is the sum of all amounts which would have been income derived by the person in respect of the financial arrangement from the date it was acquired to the end of the income year if the person had not been a cash basis holder at any time during that period

b is the sum of all amounts that would have been deductions of the person in respect of the financial arrangement from the date the financial arrangement was acquired to the end of the income year if the person had not been a cash basis holder at any time during the period

c is the sum of all amounts of income of the person in respect of the financial arrangement since it was acquired to the end of the previous income year

d is the sum of all amounts that have been deductions of the person in respect of the financial arrangement since it was acquired to the end of the previous income year;—

and the person must not take into account in the income year any other amount in respect of any such financial arrangement except those calculated under the accruals basis adjustment.

(5) In any income year where a person who was not a cash basis holder in the previous income year becomes a cash basis holder, that person may take into account, in calculating income or deductions for the income year, a cash basis adjustment, in respect of every financial arrangement (other than arrangements already treated on a cash basis) acquired in a previous income year and held by the person at the end of the income year, equal to an amount calculated in accordance with the following formula:

$$a - b - c + d$$

where—

a is the sum of all amounts which would have been income derived by the person in respect of the financial arrangement from the date it was acquired to the end of the income year if the person had been a cash basis holder in respect of the financial arrangement for the whole of that period

b is the sum of all amounts which would have been deductions of the person in respect of the financial arrangement from the date the financial arrangement was acquired to the end of the income year if the person had been a cash basis holder in respect of the financial arrangement for the whole of the period

c is the sum of all amounts treated as income of the person in respect of the financial arrangement since it was acquired to the end of the previous income year

d is the sum of all amounts that have been deductions of the person in respect of the financial arrangement since it was acquired to the end of the previous income year;—

and, where the cash basis adjustment has been taken into account, the person must not take into account any other amount in respect of any such financial arrangement in the income year except those calculated under the cash basis adjustment:

provided that the person is deemed not to be a cash basis holder in relation to any financial arrangement in respect of which the person does not take into account a cash basis adjustment.

(6) The amount of the accruals basis adjustment or the cash basis adjustment in respect of any financial arrangement and any income year is,—

(a) where it is a positive amount, income deemed to be derived by the holder in the income year; and

(b) where it is a negative amount, deemed to be a deduction of the holder in the income year.

(7) For the purposes of subsection (1), but subject to subsections (8) and (9),—

(a) all income in respect of financial arrangements that is trustee income or beneficiary income under the trust rules is disregarded, as is the value of all such financial arrangements producing such income; and

(b) no person who holds such financial arrangements is a cash basis holder in relation to such financial arrangements.

(8) Subsection (7) does not apply to financial arrangements held on a bare trust, or to income in respect of such financial arrangements, and the financial arrangements held and the income derived by the trustees is treated as being held or, as the case may be, derived by a beneficiary of the trust to the extent of the beneficiary's share of the beneficial interest in the financial arrangement.

(9) Where a deceased person was at the time of his or her death a cash basis holder,—

(a) nothing in subsection (7) or in any requirement under this section that a cash basis holder be a natural person, in respect of the income year in which the death occurred and in each of the 4 immediately succeeding income years, applies to prevent the trustee of the estate of the deceased person from being a cash basis holder for the purposes of this Act in respect of financial arrangements issued or held by the estate, where the estate would otherwise qualify as a cash basis holder under this section; but

(b) if at any time during those income years the estate ceases to so otherwise qualify as a cash basis holder, it does not again qualify to become a cash basis holder by operation of paragraph (a);—

and for the purposes of subsections (4) and (5), any trustee of an estate who is a cash basis holder under this subsection is deemed to be the same person as the deceased cash basis holder.

(10) An Order in Council under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(10) *[Repealed]*

Compare: 2004 No 35 s EZ 34

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EZ 37(1)(a)(i): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EZ 37(1)(a)(ii): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EZ 37(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EZ 37(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section EZ 37(10): repealed, on 1 April 2008, by section 15(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

EZ 38 Income and expenditure where financial arrangement redeemed or disposed of

(1) Subject to subsection (2), where, in relation to any person, a financial arrangement matures or is remitted (other than by way of being written off as a bad debt), sold, or otherwise transferred by the person in any income year, the amount of the base price adjustment in relation to that income year, that person, and that financial arrangement is an amount calculated in accordance with the following formula:

$$a - (b + c)$$

where—

a is,—

(i) in the case of a holder, the sum of—

(A) the amount of all consideration that has been paid, and all further consideration that has or will become payable, to the person; and

(B) any amounts that have been remitted by the person and that are not included in subsubparagraph (A):

(ii) in the case of an issuer, the sum of—

(A) the amount of all consideration that has been paid, and all further consideration that has or will become payable, by the person; and

(B) the amount paid by the person associated with the issuer if the issuer is the debtor of a debt to which section EZ 41 applies—

in relation to the financial arrangement

b is the acquisition price of the financial arrangement in relation to the person

c is,—

(i) in the case of a holder, all amounts that are income derived, less the aggregate of amounts of expenditure deemed to be incurred under section EZ 35 or EZ 42 or deemed to be a deduction under section EZ 37 by the person in respect of the financial arrangement in all previous income years since the acquisition of the financial arrangement; and

(ii) in the case of an issuer, all amounts of expenditure incurred in respect of the financial arrangement in all previous income years

since the issue of the financial arrangement, less the aggregate of—

(A) all amounts that are income deemed to be derived under section EZ 35 or EZ 37 or EZ 42 by the person in respect of the financial arrangement in all previous income years since the issue of the financial arrangement; and

(B) all amounts that are dividends derived by the person from the release of the obligation to repay the amount lent; and

(C) all amounts that are income of the person under section CF 2 in respect of the financial arrangement.

(2) Where, in relation to a financial arrangement, a person is a cash basis holder, and the financial arrangement matures or is remitted (other than by way of being written off as a bad debt), sold, or otherwise transferred by that person in any income year, the amount of the cash base price adjustment in relation to that income year, that person, and that financial arrangement is an amount calculated in accordance with the following formula:

$$a - (b + c)$$

where—

a is the sum of all consideration derived in respect of the financial arrangement by the person, and amounts remitted by the person

b is the acquisition price of the financial arrangement

c is the sum of all amounts that are income derived by the person, less the aggregate of amounts of expenditure deemed to be incurred under sections EZ 35 and EZ 42 or deemed to be a deduction under section EZ 37.

(3) Subject to subsection (5), the amount of the base price adjustment in relation to any financial arrangement and any income year is,—

(a) in relation to a holder,—

(i) where it is a positive amount, deemed to be income derived by the holder in the income year; and

(ii) where it is a negative amount, deemed to be a deduction of the holder in the income year:

(b) in relation to an issuer,—

(i) where it is a positive amount, deemed to be expenditure incurred by the issuer in the income year; and

(ii) where it is a negative amount, deemed to be income derived by the issuer in the income year.

(4) Subject to subsection (5), the amount of the cash base price adjustment in relation to any financial arrangement and any income year is,—

(a) where it is a positive amount, deemed to be income derived by the cash basis holder in the income year; and

(b) where it is a negative amount, deemed to be a deduction of the cash basis holder in the income year.

(5) Notwithstanding anything in section EZ 50(3), where a financial arrangement is sold or otherwise transferred by a person for a consideration influenced by—

(a) a decline in the creditworthiness of the issuer between the date of acquisition of the financial arrangement by the holder and the date of sale or other transfer; or

(b) an increase in the possibility that the issuer may fail to meet any obligations under the financial arrangement between the date of acquisition of the financial arrangement by the holder and the date of sale or other transfer; or

(c) the occurrence of any event reducing or cancelling the obligations of an issuer under the financial arrangement,—

all amounts that would have been received but for the factors listed above are deemed, in calculating the base price adjustment or cash base price adjustment, to have become payable to the holder:

provided that this subsection does not apply where the business of the holder comprises holding or dealing in financial arrangements of that class, and the issuer of the financial arrangement and the holder are not associated persons.

(6) Where—

(a) a person has been released from the obligation to make payment of an amount—

(i) under a financial arrangement by operation of section 304 of the Insolvency Act 2006; or

(ii) under any of the Inland Revenue Acts (and whether the relief arises through remission, waiver, or cancellation); or

(iii) under a social assistance suspensory loan by virtue of that person satisfying the conditions referred to in subsection (8)(c)(ii); and

(b) that amount would, but for this subsection, be taken into account in determining the income derived by or expenditure incurred by that person under the old financial arrangements rules,—

that amount is, for the purpose of determining the income derived by or expenditure incurred by that person, and notwithstanding the old financial arrangements rules (other than this subsection), deemed to have been paid under that financial arrangement when the obligation to make payment has been so released.

(7) Notwithstanding anything in this Act, where and to the extent that a person (in this subsection called the **surety**) suffers expenditure or a loss under a security arrangement and the expenditure or loss, in whole or in part, is due to—

(a) the actions of; or

(b) the occurrence, or failure to occur, of an event that was potentially or actually subject to the influence of—

the surety or any person with whom the surety was, during the term of the security arrangement, an associated person, no deduction is allowed to the surety or any person in relation to the expenditure or loss.

(8) In this section,—

(a) the expression **holder**, in relation to a financial arrangement, includes a person who ceases to be a holder of the financial arrangement as provided in subsection (1) or (2); and

(b) the expression **issuer**, in relation to a financial arrangement, includes a person who ceases to be an issuer of the financial arrangement as provided in subsection (1); and

(c) the expression **social assistance suspensory loan** means a loan—

(i) made by a department or instrument of the Executive Government of New Zealand; and

(ii) under whose terms the issuer's liability may be remitted in whole or in part if the issuer satisfies conditions intended to promote a social policy objective of the Government of New Zealand; and

(iii) of a kind that is declared by the Governor-General by Order in Council to be a social assistance suspensory loan; and

(d) a financial arrangement is deemed to be remitted where—

(i) the issuer has been discharged from making all remaining payments under that financial arrangement without fully adequate consideration; or

(ii) the issuer has been released from making all remaining payments under that financial arrangement by the operation of the Insolvency Act 2006 or the Companies Act 1993 or the laws of any country or territory other than New Zealand, or by any deed or agreement of composition with its creditors; or

(iii) all of the remaining payments under the financial arrangement have become irrecoverable or unenforceable by action through the lapse of time; or

(iv) the financial arrangement is a debt that is disposed of at a discount to a person associated with the debtor under the circumstances described in section EZ 41; and

(e) where a person ceases to be a New Zealand resident any financial arrangement in relation to which that person is an issuer or a holder is deemed, in relation to the person, to have been transferred for its market value at that date.

(9) An Order in Council under subsection (8)(c)(iii) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2004 No 35 s EZ 35

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section EZ 38(6)(a)(iii): amended (with effect on 1 April 2008), on 6 October 2009, by section 197(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 38(8)(d)(ii): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section EZ 38(8)(d)(iv): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 38(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

EZ 39 Forgiveness of debt

(1) In determining the income or expenditure under the base price adjustment in section EZ 38, an amount owing under a debt, including an amount accrued and unpaid at the time of the forgiveness, is treated as paid when forgiven under the old financial arrangements rules if—

(a) the creditor is a natural person who forgives the debt, whether in a will or otherwise, because of the natural love and affection the creditor has for the debtor; or

(b) the creditor is a natural person who forgives the debt owing by a trust, whether in a will or otherwise, and the trust was established primarily to benefit—

(i) a natural person for whom the creditor has natural love and affection; or

(ii) an organisation or a trust whose income is exempt under section CW 41 or CW 42; or

(iii) a natural person that meets paragraph (b)(i) and an organisation or a trust that meets paragraph (b)(ii).

(2) Subsection (3) applies when a trustee makes a distribution, including a distribution of beneficiary income, to a beneficiary that is neither—

(a) a natural person for whom the creditor has natural love and affection; nor

(b) an organisation or a trust whose income is exempt under section CW 41 or CW 42.

(3) Subsection (4) does not apply when a trustee of a trust (**trust A**) to which subsection (1)(b) applies makes a distribution to another trust (**trust B**) if—

(a) trust B is a trust described in subparagraph (i), (ii), or (iii) of subsection (1)(b); and

(b) subsection (1)(b) would apply to trust B if, at the time the distribution is made, the creditor of trust A were a creditor of trust B, and the creditor had forgiven a debt owing by trust B.

(4) A distribution to the beneficiary is income derived by the trustee—

(a) in the income year in which the distribution is made; and

(b) to the extent that the distribution is less than or equal to the total amount of debts forgiven by the creditor.

(5) If subsection (4) applies, the income derived by the trustee is not income for the purposes of the **beneficiary income** definition.

(6) For the purposes of subsection (4), the total amount of debts forgiven by the creditor is reduced by the amount of each distribution that is income derived by the trustee.

(7) Subsection (4) applies to a distribution made on or after 20 May 1999.

Compare: 2004 No 35 s EZ 36

EZ 40 Accrued income written off

(1) A deduction is allowed to a person for an amount written off by the person as a bad debt in respect of a financial arrangement where and to the extent that—

(a) the person derives income in respect of the financial arrangement under any of sections EZ 35, EZ 37(4), EZ 38, and EZ 42; and

(b) the amount written off is attributable to that income.

(2) A deduction is allowed to a person for an amount written off by the person as a bad debt in respect of a financial arrangement (not being an amount allowed as a deduction under subsection (1)) where—

(a) the person—

(i) carries on a business which comprises holding or dealing in such financial arrangements; and

(ii) is not associated with the person owing the amount written off; or

(b) the financial arrangement is a trade credit and the person carries on a business of dealing in the goods or services for which the trade credit is a debt.

(3) Where a person receives a security payment in relation to a loss and a deduction is denied to the person for the loss other than under this subsection, the person is allowed a deduction for the loss no greater than the amount of the security payment.

(4) A deduction for bad debts is allowed under this section only where the requirements of section DB 31(1) and (5) have been met.

(5) A deduction for a share loss (within the meaning of section DB 24) is allowed under subsection (3) only where the requirements of section DB 24 have been met.

Compare: 2004 No 35 s EZ 37

EZ 41 Disposal of debt to associate of debtor

(1) This section applies to a financial arrangement that is a debt which is disposed of at a discount to a person associated with the debtor on or after 20 May 1999.

(2) A creditor is treated as having disposed of a debt at a discount if the debt is disposed of to a person associated under the 1988 version provisions with the debtor for 80% or less of the market value of the debt.

(3) Subsection (4) applies to a debt that is disposed of if its market value was influenced by—

(a) the decline in the original debtor's creditworthiness between the date the debt was entered into and the date of disposal; or

(b) an increase in the possibility that the original debtor would not pay an amount owing under the debt between the date the debt was entered into and the date of disposal; or

(c) an event that occurred which reduced or cancelled the original debtor's obligations under the debt.

(4) For the purposes of subsection (2), a debt's market value is determined as if its market value were not influenced by a factor listed in subsection (3)(a) to (c).

(5) If a debt is disposed of at a discount to a person associated with the debtor, the associated person is treated as having provided the debtor with an interest free loan for the amount paid for the debt.

(6) If the debtor subsequently repays the person associated with the debtor more than the amount the associated person paid for the debt, the excess amount paid by the debtor is—

(a) a deduction to the debtor; and

(b) income of the person associated with the debtor.

Compare: 2004 No 35 s EZ 38

Section EZ 41 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 41(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 41(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 41(3): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 41(3)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 41(3)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 41(5): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 42 Post facto adjustment

(1) A financial arrangement is subject to the provisions of this section where—

(a) any of the amount or amounts payable under the financial arrangement are determined in the terms of the financial arrangement, as to whole or part, at the discretion of either the issuer or the holder, or both of them, or at the discretion of any other person where either the issuer or the holder and the other person are associated persons; and

(b) the change in the amount or amounts payable under the financial arrangement upon the exercise of a discretion as provided for in paragraph (a) does not reflect changes in economic, commodity, industrial, or financial indices or banking or general commercial rates; and

(c) the making of such financial arrangements is not generally accepted commercial practice; and

(d) the effect of the arrangement is to defeat the intent and application of the old financial arrangements rules.

(2) Where a financial arrangement is subject to the provisions of this section, both the holder and the issuer of the financial arrangement are required to calculate a post facto adjustment in respect of the following income years:

(a) the income year in which the person ceases to be a holder or an issuer, as the case may be, in respect of the financial arrangement; and

(b) where the person has not ceased to be a holder or an issuer of the financial arrangement at the end of the fifth income year following the

income year of its issue or acquisition by the person, in that fifth income year; and

(c) until the person ceases to be an issuer or a holder in respect of the financial arrangement, in every fifth income year succeeding the income year in which the post facto adjustment was last required to be made under this section.

(3) In order to calculate the post facto adjustment, a person must,—

(a) having regard to all amounts specified in section EZ 35(1) which have been paid or are payable, in respect of the financial arrangement, since acquisition or issue of the financial arrangement by the person to the end of the income year in which the post facto adjustment applies, calculate amounts of income or expenditure under the arrangement for each income year using the yield to maturity method as prescribed in a determination made by the Commissioner for the purposes of section EZ 35(2):

provided that where the post facto adjustment is made at a time determined by subsection (2)(b) or (c), the person is, for the purpose of the post facto adjustment calculation, deemed to have transferred the financial arrangement for an amount equal to its market value on the last day of the income year; and

(b) recalculate the income tax liability for each income year using the amounts of income or expenditure calculated under paragraph (a) in substitution for the amounts of income or expenditure previously calculated in respect of the financial arrangement for each income year.

(4) Where a person has been required to calculate the post facto adjustment, the person is required to make a special return in respect of the post facto adjustment in the form required by the Commissioner, no later than the time at which that person is required to file an annual return for the income year in which the post facto adjustment is made.

(5) Despite the time bar, the Commissioner must amend the person's assessment for the income years to which the post facto adjustment relates in accordance with the alterations to that income or expenditure as calculated by the post facto adjustment.

Compare: 2004 No 35 s EZ 39

EZ 43 Variable principal debt instruments

For the purposes of the old financial arrangements rules, where a person is a party to a variable principal debt instrument on the implementation date, the person is deemed to have acquired or, as the case may be, issued it on that day for a consideration equal to the amount of money that would be payable

to the holder on that day if the amount or amounts payable under the financial arrangement were due and payable on that day.

Compare: 2004 No 35 s EZ 40

EZ 44 Relationship with rest of Act

(1) Notwithstanding any other provision in this Act, income or expenditure in an income year in respect of a financial arrangement under the old financial arrangements rules is calculated under those rules.

(2) Expenditure incurred under the old financial arrangements rules is not included in—

(a) the cost of trading stock, for small taxpayers:

(b) the cost of revenue account property:

(c) the cost of livestock:

(d) the cost of bloodstock:

(e) the cost of acquiring a film or a film right:

(f) film production expenditure:

(g) the cost of timber:

(h) petroleum exploration expenditure or petroleum development expenditure.

(3) Where—

(a) property is transferred under a financial arrangement; and

(b) the property or the consideration given for the property is relevant under any provision of this Act other than the old financial arrangements rules for the purpose of determining any amount of income or deduction of a person,—

the property is treated for the purpose of that provision as having been transferred under the financial arrangement for an amount equal to the acquisition price of the property.

Compare: 2004 No 35 s EZ 41

EZ 45 Application of old financial arrangements rules

The old financial arrangements rules do not apply—

(a) in relation to a person and a financial arrangement, where the financial arrangement was issued or acquired by the person before the implementation date for the financial arrangement; or

(b) in relation to a financial arrangement, where the issue, in the case of an issuer, or acquisition, in the case of a holder, of the financial arrangement is under a binding contract in existence before the implementation date in relation to that financial arrangement:

provided that this paragraph does not apply in relation to a rollover, extension, or advance provided for before the implementation date in relation to the financial arrangement where the rollover, extension, or advance occurs on or after 1 April 1990; or

(c) in relation to a person and a financial arrangement, where the person acquired the financial arrangement in accordance with a relationship agreement and the transferor, in relation to the financial arrangement, was a person to whom paragraph (a) or (b) applied; or

(d) in relation to a financial arrangement, where the issue, in the case of an issuer, or acquisition, in the case of a holder, of the financial arrangement is under and in terms of a rollover, extension, or advance provided for before the implementation date in relation to the financial arrangement and the rollover, extension, or advance occurs before 1 April 1990; or

(e) to the determination of—

(i) income of or expenditure incurred by a person not resident in New Zealand in relation to a financial arrangement where and to the extent that the financial arrangement does not relate to a business carried on by that person through a fixed establishment in New Zealand; or

(ii) non-resident passive income; or

(f) in relation to a financial arrangement to the extent that the income or expenditure incurred by a person in respect of the financial arrangement consists of interest payable to or by the Commissioner under Part 7 of the Tax Administration Act 1994, being interest payable in relation to the income tax liability of the taxpayer in respect of the 1994–95 income year or any subsequent income year.

Compare: 2004 No 35 s EZ 42

EZ 46 Election to treat short term trade credit as financial arrangement

(1) For the purposes of the old financial arrangements rules, a taxpayer may elect by notice given in accordance with subsection (2) to treat short term trade credits specified in subsection (4) as financial arrangements.

(2) Notice of an election under subsection (1) in relation to an income year must be given to the Commissioner within the time within which a vendor or a purchaser is required under section 37 of the Tax Administration Act 1994 to furnish a return of income for the income year to which the election is to apply.

(3) An election by the taxpayer under subsection (1) may be revoked by notice given to the Commissioner during any income year and the revocation applies only to short term trade credits created on or after the commencement of the subsequent income year.

(4) An election under subsection (1) may be made in respect of—

(a) all short term trade credits of the taxpayer; or

(b) 1 or more classes of short term trade credits of the taxpayer that the taxpayer defines by reference either—

(i) to the particular currency in which the short term trade credit is denominated; or

(ii) to the term of the short term trade credit; or

(iii) to both the term and the particular currency in which the short term trade credit is denominated.

Compare: 2004 No 35 s EZ 43

EZ 47 Election to continue to treat certain excepted financial arrangements as financial arrangements

(1) A person may elect to continue to treat all excepted financial arrangements under any of paragraphs (p), (q), (r), (s), (t), (u), and (v) of the definition of **excepted financial arrangement** as financial arrangements if the person is a holder or an issuer of an arrangement that was entered into on or after the person's last balance date and before 20 May 1999.

(2) A person elects to treat their excepted financial arrangements as financial arrangements by returning income derived and expenditure incurred from the elected arrangements under the old financial arrangements rules in their return of income.

(3) A financial arrangement that is an excepted financial arrangement under any of paragraphs (p), (q), (r), (s), (t), (u), and (v) of the definition of **excepted financial arrangement** is not an excepted financial arrangement for the holder or issuer who elects to treat it as a financial arrangement under subsection (1).

Compare: 2004 No 35 s EZ 44

EZ 48 Definitions

For the purposes of the old financial arrangements rules, each of the following terms has the meaning given to it, despite any other meaning given to the term in section YA 1 for any other purpose and unless the context otherwise requires:

acquisition price,—

(a) in relation to a financial arrangement and a holder of the financial arrangement, means an amount calculated in accordance with the following formula:

$$y - z$$

where—

y is the core acquisition price of the financial arrangement

z is the smaller of—

(i) the amount of consideration provided in relation to the financial arrangement by the holder that is not contingent on the implementation of the financial arrangement; and

(ii) an amount equal to 2% of the core acquisition price of the financial arrangement; and

(b) in relation to a financial arrangement and an issuer of the financial arrangement, means an amount calculated in accordance with the following formula:

$$y + z$$

where—

y is the core acquisition price of the financial arrangement

z is the smaller of—

(i) the amount of consideration provided in relation to the financial arrangement by the issuer that is not contingent on the implementation of the financial arrangement; and

(ii) an amount equal to 2% of the core acquisition price of the financial arrangement

agreement for the sale and purchase of property, in relation to a person, means a financial arrangement that is an agreement (whether conditional or unconditional) entered into by the person to purchase or otherwise acquire or sell or otherwise dispose of property; but does not include an option, a specified option, or a futures contract

amount of all consideration, in the definition of **core acquisition price**, in relation to a person and to an agreement for the sale and purchase of property or a specified option, where all or part of the consideration provided to the holder is property, means the aggregate of the amount calculated in respect of that property in the manner provided in subparagraph (i) or (ii) of item "w" in paragraph (c) of the definition of **core acquisition price** and any consideration provided to the holder in relation to the financial arrangement, other than the property provided to the holder

core acquisition price, in relation to a financial arrangement, means,—

(a) where section EZ 50 applies, the amount determined under that section; and

(b) where the financial arrangement is a trade credit, an amount calculated in accordance with the following formula:

$$u + v$$

where—

u is—

(i) the cash price of the goods or services to which the trade credit relates (referred to in this item and item "v" as the

specified goods or services), as determined by section 5 of the Credit Contracts and Consumer Finance Act 2003; or

(ii) if subparagraph (i) is not applicable, the lowest price at which the specified goods or services could be purchased under a short term trade credit; or

(iii) if subparagraphs (i) and (ii) are not applicable, the discounted value of the amounts payable for the specified goods or services, as determined under a determination made by the Commissioner under section 90(1)(h) of the Tax Administration Act 1994

v is,—

(i) in relation to a holder of the financial arrangement, the amount of all consideration provided by the holder in relation to the financial arrangement, other than the specified goods or services; or

(ii) in relation to an issuer of the financial arrangement, the amount of all consideration provided to the issuer in relation to the financial arrangement, other than the specified goods or services; and

(c) where the financial arrangement is an agreement for the sale and purchase of property (not being an agreement for the sale and purchase of property that has lapsed or otherwise does not proceed) or a specified option (not being a specified option that has lapsed or otherwise does not proceed), an amount calculated in accordance with the following formula:

$$w + x$$

where—

w is—

(i) the lowest price (determined in accordance with section EZ 49, if the consideration payable under the relevant financial arrangement is denominated in a foreign currency) that the parties would have agreed upon for the property that is the subject of the agreement for the sale and purchase of property or the specified option (referred to in this item and item "x" as the **specified property**) at the time at which the agreement for the sale and purchase of property was entered into or the specified option was granted on the basis of payment in full at the time at which the first right in the specified property is to be transferred; or

(ii) if subparagraph (i) is not applicable, the discounted value of the amounts payable for the specified property as deter-

mined under a determination made by the Commissioner under section 90(1)(h) of the Tax Administration Act 1994

x is,—

(i) in relation to the holder of the financial arrangement, the amount of all consideration provided by the holder in relation to the financial arrangement other than the specified property; or

(ii) in relation to an issuer of the financial arrangement, the amount of all consideration provided to the issuer in relation to the financial arrangement other than the specified property; and

(d) where the financial arrangement is a hire purchase agreement and the holder is the first holder in relation to the hire purchase agreement, either—

(i) an amount calculated in accordance with the following formula:

$$a + b + c$$

where—

a is—

(A) the cash price of the hire purchase asset (as **cash price** is defined in section 5 of the Credit Contracts and Consumer Finance Act 2003); or

(B) if subsubparagraph (A) of this item is not applicable, the lowest price at which the hire purchase asset could be purchased under a short term trade credit at the time of commencement of the hire purchase agreement

b is the amount of all expenditure or loss incurred by the holder in preparing and installing the hire purchase asset for use to the extent to which any such expenditure or loss is not taken into account in determining the amount of item "a"

c is,—

(A) in relation to the holder, the amount of all consideration provided by the holder in relation to the hire purchase agreement, other than the hire purchase asset and the expenditure or loss referred to in item "b"; or

(B) in relation to the issuer, the amount of all consideration provided to the issuer in relation to the hire pur-

chase agreement, other than the hire purchase asset and the expenditure or loss referred to in item "b"; or

(ii) if subparagraph (i) is not applicable, or if either the holder or the issuer in relation to the hire purchase agreement applies to the Commissioner for a specific determination, an amount calculated in accordance with the following formula:

$$d + e$$

where—

d is—

(A) the discounted value of all hire purchase payments payable under the hire purchase agreement, as determined under a determination made by the Commissioner under section 90(1)(i) of the Tax Administration Act 1994; or

(B) where either the holder or the issuer in relation to the hire purchase agreement applies to the Commissioner for a specific determination, an amount determined by the Commissioner in relation to that application (and the amount so determined applies for both the holder and the issuer to the exclusion of any determination made in respect of that hire purchase agreement under subsubparagraph (A) of this item)

e is,—

(A) in relation to the holder, the amount of all consideration provided by the holder in relation to the hire purchase agreement, other than the hire purchase asset and any expenditure or loss incurred by the holder in preparing and installing the hire purchase asset for use; or

(B) in relation to the issuer, the amount of all consideration provided to the issuer in relation to the hire purchase agreement, other than the hire purchase asset and any expenditure or loss incurred by the holder in preparing and installing the hire purchase asset for use; and

(e) where none of paragraphs (a) to (d) applies to a financial arrangement,—

(i) in relation to a holder of the financial arrangement, the value of all consideration provided by the holder in relation to the financial arrangement; or

(ii) in relation to an issuer of the financial arrangement, the value of all consideration provided to the issuer in relation to the financial arrangement

excepted financial arrangement, other than an arrangement listed in paragraphs (p), (q), (r), (s), (t), (u), and (v) that a taxpayer has treated as a financial arrangement in a return of income already filed, means any of the following arrangements

(a) an annuity for a term contingent upon human life or an annuity for a term not contingent on human life to which section EY 8(2)(c) applies:

(b) an insurance contract or membership of a superannuation scheme:

(c) a debenture to which section FA 2 applies:

(d) a short term trade credit, unless the purchaser or vendor has elected in accordance with section EZ 46 to treat the short term trade credit as a financial arrangement to which the old financial arrangements rules apply:

(e) a specified preference share to which section FZ 1 of the Income Tax Act 2004 applies:

(f) in relation to a holder or an issuer, shares, other than withdrawable shares, or an option to buy shares, other than withdrawable shares, where those shares were or that option was acquired or issued by the person before 8.00 pm New Zealand Standard Time on 18 June 1987:

(g) in relation to a holder or an issuer, shares, other than withdrawable shares, or an option to acquire or to sell or otherwise dispose of shares, other than withdrawable shares, where those shares were or that option was acquired or issued by the person after 8.00 pm New Zealand Standard Time on 18 June 1987:

(h) a lease:

(i) a bet on any—

(i) race, as defined in section 5(1) of the Racing Industry Act 2020; or

(ii) sporting event under a sports-betting system administered under Part 4 of the Racing Industry Act 2020; or

(iii) gambling, including a New Zealand lottery, as those terms are defined in section 4(1) of the Gambling Act 2003:

(j) in relation to an issuer or a holder, an option to acquire or to sell or otherwise dispose of property (other than an interest in a financial arrangement) where the option was issued or acquired by the person after 8.00 pm New Zealand Standard Time on 18 June 1987 for private or domestic purposes only:

(k) a short term agreement for the sale and purchase of property:

(l) a short term option:

(m) a private or domestic agreement for the sale and purchase of property:

(n) a farm-out arrangement:

(o) a hire purchase agreement, as defined in section YA 1, but including an agreement that would be a hire purchase agreement but for the exclusion in paragraph (f) of the definition of that term, entered into before 1 April 1993, or any assignment of such an agreement:

(p) a loan that is interest free, repayable on demand, and denominated in New Zealand dollars, for the lender of the loan only:

(q) an employment contract:

(r) an interest in a group investment fund:

(s) an interest in a partnership or a joint venture:

(t) travellers' cheques:

(u) a warranty for goods or services:

(v) a hire purchase agreement for livestock or bloodstock entered into on or after 1 April 1993

financial arrangement means—

(a) any debt or debt instrument; and

(b) any arrangement (whether or not such arrangement includes an arrangement that is a debt or debt instrument, or an excepted financial arrangement) whereby a person obtains money in consideration for a promise by any person to provide money to any person at some future time or times, or upon the occurrence or non-occurrence of some future event or events (including the giving of, or failure to give, notice); and

(c) any arrangement which is of a substantially similar nature (including, without restricting the generality of the preceding provisions of this subparagraph, sell-back and buy-back arrangements, debt defeasances, and assignments of income);—

but does not include any excepted financial arrangement that is not part of a financial arrangement

fixed principal financial arrangement means any financial arrangement other than a variable principal debt instrument

forward contract, in the definitions of **holder** and **implementation date**, includes, but is not limited to, a forward contract for—

(a) foreign exchange:

(b) commodities:

(c) financial arrangements:

(d) excepted financial arrangements;—

but does not include an agreement for the sale and purchase of property or a specified option

holder—

(a) means,—

(i) in relation to—

(A) an agreement for the sale and purchase of property; or

(B) a forward contract or a futures contract,—

a person who is a vendor in relation to the financial arrangement:

(ii) in relation to an option to purchase or otherwise acquire property, a person who is a grantor of the option:

(iii) in relation to an option to sell or otherwise dispose of property, a person who is a grantee of the option:

(iv) in relation to a hire purchase agreement, the lessor:

(v) in relation to any other financial arrangement, a person who, if the amount or amounts payable under the financial arrangement were due and payable at that time, would be entitled to receive, or would receive a pecuniary benefit from, payment of the amount or amounts so payable or any part of them;—

and **hold** has a corresponding meaning; and

(b) is further defined in section EZ 38(8) for the purposes of that section

implementation date means,—

(a) in the case of—

(i) forward or future contracts, including, but not limited to, contracts for—

(A) foreign exchange:

(B) commodities:

(C) financial arrangements:

(D) excepted financial arrangements; and

(ii) futures contracts; and

(iii) trade credits; and

(iv) annuities; and

(v) agreements for the sale and purchase of property; and

(vi) convertible notes,—

8.00 pm New Zealand Standard Time on 23 October 1986; and

(b) in the case of debt defeasances and assignments of income, 20 December 1986; and

(c) in the case of variable principal debt instruments, 1 April 1987; and

(d) in the case of a financial arrangement under which—

(i) the monetary obligations of the parties are expressed in New Zealand currency; and

(ii) it is contemplated that the holder may, upon demand or call, require the return of sums advanced to the issuer; and

(iii) it is not contemplated that the holder may advance further sums to the issuer upon demand or call under the financial arrangement,—

1 April 1987; and

(e) in every other case, 8.30 pm New Zealand Standard Time on 31 July 1986

issuer,—

(a) in relation to a financial arrangement at any time, means a person who is a party to the financial arrangement and is not a holder in relation to the financial arrangement; and

(b) is further defined in section EZ 38(8) for the purposes of that section

maturity, in relation to a financial arrangement, means the date on which the last payment contingent upon the financial arrangement is made, and **matures** has a corresponding meaning:

provided that where a financial arrangement has not matured and where the amount which has not been paid is immaterial and the financial arrangement has been structured to avoid the application of section EZ 38, the financial arrangement is deemed to have matured

money, in paragraph (b) of the definition of **financial arrangement** and in the definition of **security payment**, includes money's worth, whether or not convertible into money, and the right to money, including the deferral or cancellation of any obligation to pay money whether in whole or in part

private or domestic agreement for the sale and purchase of property, in the definition of **excepted financial arrangement**, in relation to any person, means an agreement for the sale and purchase of property or a specified option where—

(a) the agreement was entered into by that person or the specified option was granted to or by that person for private or domestic purposes; and

(b) the subject-matter of the agreement or specified option is—

(i) real property, the purchase price of which is less than $750,000; or

(ii) any other property, the purchase price of which is less than $250,000; and

(c) settlement is required to take place within 365 days after the day on which the agreement was entered into or the specified option granted

property,—

(a) in the definition of **specified base cost for 1983 income year property** and in the life insurance rules, includes any real or personal property; and

(b) in paragraph (a) of the definition of **holder** and paragraph (c) of the definition of **lease** and in the definitions of **agreement for the sale and purchase of property**, **amount of all consideration**, **core acquisition price**, **excepted financial arrangement**, **private or domestic agreement for the sale and purchase of property**, **right in the specified property**, **short term agreement for the sale and purchase of property**, **short term option**, and **specified option**, means—

(i) any capital asset that is not foreign exchange or a financial arrangement; and

(ii) trading stock; and

(iii) consumable aids; and

(iv) property to be purchased or otherwise acquired or sold or otherwise disposed of for private or domestic purposes only

right in the specified property, in the definition of **core acquisition price**, means—

(a) the right to possession of the property; or

(b) the right to any income or the right to control or influence the disposition of income derived from the property; or

(c) the right, directly or indirectly, to exercise, or to influence any other person in the exercise of, any decision-making in respect of the property; or

(d) any other right of a substantially similar nature:

provided that the mere right to enforce any agreement for the sale and purchase of property or any specified option does not of itself constitute a right in the specified property

secured arrangement, in the definitions of **security arrangement** and **security payment**, means an arrangement against which the failure to perform is secured by a financial arrangement

security arrangement, in the definition of **security payment**, means a financial arrangement that secures the holder against failure of any person to perform their obligations under a secured arrangement

security payment means money received by the holder of a security arrangement to the extent that the money is received in relation to a loss incurred due to the failure of performance of the secured arrangement and the value of the money is income of the holder

short term agreement for the sale and purchase of property means an agreement for the sale and purchase of property where—

(a) the property is real property and settlement is required to take place within 93 days of the day on which the agreement was entered into; or

(b) the property is not real property and settlement is required to take place within 63 days of the day on which the agreement was entered into

short-term option, in the definition of **excepted financial arrangement**, means a specified option where—

(a) the subject-matter of the option is real property and settlement is required to take place within 93 days of the day on which the option was granted; or

(b) the subject-matter of the option is not real property and settlement is required to take place within 63 days of the day on which the option was granted

short term trade credit, in the definitions of **core acquisition price**, **excepted financial arrangement**, and **trade credit**, means any debt for goods or services where payment is required by the vendor—

(a) within 63 days after the supply of the goods or services; or

(b) because the supply of the goods or services is continuous and the vendor renders periodic invoices for the goods or services, within 63 days after the date of an invoice rendered for those goods or services

social assistance suspensory loan is defined in section EZ 38(8)(c) for the purposes of that section

specified option means an option to purchase or otherwise acquire or sell or otherwise dispose of property, and the agreement for the sale and purchase of property, if any, entered into as a result of the exercise of the option is deemed to be part of the option

trade credit, in the definitions of **core acquisition price** and **implementation date**, means any debt for goods or services, but does not include a short term trade credit

trading stock, in paragraph (b) of the definition of **property**, means—

(a) any thing acquired for the purposes of manufacture, sale, or exchange:

(b) livestock:

(c) any other real or personal property where the business of the person by whom it is sold or disposed of comprises dealing in such property or the property was acquired by the person for the purpose of sale or other disposal:

(d) any land, any amount derived from the sale or other disposal of which would be income to which any of sections CB 6 to CB 23 applies:

(e) anything in respect of which expenditure is incurred and which, if possession were taken, would fall within any of paragraphs (a) to (d);—

but does not include any financial arrangement

variable principal debt instrument means a bank deposit account or other financial arrangement where it is contemplated that the holder may—

(a) advance further sums to the issuer; or

(b) where the rights and obligations of the person under the financial arrangement are expressed in a currency other than New Zealand currency, require the return of sums advanced to the issuer—

in either case upon demand or call, and where all such sums form part of that bank deposit account or other instrument.

Compare: 2004 No 35 s EZ 45

Section EZ 48 **excepted financial arrangement** paragraph (i)(i): amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

Section EZ 48 **excepted financial arrangement** paragraph (i)(ii): amended, on 1 August 2020, by section 129 of the Racing Industry Act 2020 (2020 No 28).

EZ 49 Determination of core acquisition price where consideration for property denominated in foreign currency

(1) For the purposes of paragraph (c) of the definition of **core acquisition price** in section EZ 48, if the consideration payable under the relevant financial arrangement for the specified property is denominated in a foreign currency, the lowest price referred to in that paragraph must be the lowest price the parties would have agreed upon in that foreign currency converted into New Zealand dollars using, at the option of the taxpayer,—

(a) the rate, on the day on which the financial arrangement was entered into (in this section referred to as the **contract date**), available to the taxpayer from a New Zealand registered bank for the exchange of New Zealand dollars for that foreign currency on the day on which the first right in the specified property is to be transferred (in this section referred to as the **rights date**); or

(b) if the period between the rights date and the day on which final payment is to be made under the financial arrangement (in this section referred to as the **settlement date**) is not greater than 5 years, the rate, on the contract date, available to the taxpayer from a New Zealand registered bank for the exchange of New Zealand dollars for that foreign currency on the settlement date; or

(c) an exchange rate approved by the Commissioner for adoption under this subsection in the circumstances applicable to the taxpayer in a determination issued under section 90(1)(k) of the Tax Administration Act 1994.

(2) The rate adopted by a taxpayer in relation to a financial arrangement under subsection (1) must be consistently applied by that taxpayer in respect of that

particular financial arrangement for the purposes of the old financial arrangements rules for every income year during its term.

(3) If the terms of the financial arrangement referred to in subsection (1) are such that the actual rights date is uncertain as at the contract date, then the rights date is for the purposes of subsection (1) the date on which it is reasonably expected by the parties at the time of entering into the financial arrangement that the first right in the specified property will be transferred.

(4) If the terms of the financial arrangement referred to in subsection (1) are such that the actual settlement date is uncertain as at the contract date, then the settlement date is for the purposes of subsection (1) the date on which it is reasonably expected by the parties at the time of entering into the financial arrangement that final payment will be made.

Compare: 2004 No 35 s EZ 46

EZ 50 Rules for non-market transactions

(1) Where the Commissioner, having regard to any connection between the parties to the issue or transfer of a financial arrangement and to any other relevant circumstances, is satisfied that the parties were dealing with each other in relation to the issue or transfer in a manner that has the effect of defeating the intent and application of the old financial arrangements rules, the Commissioner may, under section EZ 35 or EZ 37 or EZ 38 or EZ 42, deem the consideration for the issue or transfer to be equal to the consideration that might reasonably be expected for the issue or transfer if the parties to the issue or transfer were independent parties dealing at arm's length with each other in relation to the issue or transfer.

(2) If at any time a person not resident in New Zealand—

(a) commences to hold, whether temporarily or otherwise, a financial arrangement, for the purposes of a business carried on through a fixed establishment in New Zealand, the person is deemed to have acquired the financial arrangement at that time; or

(b) ceases to hold, whether temporarily or otherwise, a financial arrangement for the purposes of a business carried on through a fixed establishment in New Zealand, the person is deemed to have disposed of the financial arrangement at that time; or

(c) being a holder or an issuer of a financial arrangement, becomes a New Zealand resident, the person is deemed to acquire or to issue the financial arrangement at the time at which the person becomes a New Zealand resident;—

and that acquisition or that disposal is deemed to have been made for a consideration equal to the consideration that might reasonably be expected for the acquisition or disposal if the acquisition or disposal had been made at arm's length.

(3) A financial arrangement is treated as having been sold and purchased or transferred and realised at its market value on the date of its sale or transfer if the sale or transfer, including a transfer by way of distribution to shareholders, is not for consideration in money or is for a consideration that is less than the market value of the financial arrangement.

(4) The market value of a financial arrangement is the market value for both seller and purchaser or transferor and transferee.

Compare: 2004 No 35 s EZ 47

EZ 51 Transitional adjustment when changing to financial arrangements rules

(1) A person may elect to apply the financial arrangements rules to a financial arrangement to which the old financial arrangements rules apply.

(2) A person who makes an election must apply the financial arrangements rules to all financial arrangements to which the person is a holder or an issuer.

(3) Despite subsections (1) and (2), a person must apply section EZ 38 if that section applies to a financial arrangement in the income year in which the election is made.

(4) Once an election is made, the financial arrangement is subject to the financial arrangements rules and is treated in the same way as a financial arrangement that was entered into on or after 20 May 1999.

(5) A person who makes an election must calculate a transitional adjustment for the income year of election and return the resulting income or expenditure.

(6) The transitional adjustment is calculated using the formula—

income (financial arrangements rules)
− expenditure (financial arrangements rules)
− income (old financial arrangements rules)
+ expenditure (old financial arrangements rules)

where—

income (financial arrangements rules) is the total amount of income that would be derived by the person from the financial arrangement if the financial arrangements rules were applied to the financial arrangement for the period beginning on the date the person acquires the arrangement and ending on the last day of the income year in which this calculation is made

expenditure (financial arrangements rules) is the total amount of expenditure that would be incurred by the person under the financial arrangement if the financial arrangements rules were applied to the financial arrangement for the period beginning on the date the person acquires the arrangement and ending on the last day of the income year in which this calculation is made

income (old financial arrangements rules) is the total amount of income of the person from the financial arrangement in all income years before the income year in which this calculation is made

expenditure (old financial arrangements rules) is the total amount of expenditure incurred by the person under the financial arrangement in all income years before the income year in which this calculation is made.

(7) The result of the transitional adjustment is,—

(a) if a positive amount, income derived by the person in the income year; and

(b) if a negative amount, expenditure incurred by the person in the income year.

(8) In the income year in which the transitional adjustment is made to a financial arrangement, a person must take into account only the income derived or the expenditure incurred as a result of the adjustment for the financial arrangement.

(9) Despite subsections (2) to (8), a person is treated as transferring a financial arrangement at market value at the end of the income year of election and must calculate a base price adjustment under section EZ 38 if—

(a) the financial arrangement is an arrangement to which the old financial arrangements rules apply; and

(b) the financial arrangement were entered into on or after 20 May 1999 and would not have been subject to the financial arrangements rules; and

(c) the person elects to apply the financial arrangements rules to a financial arrangement to which the old financial arrangements rules apply.

Compare: 2004 No 35 s EZ 48

EZ 52 References to new rules include old rules

(1) Subsection (2) applies if—

(a) the old financial arrangement rules apply to a financial arrangement (**old financial arrangement**); and

(b) a taxation law in this Act (**rewritten law**) refers only to, or applies only to, a financial arrangement to which the financial arrangements rules apply; and

(c) the rewritten law is in neither subpart EW nor sections EZ 33 to EZ 51; and

(d) the rewritten law corresponds to and replaces, with or without amendments, a taxation law that applied to the old financial arrangement before 20 May 1999.

(2) The rewritten law applies to the old financial arrangement as if the rewritten law referred to, or applied to, a financial arrangement to which the old financial arrangements rules apply.

(3) Subsection (2) does not apply to—

(a) a definition, or parts of a definition, in section YA 1 if that definition or part refers to section EZ 48; or

(b) section GB 21, because the former taxation law to which it corresponds has been re-enacted as section EZ 50.

(4) Section FM 8(3)(b)(ii) applies to a financial arrangement to which the old financial arrangements rules apply as if—

(a) the reference to section EW 31 were to section EZ 38; and

(b) the words "financial arrangements rules" read "old financial arrangements rules".

Compare: 2004 No 35 s EZ 49

EZ 52B Consistency of use of IFRS method: *Determination G3* change allowed

When this section applies

(1) This section applies to a financial arrangement of a person—

(a) for the 2009–10 income year, unless paragraph (b) or (c) applies:

(b) for the 2008–09 or the 2009–10 income year (a **retrospective year**) if—

(i) the financial arrangement is subject to a creditor workout in a retrospective year; and

(ii) the person notifies the Commissioner of their election to apply this section to the financial arrangement for a retrospective year:

(c) for an income year after the 2009–10 income year, if—

(i) the financial arrangement is subject to a creditor workout in the relevant income year; and

(ii) the person notifies the Commissioner of their election to apply this section to the financial arrangement for the relevant income year before the last day for filing a return of income for that income year.

Exception modified

(2) For the purposes of the exception in section EW 25B(2) (Consistency of use of IFRS method), the person may change a method for IFRS for the financial arrangement if—

(a) the method they change to or from is *Determination G3* under section EW 15E(2)(aa) (Determination alternatives) or an alternative to *Determination G3* under section EW 15E(2)(e) (What is included when spreading methods used); and

(b) that method is available to them to use.

Defined in this Act: creditor workout, financial arrangement, IFRS, income year, notify

Section EZ 52B: added (with effect on 1 April 2008), on 6 October 2009, by section 198 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 52B(1)(b)(ii): amended, on 2 June 2016, by section 44(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 52B(1)(c)(ii): amended, on 2 June 2016, by section 44(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section EZ 52B(2)(a): amended (with effect on 1 April 2008), on 7 December 2009, by section 40 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section EZ 52B list of defined terms **notify**: inserted, on 2 June 2016, by section 44(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

EZ 52C Change of spreading method: *Determination G22* to *Determination G22A*

How and when this section applies

(1) This section does not alter or affect a person's tax position in relation to *Determination G22: Optional convertible notes denominated in New Zealand dollars convertible at the option of the holder* or the person's litigation of their tax position in relation to *Determination G22*. It does not alter or affect the Commissioner's assessment of, or litigation of, that tax position. It applies after *Determination G22* has applied for a person's financial arrangement, and only if, for the financial arrangement,—

(a) *Determination G22A: Optional convertible notes denominated in New Zealand dollars* did not apply while *Determination G22* applied, because of the application of section 90AE of the Tax Administration Act 1994, or the application of *Determination G22A*, clause 3(1)(b); and

(b) *Determination G22A* starts applying immediately after—

(i) section 90AE of the Tax Administration Act 1994 stops applying; or

(ii) *Determination G22A*, clause 3(1)(b) stops applying.

Spreading method adjustment

(2) Despite sections EW 26 and EW 27 (which relate to changes of spreading method), the person must not calculate a spreading method adjustment under section EW 27 for the change of spreading method, for the financial arrangement, from *Determination G22* to *Determination G22A*.

Part years under Determinations instead of spreading method adjustment

(3) In the income year in which subsection (2) applies, for the financial arrangement, *Determination G22* applies for the part-year before the change to *Determination G22A*, and *Determination G22A* applies for the part-year after the change from *Determination G22*.

Defined in this Act: amount, assessment, financial arrangement, spreading method, tax position

Section EZ 52C: inserted, on 26 September 2010, by section 51 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EZ 52C list of defined terms **tax position**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 52D Base price adjustment: financial arrangements to which *Determination G22* and *Determination G22A* applied

How and when this section applies

(1) This section does not alter or affect a person's tax position in relation to *Determination G22* or the person's litigation of their tax position in relation to *Determination G22*. It does not alter or affect the Commissioner's assessment of, or litigation of, that tax position. It applies after *Determination G22* has applied for a person's financial arrangement, and only if, for the financial arrangement,—

(a) section EZ 52C applied; and

(b) *Determination G22A* applies when the person is required to calculate a base price adjustment for the financial arrangement.

Consideration adjustment

(2) For the financial arrangement, the consideration referred to in section EW 31(7) (Base price adjustment formula) is adjusted in accordance with subsections (3) to (6).

Issuer

(3) If the person is the issuer of the financial arrangement, an amount calculated under subsections (5) and (6) is added to all consideration that has been paid, and all consideration that is or will be payable, by the issuer for or under the financial arrangement.

Holder

(4) If the person is a holder of the financial arrangement, an amount, referrable to the person's holding, calculated under subsections (5) and (6) is added to all consideration that has been paid, and all consideration that is or will be payable, to the holder for or under the financial arrangement.

Calculation

(5) For the purposes of subsections (3) and (4) the amount is calculated using the following formula:

$$X - Z.$$

Definition of items in formula

(6) In the formula,—

(a) **X** is, for the financial arrangement, an amount equal to the item **s** in *Determination G22*, clause 6(1), if that item were calculated in accordance with that Determination at the time immediately before the change of spreading method described in section EZ 52C(2):

(b) **Z** is, for the financial arrangement, an amount equal to the item **s** in *Determination G22*, clause 6(1), if that item were calculated in accordance with that Determination at the time when it first applied.

Defined in this Act: amount, consideration, financial arrangement, tax position

Section EZ 52D: inserted, on 26 September 2010, by section 51 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section EZ 52D list of defined terms **tax position**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Life insurance transitional adjustment: expected death strain

Heading: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Expected death strain formulas

Heading: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 53 How expected death strain is calculated

Calculation of expected death strain: steps

(1) For an income year, the life insurer calculates their expected death strain by following these steps:

(a) first, use the relevant expected death strain formula to calculate an amount for each life insured under each life insurance policy existing at the start of the income year (*see:* subsections (2) and (3) for guidance on the relevant expected death strain formula):

(b) second, for each such life insurance policy, add together the amounts for the lives insured under it:

(c) third, add together the totals reached under paragraph (b).

Expected death strain formula (life)

(2) Section EZ 54(1) sets out the expected death strain formula (life). This is the formula a life insurer uses for an income year, to calculate an amount for a life insured under a life insurance policy, except to the extent to which an annuity is being paid under the policy at some time in the income year.

Expected death strain formula (active annuities)

(3) Section EZ 54(2) sets out the expected death strain formula (active annuities). This is the formula a life insurer uses for an income year, to calculate an amount for a life insured under a life insurance policy, to the extent to which an annuity is being paid under the policy at some time in the income year.

Defined in this Act: business, income year, life insurance, life insurance policy, life insured, life insurer, pay

Section EZ 53: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 54 Expected death strain formulas

Expected death strain formula (life)

(1) The expected death strain formula (life) is—

claim probability × (opening sum assured − opening actuarial reserves).

Expected death strain formula (active annuities)

(2) The expected death strain formula (active annuities) is—

claim probability × opening actuarial reserves.

Definition of items in formulas

(3) The items in the formulas are defined in subsections (4) to (6).

Claim probability

(4) **Claim probability** is the probability of a claim arising under the policy for the life insured's death in the income year. It is determined at the start of the income year using the same mortality assumptions as are used to calculate the life insurer's actuarial reserves at the start of the income year. It is expressed as a decimal. Variations to **claim probability** are in sections EZ 55(2) and EZ 57(2).

Opening sum assured

(5) **Opening sum assured** is the claim that would be payable under the policy for the life insured's death in the income year or, if no such claim would be payable, the claim that would be payable under the policy for the life insured's survival to the relevant date or age specified in the policy. It is determined at the start of the income year. It may be zero. Variations to **opening sum assured** are in sections EZ 56(2), EZ 57(3), and EZ 58(2).

Opening actuarial reserves

(6) **Opening actuarial reserves** is the amount in the life insurer's actuarial reserves for the life insured under the policy. It is determined at the start of the income year.

Defined in this Act: actuarial reserves, amount, claim, income year, life insured, life insurer, pay

Section EZ 54: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 55 Expected death strain formulas: option when more than 1 life insured

When this section applies

(1) This section applies when a life insurance policy covers more than 1 life insured.

Claim probability

(2) In using the relevant expected death strain formula, the life insurer may use as **claim probability** a common factor for all the lives insured under the policy.

Features of common factor

(3) The common factor must be a reasonable approximation of the average probability of a claim arising under the policy for each life insured's death in the income year. It must be weighted as necessary to take account of—

(a) differing claims for individual lives insured under the policy; and

(b) differing amounts in the life insurer's actuarial reserves for individual lives insured under the policy.

Defined in this Act: actuarial reserves, amount, claim, income year, life insurance policy, life insured, life insurer

Section EZ 55: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 56 Expected death strain formula (life): when annuity payable on death

When this section applies

(1) This section applies when, and to the extent to which, a life insurance policy provides for the payment of an annuity the start of which is contingent on the life insured's death.

Opening sum assured

(2) In using the expected death strain formula (life), the life insurer uses as **opening sum assured** the present value (net) of the annuity. The present value (net) is determined—

(a) at the start of the income year; and

(b) on the assumption that the life insured died at the start of the income year; and

(c) using the same assumptions and bases of calculation as are used to calculate the life insurer's actuarial reserves for the income year.

Defined in this Act: actuarial reserves, income year, life insurance policy, life insured, life insurer, pay, present value (net)

Section EZ 56: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 56 list of defined terms **pay**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 56 list of defined terms **payment**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 57 Expected death strain formulas: when annuity payable on survival to date or age specified in policy

When this section applies

(1) This section applies when, and to the extent to which, a life insurance policy provides for the payment of an annuity the start of which is contingent on the life insured's survival to the relevant date or age specified in the policy.

Claim probability

(2) In using the relevant expected death strain formula, the life insurer must use **claim probability** as defined in section EZ 54(4), without regard to the fact that the payment of the annuity is not contingent on the life insured's death.

Opening sum assured

(3) In using the expected death strain formula (life), the life insurer must use as **opening sum assured** the present value (net) of the annuity. The present value (net) is determined—

(a) at the relevant date or age specified in the policy; and

(b) on the assumption that the life insured survived to the date or age; and

(c) using the same assumptions and bases of calculation as are used to calculate the life insurer's actuarial reserves for the income year.

Defined in this Act: actuarial reserves, income year, life insurance policy, life insured, life insurer, pay, present value (net)

Section EZ 57: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 57 list of defined terms **payment**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 58 Expected death strain formula (life): when partial reinsurance exists

When this section applies

(1) This section applies when a life insurer has partial life reinsurance.

Opening sum assured

(2) In using the expected death strain formula (life), the life insurer must reduce **opening sum assured** by the claim receivable by the life insurer under the life reinsurance policy for the contingency against which the life insured is covered under the life insurance policy.

Defined in this Act: claim, life insurance policy, life insured, life insurer, life reinsurance policy, partial reinsurance

Section EZ 58: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Actuarial reserves

Heading: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 59 Meaning of actuarial reserves

Actuarial reserves generally

(1) For the purposes of sections EZ 53 to EZ 58, **actuarial reserves** means a life insurer's reserves as calculated under section EZ 60.

Closing actuarial reserves for annuities

(2) For the purposes of the item **closing actuarial reserves** in section EY 31(3) (Annuities), **closing actuarial reserves (active annuities)** means a life insurer's opening actuarial reserves under section EZ 54(6) for a life insurance policy, to the extent to which an annuity is being paid under the policy where the life insured dies in the income year for which the formula in section EY 31 is applied. Where the life insured survives to the end of that income year, the **closing actuarial reserves (active annuities)** is zero.

Link between actuarial reserves and life insurer

(3) Actuarial reserves, for a life insurer at any time, means the life insurer's actuarial reserves at that time.

Defined in this Act: actuarial reserves, life insurance policy, life insurer

Section EZ 59: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 60 Actuarial reserves: calculation

Calculation by actuary

(1) The life insurer's actuarial reserves must be actuarially determined.

All reserves or 1 or more amounts

(2) The actuary may calculate—

(a) the actuarial reserves for all the life insurance policies for which the life insurer is the insurer; or

(b) the amount in the life insurer's actuarial reserves for 1 or more life insurance policies for which the life insurer is the insurer.

Interest, mortality, and other assumptions and bases of calculation

(3) The actuary must do the calculation using interest, mortality, and other assumptions and bases of calculation that—

(a) are based on the same principles as those used in the actuarial advice on which the following are calculated:

(i) the level of surplus funds available to the life insurer for allotment or payment to shareholders or policyholders; or

(ii) the level of surplus funds available to the life insurer, if a superannuation scheme, for allotment to objects of the scheme other than the object of providing for members' benefits; and

(b) are likely to produce a reasonable estimation of the future experience of the life insurer in relation to life insurance policies of which the life insurer is the insurer, having regard to the past experience of the life insurer in relation to life insurance policies of which the life insurer was the insurer; and

(c) conform with commercially acceptable practice.

Reserves for policy never negative

(4) The amount in the actuarial reserves for a life insurance policy must never be negative.

Reserves for all policies never less than total of surrender values

(5) The actuarial reserves at any time must not be less than the total of the surrender values of all the life insurance policies they cover at that time.

Reserves for policies same at end of one, and start of next, income year

(6) The amount in the actuarial reserves for life insurance policies at the start of an income year is the same as the amount in the actuarial reserves for the life insurance policies at the end of the previous income year.

Effect of partial reinsurance

(7) The actuarial reserves of a life insurer who has partial life reinsurance must be reduced by an amount that the actuary responsible for actuarial control of the life insurer considers appropriate having regard to the nature of the life reinsurance policies.

Defined in this Act: actuarial reserves, actuary, amount, income year, life insurance policy, life insurer, life reinsurance policy, partial reinsurance, pay, shareholder, superannuation scheme

Section EZ 60: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 60 list of defined terms **pay**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 60 list of defined terms **payment**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Entry to new life insurance regime: transitional and miscellaneous provisions

Heading: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 61 Allowance for cancelled amount: spreading

Policyholder base allowable deduction

(1) For an income year that includes 1 July 2010 and later income years, a life insurer may choose, by a notice received by the Commissioner on or before the last day for furnishing a return of income for the relevant income year or within such further time as the Commissioner may allow, that an amount (the **deduction amount**) is included as their policyholder base allowable deduction for the income year, if—

(a) the life insurer has no taxable income, other than in relation to its policyholder base, for the tax year corresponding to the income year, and no taxable income, other than in relation to its policyholder base,

for every earlier tax year going back to, and including, the tax year that corresponds with the income year that includes 1 July 2010; and

(b) the deduction amount is stated in the notice and it is equal to or less than the least of the following:

(i) the available tax loss for the tax year that corresponds with the income year, before applying this section; and

(ii) the available concession amount for the income year, described in subsection (2); and

(iii) the amount that would be the life insurer's schedular policyholder base income for the income year, before applying this section for the year.

Available concession amount

(2) For the purposes of subsection (1), the available concession amount for the income year is a positive amount calculated using the formula—

base concession amount − used.

Definition of items in formula

(3) In the formula,—

(a) **base concession amount** is the lesser of the following:

(i) the cancelled amount described in section IT 1 (Cancellation of life insurer's policyholder net losses); and

(ii) the amount of available tax loss for the tax year that corresponds with the income year that includes 1 July 2010, before applying this section for the year:

(b) **used** is the total amount of policyholder base allowable deductions that have arisen under this section for income years before the income year.

Defined in this Act: amount, Commissioner, income year, life insurer, net loss, policyholder base, policyholder base allowable deduction, return of income, schedular policyholder base income, tax loss, tax year, taxable income

Section EZ 61: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 62 Reinsurance transition: life financial reinsurance may be life reinsurance

(1) If a life contract that is entered into before a life insurer's reinsurance grandparenting start day would be a contract for life financial reinsurance but for this section, then it is treated as life reinsurance, instead of life financial reinsurance, for the period starting on the reinsurance grandparenting start day, and ending on the earlier of,—

(a) the last day of the term of the contract, as that term is stated in the contract before the reinsurance grandparenting start day; and

(b) the day 5 years after the reinsurance grandparenting start day.

Meaning of reinsurance grandparenting start day

(2) **Reinsurance grandparenting start day** means—

(a) 1 July 2010, if the life insurer does not have an early life regime application day; or

(b) a life insurer's early life regime application day, if the life insurer has an early life regime application day.

Defined in this Act: early life regime application day, income year, life financial reinsurance, life insurer, life reinsurance, reinsurance grandparenting start day

Section EZ 62: inserted, on 1 July 2010, by section 199(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

EZ 63 Disposal and acquisition upon entry

When this section applies

(1) This section applies for a life insurer immediately before a day (the **application day**) that is—

(a) 1 July 2010, if the life insurer does not have an early life regime application day; or

(b) their early life regime application day, if the life insurer does have an early life regime application day.

Disposal and acquisition upon entry

(2) Immediately before the application day, all of the property of a life insurer that supports actuarial reserves for the purposes of the policyholder income formula in section EY 43 (Policyholder income formula) is treated as disposed of, for market value consideration, to a third person, and immediately re-acquired from that person for the same consideration.

Exclusion

(3) Property that is an interest in a PIE that is not a listed PIE is excluded from the disposal and re-acquisition described in subsection (2).

Defined in this Act: actuarial reserves, amount, dispose, early life regime application day, income year, life insurer, listed PIE, market value, PIE

Section EZ 63: added, on 30 June 2010, by section 200 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section EZ 63 list of defined terms **portfolio-listed company**: repealed (with effect on 30 June 2010), on 2 November 2012, by section 66 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Restructuring under New Zealand Railways Corporation Restructuring Act 1990

Heading: inserted (with effect on 31 December 2012), on 17 July 2013, by section 54 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EZ 64 New Zealand Railways Corporation restructure: purpose and initial amounts for tax purposes

Purpose

(1) The purpose of this section, sections CW 65, EZ 65 to EZ 67, and YC 18C (which relate to the New Zealand Railways Corporation restructure) is to ensure that the Railways vesting gives rise to no tax consequences other than those necessary to account for the vesting of the Railways assets and liabilities from a public authority to a state enterprise. The treatments of KiwiRail Holdings Limited, New Zealand Railways Corporation, and associated companies in those sections also applies for the purposes of the Tax Administration Act 1994.

Depreciation

(2) For a Railways asset that is depreciable property, KiwiRail Holdings Limited calculates, on and after 31 December 2012, depreciation recovery income and deductions for amounts of depreciation loss as if KiwiRail Holdings Limited had acquired the asset on 31 December 2012 for the amount recorded in a schedule prepared by KiwiRail Holdings Limited for the purposes of this section.

Financial arrangements: consideration

(3) KiwiRail Holdings Limited is treated as—

(a) paying an amount of consideration, for a Railways asset that is a financial arrangement, equal to the amount recorded in KiwiRail Holdings Limited's financial accounts for that arrangement on 31 December 2012:

(b) being paid an amount of consideration, for a Railways liability that is a financial arrangement, equal to the amount recorded in KiwiRail Holdings Limited's financial accounts for that arrangement on 31 December 2012.

Financial arrangements: overrides

(4) Sections EW 38, EW 42, and GB 21 (which relate to financial arrangements) do not apply for the Railways vesting.

Defined in this Act: amount, assessable income, associate, company, consideration, depreciation loss, depreciable property, depreciation recovery income, financial arrangement, pay, public authority, Railways assets and liabilities, Railways vesting, state enterprise

Section EZ 64: inserted (with effect on 31 December 2012), on 17 July 2013, by section 54 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EZ 65 Expenditure or loss incurred, and amounts derived

Expenditure or loss incurred, and amounts derived

(1) KiwiRail Holdings Limited and New Zealand Railways Corporation are treated as the same person for the period prior to and including 31 December 2012 for the purpose of determining the following:

(a) whether a deduction is allowed for an amount of expenditure or loss incurred by KiwiRail Holdings Limited in connection with the Railways assets or liabilities:

(b) the amount of any deduction of KiwiRail Holdings Limited in connection with the Railways assets or liabilities:

(c) whether an amount derived by KiwiRail Holdings Limited in connection with the Railways assets or liabilities is income:

(d) the amount of any income of KiwiRail Holdings Limited in connection with the Railways assets or liabilities.

Treatment of New Zealand Railways Corporation

(2) For the purposes of subsection (1), New Zealand Railways Corporation is treated as if it was a company that was not a public authority.

Defined in this Act: amount, company, deduction, income, public authority, Railways assets and liabilities

Section EZ 65: inserted (with effect on 31 December 2012), on 17 July 2013, by section 54 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EZ 66 Prepayments

Deduction

(1) KiwiRail Holdings Limited has, for the 2012–13 income year, a deduction under section DB 50 (Adjustment for prepayments) for an unexpired portion that is connected with a Railways asset or liability, as described in subsection (2).

Unexpired portion

(2) For the purposes of subsection (1), the **unexpired portion** is the unexpired portion that New Zealand Railways Corporation would have had by applying section EA 3(4) to (7) (Prepayments) on 30 December 2012 to an amount of expenditure incurred by New Zealand Railways Corporation in connection with a Railways asset or liability, treating—

(a) 30 December 2012 as the end of an income year; and

(b) New Zealand Railways Corporation as a taxpayer with a deduction for the expenditure, if that expenditure is described in section EA 3(1).

Future application of section EA 3

(3) For the 2012–13 income year and later income years, section EA 3 applies to KiwiRail Holdings Limited as if it had been allowed a deduction for expenditure to which subsection (1) applies.

Defined in this Act: deduction, income year, Railways asset, Railways liability, taxpayer

Section EZ 66: inserted (with effect on 31 December 2012), on 17 July 2013, by section 54 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EZ 67 Leased assets

Allocation of expenditure

(1) KiwiRail Holdings Limited calculates, for the 2012–13 income year, an expenditure allocation under section EJ 10 (Personal property lease payments) for a personal property lease payment that is connected with a Railways asset or liability as if 31 December were the start of the 2012–13 income year.

Future application of section EJ 10

(2) For the 2013–14 income year and later income years, section EJ 10 applies to KiwiRail Holdings Limited as if, for the period up to and including 31 December 2012, New Zealand Railways Corporation and KiwiRail Holdings Limited were the same person.

Defined in this Act: deduction, income year, personal property lease payment, Railways assets and liabilities

Section EZ 67: inserted (with effect on 31 December 2012), on 17 July 2013, by section 54 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

EZ 68 Definitions

In sections EZ 64 to EZ 67,—

asset—

(a) means property of any kind, whether or not situated in New Zealand, whether tangible or intangible, real or personal, corporeal or incorporeal, and whether or not subject to rights; and

(b) includes—

(i) land, including legal and equitable rights of occupation of land or buildings:

(ii) buildings, vehicles, plant equipment, machinery, fixtures and fittings, and legal and equitable rights in them:

(iii) choses in action and money:

(iv) legal and equitable rights of any kind, and applications, objections, submissions, and appeals in respect of those rights:

(v) intellectual property and applications pending for intellectual property:

(vi) goodwill, and any business undertaking

legal and equitable rights includes all rights, powers, privileges, interests, leases, licences, approvals, consents, designations, permissions, dispensations, authorisations, benefits, defences, immunities, claims, and equities of any kind, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, actual, contingent, or prospective

liabilities means liabilities, debts, charges, duties, and obligations of every description, whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere

Railways assets and liabilities means assets and liabilities, or parts of assets and liabilities, as the case may be, specified in an Order in Council made under the New Zealand Railways Corporation Restructuring Act 1990, and **Railways assets** and **Railways liabilities** have corresponding meanings

Railways vesting means the vesting of the Railways assets and liabilities in KiwiRail Holdings Limited on 31 December 2012 in accordance with the New Zealand Railways Corporation Restructuring Act 1990.

Defined in this Act: apply, asset, land, legal and equitable rights, liabilities, New Zealand, Railways assets and liabilities, Railways vesting

Section EZ 68: inserted (with effect on 31 December 2012), on 17 July 2013, by section 54 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section EZ 68 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

IFRS financial reporting method

Heading: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 67 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EZ 69 IFRS financial reporting method: interest-free and low-interest loans

When this section applies

(1) This section applies when—

(a) section EW 15D(2)(ac) or (ad) (IFRS financial reporting method) modifies an IFRS rule so that the person does not allocate interest for a financial arrangement for the 2014–15 income year; and

(b) the person has allocated, for the financial arrangement for the 2013–14 income year, an amount that the person would not be allowed to allocate if section EW 15D(2)(ac) and (ad) applied for the 2013–14 income year.

Change of spreading method

(2) The change from the allocation treatment described in subsection (1)(b) (the **old method**) to the non-allocation treatment described in subsection (1)(a) (the **new method**) is treated as a change for the 2014–15 income year under section

EW 26(2). Sections EW 26(3), (4) and EW 27 apply accordingly, but section EW 26(6) does not apply.

Defined in this Act: financial arrangement, IFRS, income year

Section EZ 69: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 67(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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

When this section applies

(1) This section applies when—

(a) section EW 15D(2)(b) (IFRS financial reporting method) modifies an IFRS rule so that the person must allocate an amount of equity or other comprehensive income for a financial arrangement to the 2015–16 income year for tax purposes; and

(b) the person does not allocate, for the financial arrangement, an amount of equity or other comprehensive income to the 2014–15 income year that the person would be required to allocate if the requirement referred to in paragraph (a) applied for the 2014–15 income year.

Change of spreading method

(2) The change from the non-allocation treatment described in subsection (1)(b) to the allocation treatment described in subsection (1)(a) is treated as a change of spreading method for the 2015–16 income year under section EW 26(2) (Change of spreading method). Sections EW 26(3) and (4) and EW 27 (Spreading method adjustment formula) apply accordingly, but section EW 26(6) does not apply.

Defined in this Act: financial arrangement, IFRS, income year

Section EZ 69B: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 158(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Damage from Canterbury earthquakes

Heading: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 68(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

EZ 70 Insurance for Canterbury earthquake damage of property: treatment as disposal and reacquisition

When this section applies

(1) This section applies for a person and an item of depreciable property and an income year before the 2024–25 income year when—

(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and

(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(c) the item is assessed by the payer of the insurance or compensation (the **insurer**) as uneconomic to repair; and

(d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44).

Treatment as disposal and reacquisition of item

(2) The person is treated as, on the date of the Canterbury earthquake,—

(a) disposing of the item for the amount of insurance or compensation; and

(b) reacquiring the item for zero consideration.

Relationship with section EE 52

(3) This section overrides section EE 52 (Amount of depreciation recovery income when compensation received).

Defined in this Act: amount, depreciable property, income year

Section EZ 70: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 68(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 70 heading: amended, on 1 April 2016, by section 159(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section EZ 70(1): amended (with effect on 1 April 2016), on 18 March 2019, by section 186 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 70(2) heading: amended, on 1 April 2016, by section 159(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 71 Insurance for Canterbury earthquake damage of property: limit on depreciation recovery income

When this section applies

(1) This section applies for a person and an item of depreciable property and an income year before the 2024–25 income year when—

(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and

(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(c) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(d) section EZ 70 does not apply for the item.

Limit on depreciation recovery income under section EE 52

(2) If the person would derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item in the absence of this section, the person derives in

the income year an amount of depreciation recovery income equal to the lesser of—

(a) the amount of depreciation recovery income under section EE 52 that the person would derive in the income year for the item in the absence of this section:

(b) the total of the amounts of depreciation loss for which the person has been allowed deductions for the item.

Relationship with section EE 52

(3) This section overrides section EE 52.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, income year

Section EZ 71: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 68(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 71(1): amended (with effect on 1 April 2016), on 18 March 2019, by section 187 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EZ 72 Item treated as available for use if access restricted due to Canterbury earthquake

An item of depreciable property is treated for an income year as being available for use while access to the item is affected by a restriction imposed due to the effects of a Canterbury earthquake (as defined in section 4 of the Canterbury Earthquake Recovery Act 2011), if—

(a) the item was used or available for use immediately before the restriction was imposed; and

(b) the item would be used or available for use in the absence of the restriction; and

(c) the income year is the 2023–24 or an earlier income year.

Defined in this Act: depreciable property, income year

Section EZ 72: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 68(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 72(c): amended (with effect on 1 April 2016), on 18 March 2019, by section 188 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EZ 73 Insurance for Canterbury earthquake damage causing disposal: optional timing rule for income, deductions

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and

(b) the damage—

(i) results in the item being affected by a disposal and reacquisition under section EZ 70; or

(ii) meets the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(c) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(d) the person chooses to apply this section for all items of depreciable property meeting the requirements of paragraphs (a) to (c).

Attribution of income from insurance and disposal

(2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2023–24 income year, the person's income from the insurance receipt and the consideration derived from the disposal of the item is attributed to the earlier of—

(a) the 2023–24 income year:

(b) the first income year in which—

(i) the amount of the cost of disposing of the item (the **disposal cost**) is or has been incurred or able to be reasonably estimated; and

(ii) the insurance receipt is or has been derived or able to be reasonably estimated; and

(iii) the consideration from the disposal of the item is or has been derived or able to be reasonably estimated.

Attribution of deductions

(3) If the disposal cost is incurred or able to be reasonably estimated before the end of the 2023–24 income year, the person's deductions for the disposal cost and for depreciation loss under section EE 48 (Effect of disposal or event) are attributed to the earlier of—

(a) the 2023–24 income year:

(b) the first income year in which—

(i) the disposal cost is or has been incurred or able to be reasonably estimated; and

(ii) the insurance receipt is or has been derived or able to be reasonably estimated; and

(iii) the consideration from the disposal of the item is or has been derived or able to be reasonably estimated.

Relationship with other sections

(4) This section overrides sections EE 1, EE 22, and EE 48 (which state when depreciation loss and depreciation recovery income arise) in relation to the timing of the person's—

(a) income from the insurance receipt and consideration from the disposal of the item:

(b) deductions for the disposal cost and depreciation loss.

Defined in this Act: amount, deduction, income, income year

Section EZ 73: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 68(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 73(2): amended (with effect on 1 April 2016), on 18 March 2019, by section 189 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 73(2)(a): amended (with effect on 1 April 2016), on 18 March 2019, by section 189 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 73(3): amended (with effect on 1 April 2016), on 18 March 2019, by section 189 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 73(3)(a): amended (with effect on 1 April 2016), on 18 March 2019, by section 189 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 73 list of defined terms **grandparented structure**: repealed (with effect on 1 April 2016), on 30 March 2022, by section 102 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

EZ 74 Insurance for repairs of Canterbury earthquake damage: optional timing rule for income, deductions

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a Canterbury earthquake as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and

(b) the damage—

(i) does not result in the item being subject to a disposal and reacquisition under section EZ 70; and

(ii) does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(c) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(d) the person chooses to apply this section for all items of depreciable property meeting the requirements of paragraphs (a) to (c).

Attribution of income from insurance

(2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2023–24 income year, the person's income from the insurance receipt is attributed to the earlier of—

(a) the 2023–24 income year:

(b) the first income year in which—

(i) the amount of expenditure for total repair of the damage (the **repair cost**) is or has been incurred or able to be reasonably estimated; and

(ii) the insurance receipt is or has been derived or able to be reasonably estimated.

Attribution of deductions for repairs

(3) If the repair cost is incurred or able to be reasonably estimated before the end of the 2023–24 income year, the person's deductions for the repair cost are attributed to the earlier of—

(a) the 2023–24 income year:

(b) the first income year in which—

(i) the repair cost is or has been incurred or able to be reasonably estimated; and

(ii) the insurance receipt is or has been derived or able to be reasonably estimated.

Relationship with other sections

(4) This section overrides sections CG 4, EE 22, and EE 52 (which provide for receipts of insurance or indemnity payments) in relation to the timing of the person's—

(a) income from the insurance receipt:

(b) deductions for the repair cost.

Defined in this Act: amount, deduction, income, income year

Section EZ 74: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 68(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section EZ 74(2): amended (with effect on 1 April 2016), on 18 March 2019, by section 190 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 74(2)(a): amended (with effect on 1 April 2016), on 18 March 2019, by section 190 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 74(3): amended (with effect on 1 April 2016), on 18 March 2019, by section 190 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 74(3)(a): amended (with effect on 1 April 2016), on 18 March 2019, by section 190 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

EZ 75 Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year

When this section applies

(1) This section applies when a person uses IFRSs to prepare financial statements and to report for financial arrangements, and—

(a) the person has a financial arrangement that is a foreign ASAP (the **financial arrangement**) for which section EW 32 (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) applies to value the relevant property or services; and

(b) the person enters into the financial arrangement before the end of the 2013–14 income year; and

(c) for the financial arrangement, the person has filed returns of income in accordance with this section for the 2013–14 income year and every earlier income year.

Treatment

(2) The person, applying sections 81 and 82 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 as if in force, may—

(a) treat sections EW 32 and EW 33B (Foreign ASAPs: designated FX hedges) as applying to the financial arrangement for the 2013–14 income year and every earlier income year; or

(b) treat section EW 32 as applying, but excluding section EW 33B. The value of the relevant property or services under IFRS rules is modified by excluding an amount attributed under IFRS rules from the value on account of FX hedges.

Treatment: modification for spot rate revaluation

(3) Despite subsection (2), a treatment under that subsection may be modified to allow the addition and subtraction, from the value of the property or services, of amounts arising from spot rate revaluation of payments already made at the time the property or services are recognised under IFRS rules.

Defined in this Act: amount, financial arrangement, foreign ASAP, FX hedge, IFRS, income year

Section EZ 75: inserted (with effect on 1 April 2008), on 30 June 2014, by section 100 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

EZ 76 Consideration for property or services: non-IFRS foreign ASAPs before 2014–15 income year

When this section applies

(1) This section applies when a person does not use IFRSs to prepare financial statements and to report for financial arrangements, and—

(a) the person has a financial arrangement that is a foreign ASAP (the **financial arrangement**) for which section EW 32 (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) applies to value the relevant property or services; and

(b) the person enters into the financial arrangement before the end of the 2013–14 income year; and

(c) for the financial arrangement, the person has filed returns of income in accordance with this section for the 2013–14 income year and every earlier income year.

Treatment

(2) The person, applying sections 81 and 82 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 as if in force, may treat sections EW 32 and EW 33C (which relate to certain financial arrangements) as applying to the financial arrangement for the 2013–14 income year and every earlier income year. Section EW 33B (Foreign ASAPs: designated FX hedges) is excluded.

Defined in this Act: amount, financial arrangement, foreign ASAP, FX hedge, IFRS, income year

Section EZ 76: inserted (with effect on 1 April 2008), on 30 June 2014, by section 100 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section EZ 76(1)(a): amended, on 24 February 2016, by section 160 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

EZ 77 Substituting debentures repeal: transitional rules

When this section applies

(1) This section applies if a person has a substituting debenture when the application of section 102 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **repealing Act**) repeals section FA 2(5) and a financial arrangement arises.

Substituting debenture: last day

(2) On 31 March 2015—

(a) the substituting debenture is treated as cancelled; and

(b) an amount equal to the debenture's outstanding principal and outstanding accrued interest is treated as paid to the holder, for the cancellation, by the debenture's issuer.

Financial arrangement: first day

(3) On 1 April 2015, the debenture's issuer and holder are treated as entering into the financial arrangement on the same terms and conditions as the debenture described in subsection (2), except that the amount of principal treated as advanced to the issuer is an amount equal to the amount described in subsection (2)(b).

Subsections (2) and (3) modified

(4) If the repeal of section FA 2(5) arises because a debenture that a person is party to fails to meet a requirement described in section 102(5) of the repealing Act, then—

(a) subsection (2) is modified to apply on the last day of the tax year immediately before the tax year that corresponds to the income year in which the failure to meet a requirement occurs; and

(b) subsection (3) is modified to apply on the first day of the tax year that corresponds to the income year in which the failure to meet a requirement occurs.

Continuity

(5) A change in voting interest or market value interest that arises from the application of section 102 of the repealing Act is ignored for the purposes of the continuity provisions.

Defined in this Act: consideration, continuity provisions, financial arrangement, financial arrangements rules, income year, market value interest, substituting debenture, voting interest

Section EZ 77: inserted, on 30 June 2014, by section 101 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Damage from Hurunui/Kaikōura earthquakes

Heading: inserted, on 30 March 2017 (applying for the 2015–16 and later income years), by section 93(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EZ 78 Insurance for Hurunui/Kaikōura earthquake damage of property: treatment as disposal and reacquisition

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a Hurunui/Kaikōura earthquake as that term is defined in section 4 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016 (the **Hurunui/Kaikōura earthquake**); and

(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(c) the item is assessed by the payer of the insurance or compensation as uneconomic to repair; and

(d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44).

Treatment as disposal and reacquisition of item

(2) The person is treated as, on the date of the Hurunui/Kaikōura earthquake,—

(a) disposing of the item for the amount of insurance or compensation; and

(b) reacquiring the item for zero consideration.

Relationship with section EE 52

(3) This section overrides section EE 52 (Amount of depreciation recovery income when compensation received).

Defined in this Act: amount, depreciable property, income year

Section EZ 78: inserted, on 30 March 2017 (applying for the 2015–16 and later income years), by section 93(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

EZ 79 Insurance for Hurunui/Kaikōura earthquake damage of property: limit on depreciation recovery income

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a Hurunui/Kaikōura earthquake as that term is defined in section 4 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016; and

(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(c) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(d) section EZ 78 does not apply for the item.

Limit on depreciation recovery income under section EE 52

(2) If the person would derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item in the absence of this section, the person derives in the income year an amount of depreciation recovery income equal to the lesser of—

(a) the amount of depreciation recovery income under section EE 52 that the person would derive in the income year for the item in the absence of this section:

(b) the total of the amounts of depreciation loss for which the person has been allowed deductions for the item.

Relationship with section EE 52

(3) This section overrides section EE 52.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, income year

Section EZ 79: inserted, on 30 March 2017 (applying for the 2015–16 and later income years), by section 93(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Income equalisation schemes

Heading: inserted (with effect on 1 April 2017), on 30 March 2021, by section 57(1) (and see section 57(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EZ 80 Refund of excess deposit in main income equalisation account as consequence of election under section EZ 4B or FP 23

When this section applies

(1) This section applies when—

(a) a person makes an election under section EZ 4B(2) (Cattle destroyed because of *Mycoplasma bovis*: spreading) or FP 23(3) (Livestock destroyed because of emergency events); and

(b) as a consequence of the election, the person's deposits for an accounting year, less the amount of any refund made to the person for the accounting year under section EH 8 (Refund of excess deposit), are more than their main maximum deposit for the accounting year.

Refund

(2) The Commissioner must refund the excess to the person from deposits the person made for the accounting year—

(a) to the extent to which, at the time the election is made, the person has sufficient deposits made for the accounting year in their main income equalisation account to enable the Commissioner to do so; and

(b) as soon as practicable after the election is made.

Treatment of interest

(3) The amount of the refund must include any interest payable under section EH 6 (Interest on deposits in main income equalisation account) on a deposit from which the excess must be refunded.

When subsection (5) applies

(4) Subsection (5) applies when the Commissioner is unable to refund the full amount of the excess to the person from deposits the person made for the accounting year because some or all of those deposits (the **refunded deposits**) have already been refunded to the person under section EH 13 or EH 15 (which relate to refunds from main income equalisation accounts).

Treatment of certain deposits

(5) The earliest of the refunded deposits to have been refunded, to the extent necessary to make up the shortfall, are treated as—

(a) not having been refunded under section EH 13 or EH 15, as applicable; and

(b) having been refunded under this section.

Income when refund given

(6) A refund under this section is,—

(a) to the extent to which the refund is interest payable under section EH 6, income under section CZ 37(1) (Income equalisation schemes); and

(b) to the extent to which the refund is not interest payable under section EH 6, excluded income under section CZ 37(2).

Modified application of section EH 6

(7) Section EH 6 applies to a deposit that forms all or part of the excess, other than a deposit that has been refunded before the election is made, with the following modifications:

(a) interest is computed with daily rests from the date of acknowledgment of the receipt of the deposit until the date the election is made:

(b) interest on the deposit accrues until the earlier of—

(i) 31 March in each year; and

(ii) the date the election is made.

Relationship with section EH 8

(8) This section overrides section EH 8.

Defined in this Act: accounting year, amount, Commissioner, deposit, excluded income, income, interest, main income equalisation account, main maximum deposit, pay, year

Section EZ 80: inserted (with effect on 1 April 2017), on 30 March 2021, by section 57(1) (and see section 57(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EZ 80 heading: amended, on 1 April 2025, by section 57(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EZ 80(1)(a): amended, on 1 April 2025, by section 57(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

EZ 81 Refund of excess deposit in adverse event income equalisation account as consequence of election under section EZ 4B or FP 23

When this section applies

(1) This section applies when—

(a) a person makes an election under section EZ 4B(2) (Cattle destroyed because of *Mycoplasma bovis*: spreading) or FP 23(3) (Livestock destroyed because of emergency events); and

(b) as a consequence of the election, the person's adverse event deposits for an accounting year ignoring section EH 60 (Transfer of deposit), less the amount of any refund made to the person for the accounting year under section EH 42 (Refund of excess deposit), are more than their adverse event maximum deposit for the accounting year.

Refund

(2) The Commissioner must refund the excess to the person from deposits the person made for the accounting year—

(a) to the extent to which, at the time the election is made, the person has sufficient deposits made for the accounting year in their main income equalisation account to enable the Commissioner to do so; and

(b) as soon as practicable after the election is made.

Treatment of interest

(3) The amount of the refund must include any interest payable under sections EH 6 and EH 40 (which relate to interest on deposits in income equalisation accounts) on a deposit from which the excess must be refunded.

When subsection (5) applies

(4) Subsection (5) applies when the Commissioner is unable to refund the full amount of the excess to the person from deposits the person made for the accounting year because some or all of those deposits (the **refunded deposits**) have already been refunded to the person under section EH 13, EH 15, or EH 45 (which relate to refunds from income equalisation accounts).

Treatment of certain deposits

(5) The earliest of the refunded deposits to have been refunded, to the extent necessary to make up the shortfall, are treated as—

(a) not having been refunded under section EH 13, EH 15, or EH 45, as applicable; and

(b) having been refunded under this section.

Income when refund given

(6) A refund under this section is,—

(a) to the extent to which the refund is interest payable under section EH 6 or EH 40, income under section CZ 37(1) (Income equalisation schemes); and

(b) to the extent to which the refund is not interest payable under section EH 6 or EH 40, excluded income under section CZ 37(2).

Modified application of section EH 6

(7) Section EH 6 applies to a deposit that forms all or part of the excess, other than a deposit that has been refunded before the election is made, with the following modifications:

(a) interest is computed with daily rests from the date on which the deposit was transferred to the main income equalisation account until the date the election is made:

(b) interest on the deposit accrues until the earlier of—

(i) 31 March in each year; and

(ii) the date the election is made.

Relationship with section EH 42

(8) This section overrides section EH 42.

Some definitions

(9) In this section,—

adverse event deposit has the meaning given in section EH 62 (Other definitions)

deposit—

(a) means an adverse event deposit; and

(b) includes an adverse event deposit that has been transferred to a main income equalisation account under section EH 60 or EZ 82; and

(c) includes, for the purposes of subsections (3) and (7)(a) and (b), interest that is added to a deposit, as defined in paragraphs (a) and (b), under section EH 6(5) or EH 40(4)

main income equalisation account has the meaning given in section EH 36 (Other definitions).

Defined in this Act: accounting year, adverse event deposit, adverse event maximum deposit, amount, Commissioner, deposit, excluded income, income, interest, main income equalisation account, pay, year

Section EZ 81: inserted (with effect on 1 April 2017), on 30 March 2021, by section 57(1) (and see section 57(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section EZ 81 heading: amended, on 1 April 2025, by section 58(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EZ 81(1)(a): amended, on 1 April 2025, by section 58(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section EZ 81(9) **deposit** paragraph (b): amended (with effect on 18 March 2019), on 30 March 2021, by section 60 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Adverse event income equalisation accounts

[Repealed]

Heading: repealed (with effect on 18 March 2019), on 30 March 2021, by section 58 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

EZ 82 Transfers of deposits when adverse event income equalisation accounts abolished

When this section applies

(1) This section applies when a person has an adverse event income equalisation account (the **adverse event account**) at the end of the income year (the **repeal year**) in which the repeal of section EH 39 (Adverse event income equalisation account) comes into force.

Main income equalisation account

(2) If the person does not have a main income equalisation account (the **main account**) at the end of the repeal year, the Commissioner must open such an account in the name of the person at the beginning of the following year.

Balance in adverse event account credited to person's main account

(3) An amount equal to the balance in the person's adverse event account is debited to the person's adverse event account at the end of the repeal year and credited to the person's main account at the beginning of the following year.

Relationship with sections DQ 1 and EH 4

(4) A credit to the person's main account under subsection (3) is a deposit that is not subject to section EH 4 (Main deposit) and the person is not allowed a deduction under section DQ 1 (Main income equalisation scheme) for the deposit.

Defined in this Act: adverse event income equalisation account, Commissioner, deduction, income year, main income equalisation account

Section EZ 82: inserted, as section EZ 80, on 18 March 2019, by section 191 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section EZ 82: renumbered (with effect on 18 March 2019), on 30 March 2021, by section 59 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Damage from North Island flooding events

Heading: inserted (with effect on 1 April 2022), on 28 March 2024, by section 73(1) (and see section 73(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 83 Insurance for damage of property caused by North Island flooding events: treatment as disposal and reacquisition

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a North Island flooding event; and

(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(c) the person reasonably assesses that the item is uneconomic to repair; and

(d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44).

Treatment as disposal and reacquisition of item

(2) The person is treated as, on the date of the relevant North Island flooding event,—

(a) disposing of the item for the amount of insurance or compensation; and

(b) reacquiring the item for zero consideration.

Relationship with section EE 52

(3) This section overrides section EE 52 (Amount of depreciation recovery income when compensation received).

Defined in this Act: amount, depreciable property, dispose, North Island flooding events

Section EZ 83: inserted (with effect on 1 April 2022), on 28 March 2024, by section 73(1) (and see section 73(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 84 Insurance for damage of property caused by North Island flooding events: limit on depreciation recovery income

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a North Island flooding event; and

(b) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(c) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(d) section EZ 83 does not apply for the item.

Limit on depreciation recovery income under section EE 52

(2) If the person would derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item in the absence of this section, the person derives in the income year an amount of depreciation recovery income equal to the lesser of—

(a) the amount of depreciation recovery income under section EE 52 that the person would derive in the income year for the item in the absence of this section:

(b) the total of the amounts of depreciation loss for which the person has been allowed deductions for the item.

Relationship with section EE 52

(3) This section overrides section EE 52.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, income year, North Island flooding events

Section EZ 84: inserted (with effect on 1 April 2022), on 28 March 2024, by section 73(1) (and see section 73(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 85 Item treated as available for use if access restricted due to North Island flooding events

An item of depreciable property is treated for an income year as being available for use while access to the item is affected by a restriction imposed due to the effects of a North Island flooding event if—

(a) the item was used or available for use immediately before the restriction was imposed; and

(b) the item would be used or available for use in the absence of the restriction; and

(c) the income year is the 2027–28 or an earlier income year.

Defined in this Act: depreciable property, income year, North Island flooding events

Section EZ 85: inserted (with effect on 1 April 2022), on 28 March 2024, by section 73(1) (and see section 73(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 86 Insurance for North Island flooding event damage causing disposal: optional timing rule for income, deductions

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a North Island flooding event; and

(b) the damage—

(i) results in the item being affected by a disposal and reacquisition under section EZ 83; or

(ii) meets the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(c) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(d) the person chooses to apply this section for all items of depreciable property meeting the requirements of paragraphs (a) to (c).

Attribution of income from insurance and disposal

(2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person's income from the insurance receipt and the

consideration derived from the disposal of the item are attributed to the earlier of—

(a) the 2027–28 income year:

(b) the first income year in which—

(i) the amount of the cost of disposing of the item (the **disposal cost**) is, or has been, incurred or able to be reasonably estimated; and

(ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and

(iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated.

Attribution of deductions

(3) If the disposal cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person's deductions for the disposal cost and for depreciation loss under section EE 48 (Effect of disposal or event) are attributed to the earlier of—

(a) the 2027–28 income year:

(b) the first income year in which—

(i) the disposal cost is, or has been, incurred or able to be reasonably estimated; and

(ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and

(iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated.

Relationship with other sections

(4) This section overrides sections EE 1, EE 22, and EE 48 (which state when depreciation loss and depreciation recovery income arise) in relation to the timing of the person's—

(a) income from the insurance receipt and consideration from the disposal of the item:

(b) deductions for the disposal cost and depreciation loss.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, dispose, income, income year, North Island flooding events

Section EZ 86: inserted (with effect on 1 April 2022), on 28 March 2024, by section 73(1) (and see section 73(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

EZ 87 Insurance for repairs of North Island flooding event damage: optional timing rule for income, deductions

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by a North Island flooding event; and

(b) the damage—

(i) does not result in the item being subject to a disposal and reacquisition under section EZ 83; and

(ii) does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(c) the person is entitled to an amount of insurance or compensation for the damage to the item; and

(d) the person chooses to apply this section for all items of depreciable property meeting the requirements of paragraphs (a) to (c).

Attribution of income from insurance

(2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person's income from the insurance receipt is attributed to the earlier of—

(a) the 2027–28 income year:

(b) the first income year in which—

(i) the amount of expenditure for total repair of the damage (the **repair cost**) is, or has been, incurred or able to be reasonably estimated; and

(ii) the insurance receipt is, or has been, derived or able to be reasonably estimated.

Attribution of deductions for repairs

(3) If the repair cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person's deductions for the repair cost are attributed to the earlier of—

(a) the 2027–28 income year:

(b) the first income year in which—

(i) the repair cost is, or has been, incurred or able to be reasonably estimated; and

(ii) the insurance receipt is, or has been, derived or able to be reasonably estimated.

Relationship with other sections

(4) This section overrides sections CG 4, EE 22, and EE 52 (which provide for receipts of insurance or indemnity payments) in relation to the timing of the person's—

(a) income from the insurance receipt:

(b) deductions for the repair cost.

Defined in this Act: amount, deduction, depreciable property, dispose, income, income year, North Island flooding events

Section EZ 87: inserted (with effect on 1 April 2022), on 28 March 2024, by section 73(1) (and see section 73(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Part F
Recharacterisation of certain transactions

Subpart FA—Recharacterisation of certain commercial arrangements

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Introductory provision

FA 1 What this subpart does

This subpart alters the tax treatment of certain commercial arrangements by—

(a) recharacterising either their nature or that of the amounts derived under the arrangements; and

(b) providing rules for the treatment of the parties to the arrangement.

Defined in this Act: amount, arrangement, tax

Debentures and shares

FA 2 Recharacterisation of certain debentures

Treatment of debenture and interest

(1) A profit-related debenture is treated for tax purposes as a share described in paragraph (b) of the definition of **share** in section YA 1 (Definitions), and the interest payable under the debenture is treated as a dividend.

No deduction

(2) A company issuing a profit-related debenture is denied a deduction under section DB 10 (Interest or expenditure connected to profit-related debentures) for—

(a) interest payable under the debenture; or

(b) expenditure or loss incurred in connection with the debenture; or

(c) expenditure or loss incurred in borrowing the money secured by or owing under the debenture.

When interest fixed to certain rates or indices

[Repealed]

(3) *[Repealed]*

Profit-related debenture

(4) A **profit-related debenture**—

(a) means a debenture with a rate of interest that is set from time to time by reference to—

(i) the dividend payable by the company issuing the debenture; or

(ii) the profits of the company issuing the debenture, however measured:

(b) does not include a debenture under which the interest payable is determined by a fixed relationship to—

(i) banking rates; or

(ii) general commercial rates; or

(iii) economic, commodity, industrial, or financial indices, but the application of this subparagraph is subject to section FZ 1(3) (Treatment of interest payable under debentures issued before certain date):

(c) does not include a debenture treated as a share under section FA 2B (Stapled debt securities).

Substituting debenture

[Repealed]

(5) *[Repealed]*

Shares or available subscribed capital in another company

[Repealed]

(6) *[Repealed]*

Amount of debenture

[Repealed]

(7) *[Repealed]*

Terminating provisions

(8) For the treatment of debentures issued before 8 pm New Zealand standard time on 23 October 1986, *see* section FZ 1.

Relationship with agency rules

(9) Section HD 14 (Companies issuing debentures) does not apply to a profit-related debenture described in this section, or to an amount paid or payable under it.

Defined in this Act: amount, available subscribed capital, company, convertible note, debenture, deduction, dividend, interest, liquidation, loss, pay, profit-related debenture, share, shareholder, slice rule, tax

Compare: 2004 No 35 ss FC 1, FC 2

Section FA 2(1): amended, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 102(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FA 2(2): amended, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application

for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 102(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FA 2(3) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 201(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2(3): repealed (with effect on 1 April 2008), on 6 October 2009, by section 201(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2(4): substituted (with effect on 1 April 2008), on 6 October 2009, by section 201(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2(4)(b)(iii): amended (with effect on 1 April 2008), on 6 October 2009, by section 201(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2(4)(c): added (with effect on 1 April 2008), on 6 October 2009, by section 201(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2(5) heading: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), pursuant to section 102(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FA 2(5): repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 102(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FA 2(6) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 201(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2(6): repealed (with effect on 1 April 2008), on 6 October 2009, by section 201(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2(7) heading: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in

the Act does not apply to their debenture), pursuant to section 102(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FA 2(7): repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 102(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FA 2 list of defined terms **substituting debenture**: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 102(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FA 2B Stapled debt securities

When subsection (2) applies

(1) Subsection (2) applies when—

(a) a company has issued a debt security; and

(b) the debt security is stapled to a share in the company or to a share in another company; and

(c) the share is not a fixed-rate share.

Stapled debt treated as equity

(2) The stapled debt security is treated as a share issued by the company and—

(a) interest payable under the stapled debt security is treated as a dividend; and

(b) section DB 10B (Interest or expenditure connected to stapled debt security) may deny deductions for expenditure or loss related to the security.

Stapled securities aggregated

(3) A stapled debt security and a share to which it is stapled are treated as a single share for the purposes of applying—

(a) the definition of **non-participating redeemable share** in section CD 22(9) (Returns of capital: off-market share cancellations); and

(b) *[Repealed]*

(c) the definitions, in section YA 1 (Definitions), of—

(i) **fixed-rate foreign equity**; and

(ii) **fixed-rate share**, except for the purposes of subsection (1)(c).

Meaning of debt security

(4) In this section, **debt security** means a financial arrangement if—

(a) the financial arrangement provides funds to the company; and

(b) the financial arrangement gives rise to an amount for which the company would have a deduction but for this section; and

(c) the amount does not arise only from either a movement in a currency exchange rate or a non-contingent fee.

Meaning of stapled

(5) In this section, a debt security is **stapled** to a share if—

(a) the debt security can, or ordinarily can, be disposed of only together with the share; and

(b) the arrangement that requires the debt security and the share to be disposed of together is an arrangement to which the company that issued the debt security or the company that issued the share is a party.

Exclusion: small company shareholder agreements

(6) This section does not apply if the debt security is stapled to the share using a shareholder agreement for a company that is not a widely-held company.

Exclusion: stapling before 25 February 2008

(7) This section does not apply if the debt security was stapled to the share before 25 February 2008.

Defined in this Act: amount, associated person, company, debt security, deduction, dividend, financial arrangement, fixed-rate share, interest, non-contingent fee, share, shareholder agreement, stapled, widely-held company

Section FA 2B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 202(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FA 2B(3)(b): repealed (with effect on 30 June 2009), on 6 October 2009, by section 202(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FA 3 Recharacterisation of certain dividends: recovery of cost of shares held on revenue account

When this section applies

(1) This section applies to the amount of a dividend derived from shares that are revenue account property of a person when—

(a) the payment of the dividend realises or recovers the price the person paid for the shares; and

(b) the payment is made at the person's control or direction, or is part of a scheme that includes the acquisition of the shares and the payment of the dividend.

Treatment of amount derived

(2) The dividend is treated as an amount derived on a sale of the shares to the extent to which the actual amount realised by the person on the disposal of the shares is less than the cost to the person of acquiring the shares.

Dividend

(3) Despite subsection (2), a dividend taken into account under this section remains a dividend derived by the person in the income year.

Defined in this Act: amount, dividend, income year, pay, revenue account property, share

Compare: 2004 No 35 s FC 3

Section FA 3 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FA 4 Recharacterisation of shareholder's base: company reacquiring share

When this section applies

(1) This section applies to a shareholder in a company in relation to an off-market cancellation of shares by the company under section CD 22 (Returns of capital: off-market share cancellations) when—

(a) the shareholder holds the share as revenue account property; and

(b) after the cancellation, they continue to hold some shares of the same class.

When whole amount treated as dividend

(2) If the whole of the amount that the shareholder receives for the cancellation is treated as a dividend, the following paragraphs apply:

(a) the shareholder is not regarded as having disposed of the cancelled share, except for the purpose of determining whether they have derived a dividend; and

(b) the cost to the shareholder of the cancelled share is added to the cost of the shareholder's remaining shares of the same class under subsection (6).

Below market value of shares

(3) If subsection (2) does not apply, and the amount paid by the company is less than the market value of the shares at the time when notice is first given of the cancellation either by the shareholder or the company, the following paragraphs apply:

(a) an amount calculated using the formula in subsection (4) is added to the cost of the shareholder's remaining shares of the same class under subsection (6); and

(b) the amount is excluded from the cost of the share being cancelled so that the shareholder is denied a deduction under section DB 25 (Cancellation

of shares held as revenue account property) for the amount unless the share is trading stock of the shareholder; and

(c) sections GC 1 and GC 2 (which relate to the disposal of trading stock for inadequate consideration) does not apply.

Formula

(4) The formula referred to in subsection (3)(a) is—

share cost − (cost pre-cancellation × amount from cancellation ÷ market value).

Definition of items in formula

(5) In the formula,—

(a) **share cost** is the cost of the cancelled share to the shareholder:

(b) **cost pre-cancellation** is the total cost to the shareholder of all their shares of the same class immediately before the cancellation:

(c) **amount from cancellation** is the amount derived by the shareholder from the company for the cancellation:

(d) **market value** is the total market value of all the shareholder's shares of the same class immediately before the cancellation.

When subsection (7) applies

(6) Subsection (7) applies at a time after the cancellation when the cost of the remaining shares is taken into account under subpart EB (Valuation of trading stock (including dealer's livestock)), or otherwise.

Adding amount to cost of shares

(7) The amount referred to in subsection (2)(b) or (3)(a) must be fairly divided among, and added to, the cost of the shareholder's remaining shares of the same class.

Defined in this Act: amount, company, deduction, dividend, market value, notice, off-market cancellation, revenue account property, share, shareholder, shares of the same class, trading stock

Compare: 2004 No 35 s FC 4

Section FA 4 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FA 4(2)(b): amended (with effect on 1 April 2008), on 30 March 2017, by section 94(1) (and see section 94(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Leases

FA 5 Assets acquired and disposed of after deduction of payments under lease

When this section applies

(1) This section applies when a person (the **lessee**)—

(a) leases, rents, or hires an asset that is—

(i) plant, machinery, or other equipment; or

(ii) a motor vehicle; or

(iii) a temporary building; and

(b) is allowed a deduction for the rental payments; and

(c) acquires the asset and later disposes of it; and

(d) the consideration derived on the disposal is not income of the lessee under a provision of this Act other than this section.

Income

(2) If the consideration derived by the lessee for the asset is more than the cost of its acquisition, the excess is income of the lessee under section CG 7 (Recoveries after deduction of payments under lease). Subsection (3) overrides this subsection.

Adjustment to income

(3) If the total amount of the deductions referred to in subsection (1)(b) is less than or equal to the excess, the amount of income under subsection (2) is the total amount of the deductions.

Apportionment

(4) If the asset is disposed of together with other assets, the total consideration must be apportioned to reflect the respective market values of the assets.

Disposal below market value

(5) If the asset is disposed of without consideration or for a consideration that is less than market value at the date of disposal, the asset is treated as having been disposed of at its market value.

Associated persons acquiring asset

(6) Subsection (2) also applies if a person associated with the lessee acquires the asset, whether from the lessee or not, and disposes of it for an amount that is more than the amount paid to acquire it. Association is determined at the time of acquisition by the associated person. The lesser of the excess and the total amount of the lessee's deductions is treated as income of the lessee.

Transfers on settlement of relationship property

(7) In this section,—

(a) subsection (1)(c) does not apply to an acquisition on a settlement of relationship property:

(b) subsection (5) does not apply to a disposal on a settlement of relationship property.

Defined in this Act: amount, associated person, deduction, income, lease, lessee, market value, pay, settlement of relationship property, temporary building

Compare: 2004 No 35 s FC 5

Finance leases

FA 6 Recharacterisation of amounts derived under finance leases

When a personal property lease asset is leased under a finance lease, the lease is treated as a sale of the lease asset by the lessor to the lessee on the date on which the term of the lease starts, and—

(a) the lessor is treated as giving a loan to the lessee for the lease asset; and

(b) the lessee is treated as using the loan to buy the lease asset; and

(c) subpart EE (Depreciation), the financial arrangements rules, and the other provisions of this Act apply to the arrangement as recharacterised.

Defined in this Act: finance lease, financial arrangements rules, lessee, lessor, loan, personal property lease asset, term of the lease

Compare: 2004 No 35 ss FC 8A(1), FC 8F, FC 8G

FA 7 Determining amount of loan

Value to lessor

(1) For a lessor under a finance lease, the amount of the loan is determined under section EW 32 (Consideration for agreement for sale and purchase of property or services, hire purchase agreement, specified option, or finance lease).

Value to lessee

(2) For a lessee under a finance lease, the amount of the loan is determined under sections EW 32 and EW 33 (which relate to the value of consideration under the financial arrangements rules).

Defined in this Act: amount, finance lease, lessee, lessor

Compare: 2004 No 35 ss FC 8A(2), (3),OB 1 “consideration”, “lessee’s acquisition cost”, “lessor’s disposition value”

FA 8 Deductibility of expenditure under finance lease

Lessee treated as owner

(1) The lessee under a finance lease is treated as the owner of the personal property lease asset for the purposes of subpart EE (Depreciation).

Lessor not treated as owner

(2) The lessor under a finance lease is not treated as the owner of the personal property lease asset for the purposes of subpart EE.

Defined in this Act: finance lease, lessee, lessor, personal property lease asset

Compare: 2004 No 35 s FC 8B(1)

FA 9 Treatment when lease ends: lessee acquiring asset

Acquisition treated as sale

(1) When a lessee under a finance lease acquires the personal property lease asset by the date on which the term of the lease ends, the acquisition is treated as the same sale that is treated as occurring under section FA 6.

When lessee or associated person acquires lease asset and later disposes of it

(2) If a lessee under a finance lease, or a person associated with them, acquires the lease asset and later disposes of it for an amount that is more than the consideration they paid for it, the excess is income of the lessee under section CC 11 (Lessee acquiring lease asset on expiry of term of lease).

Allocation and association

(3) For the purposes of subsection (2),—

(a) the excess is income of the lessee in the income year in which the lessee or associated person disposes of the asset:

(b) association is determined at the time of acquisition by the associated person.

Exception

(4) Subsection (2) does not apply if the consideration derived on the disposal is income of the lessee or an associated person under a provision of this Act other than this section.

Payment relating to aircraft engine overhaul

(5) Expenditure of a person that relates to an aircraft including an unpriced aircraft engine and is deductible under sections DW 5 and DW 6 (which relate to aircraft engine acquisitions and overhauls) is not included in an amount of consideration paid by the person for the aircraft, for the purposes of this section.

Defined in this Act: aircraft engine, amount, associated person, consideration, finance lease, income, income year, lessee, personal property lease asset, term of the lease, unpriced aircraft engine

Compare: 2004 No 35 ss FC 8B(2), FC 8E

Section FA 9(5) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 95(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 9(5): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 95(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 9 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 95(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 9 list of defined terms **consideration**: inserted, on 1 April 2017, by section 95(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 9 list of defined terms **unpriced aircraft engine**: inserted, on 1 April 2017, by section 95(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FA 10 Treatment when lease ends: lessor acquiring asset

When this section applies

(1) This section applies when a finance lease ends by the date on which its term ends.

Acquisition by lessor at end of lease

(2) If the lessee does not acquire the personal property lease asset by the date on which the term of the lease ends, the lessor is treated as having acquired it on that date at its guaranteed residual value. If there is no guaranteed residual value, the consideration is treated as zero. In this section, the consideration is called the **notional sale price**.

Further sale, assignment, or lease

(3) Subsections (4) and (5) apply when the lessor sells, assigns, or leases the lease asset to another person under another finance lease on or after the date on which the term of the original lease ends.

When consideration more than notional sale price

(4) If the consideration is more than the notional sale price,—

(a) to the extent to which it is paid by the lessor to the lessee under the original finance lease, the notional sale price is increased by the amount of the difference; and

(b) to the extent to which it is not paid by the lessor to the lessee under the original finance lease, the amount of the difference is income of the lessor under section CC 12 (Lessor acquiring lease asset on expiry of term of lease) in the income year in which the original lease term ends.

When consideration less than notional sale price

(5) If the consideration is less than the notional sale price, and the lessee is required to pay the amount of the deficit to the lessor, the notional sale price is reduced by that amount.

Acquisition by lessor when lease ends early

(6) If the lease is terminated before the end of its term and the lessee does not acquire the lease asset, the lessor is treated as acquiring it for an amount calculated using the formula—

outstanding balance − release payment.

Definition of items in formula

(7) In the formula,—

(a) **outstanding balance** is the amount of the outstanding balance of the loan on the date on which the lease is terminated:

(b) **release payment** is the amount the lessee paid to be released from their obligations under the lease.

Payment relating to aircraft engine overhaul

(7B) Expenditure of a person that relates to an aircraft including an unpriced aircraft engine and is deductible for the person under sections DW 5 and DW 6 (which relate to aircraft engine acquisitions and overhauls) is not included in an amount of consideration paid by the person for the aircraft, for the purposes of this section.

Relationship with section EE 45

(8) Subsections (2) to (6) override section EE 45 (Consideration for purposes of section EE 44).

Defined in this Act: aircraft engine, amount, consideration, finance lease, guaranteed residual value, income, lease, lessee, lessor, loan, notional sale price, outstanding balance, pay, personal property lease asset, term of the lease, unpriced aircraft engine

Compare: 2004 No 35 ss FC 8B(3), FC 8C, FC 8D

Section FA 10(7B) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 96(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 10(7B): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 96(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 10 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 96(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 10 list of defined terms **consideration**: inserted, on 1 April 2017, by section 96(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 10 list of defined terms **unpriced aircraft engine**: inserted, on 1 April 2017, by section 96(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FA 11 Adjustments for leases that become finance leases

When this section applies

(1) This section applies when a lease is entered into on or after 20 May 1999 and—

(a) the lease is a consecutive or a successive lease—

(i) that is treated as 1 lease under the definition of **lease**; and

(ii) with a term of the lease that the lessor and lessee do not contemplate, at the start of the term, will be more than 75% of the personal property lease asset's estimated useful life; and

(iii) with a term of the lease that is more than 75% of the asset's estimated useful life:

(b) the lease is an operating lease that becomes a finance lease under paragraph (c) of the definition of **finance lease**.

Adjustment required

(2) The lessor and lessee must each adjust their income and expenditure calculated for the lease by including an adjustment in a return of income for the tax year corresponding to the income year in which the lease becomes a finance lease.

Amount of adjustment

(3) The amount of the adjustment is calculated for the relevant person in relation to the period described in subsection (5) using the formula—

finance income − finance expenditure − unadjusted income + unadjusted expenditure.

Definition of items in formula

(4) In the formula,—

(a) **finance income** is the income that would have been derived by the person under the lease if the lease were a finance lease for the period:

(b) **finance expenditure** is the expenditure that would have been incurred by the person under the lease if the lease were a finance lease for the period:

(c) **unadjusted income** is the income derived by the person under the lease:

(d) **unadjusted expenditure** is the expenditure incurred by the person under the lease.

Adjustment period

(5) The period starts on the date on which the lease starts and ends on the last day of the income year in which the lease becomes a finance lease.

Adjustment positive

(6) If the adjustment is positive, the amount is income of the relevant person under section CH 6 (Adjustments for certain finance and operating leases).

Adjustment negative

(7) If the adjustment is negative, the amount is a deduction of the relevant person under section DB 51B (Adjustments for leases that become finance leases).

Payment relating to aircraft engine overhaul

(8) Expenditure of a person that relates to an aircraft including an unpriced aircraft engine and is deductible for the person under sections DW 5 and DW 6 (which relate to aircraft engine acquisitions and overhauls) is not included in an amount of consideration paid by the person for the aircraft, for the purposes of this section.

Defined in this Act: aircraft engine, amount, consideration, estimated useful life, finance lease, income, income year, lease, lessee, lessor, operating lease, personal property lease asset, return of income, tax year, term of the lease, unpriced aircraft engine

Compare: 2004 No 35 s FC 8H

Section FA 11: substituted, on 1 April 2008, by section 406 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section FA 11(8) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 97(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 11(8): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 97(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 11 list of defined terms **aircraft engine**: inserted, on 1 April 2017, by section 97(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 11 list of defined terms **consideration**: inserted, on 1 April 2017, by section 97(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FA 11 list of defined terms **unpriced aircraft engine**: inserted, on 1 April 2017, by section 97(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FA 11B Adjustments for certain operating leases

When this section applies

(1) This section applies when a lease is an operating lease that—

(a) is entered into on or after 20 May 1999 and before 20 June 2007; and

(b) is an arrangement, or part of an arrangement that, on 20 June 2007, meets the requirements of paragraph (c)(i) to (iii) of the definition of **finance lease**; and

(c) has a term of the lease ending after the end of the income year in which 20 June 2007 falls (the **adjustment year**); and

(d) does not meet the requirements of section FA 11(1) before the end of the income year after the adjustment year.

Adjustment required

(2) The lessor must adjust their income and expenditure calculated for the lease asset by including an adjustment in a return of income for the tax year corresponding to the income year after the adjustment year.

Amount of adjustment

(3) The amount of the adjustment is calculated using the formula—

total depreciation losses ÷ 6.

Definition of item in formula

(4) In the formula, total **depreciation losses** is the total amount of depreciation loss for the lease asset for which the lessor is allowed a deduction in the period that begins with the start of the term of the lease and ends with the end of the adjustment year.

Income

(5) The amount of the adjustment is income of the lessor under the lease under section CH 6 (Adjustments for certain finance and operating leases) in the income year after the adjustment year.

Adjusted tax value

(6) The adjusted tax value of the lease asset at the beginning of the income year after the adjustment year is the total of the amount of the adjustment and the adjusted tax value that the lease asset would have in the absence of this section.

Depreciation loss

(7) For an income year beginning after 20 June 2007 in which the lease is an operating lease, the amount of depreciation loss allowed for the lease asset other than under section EE 48 (Effect of disposal or event) is five-sixths of the amount of depreciation loss that would be allowed for the lease asset in the absence of this subsection.

Defined in this Act: adjusted tax value, amount, arrangement, deduction, depreciation loss, finance lease, income, income year, lease, lessee, lessor, operating lease, return of income, tax year, term of the lease

Compare: 2004 No 35 s FC 8I

Section FA 11B: inserted, on 1 April 2008, by section 406 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Hire purchase agreements

FA 12 Recharacterisation of amounts derived under hire purchase agreements

When a person (the **seller**) provides personal property other than livestock or bloodstock to another person (the **buyer**) under a hire purchase agreement, the agreement is treated as a sale by the seller to the buyer on the date on which the term of the agreement starts, and—

(a) the seller is treated as giving a loan to the buyer for the property; and

(b) the buyer is treated as using the loan to buy the property; and

(c) subpart EE (Depreciation), the financial arrangements rules, and the other provisions of this Act apply to the agreement as recharacterised.

Defined in this Act: amount, bloodstock, financial arrangements rules, hire purchase agreement, loan

Compare: 2004 No 35 ss FC 9, FC 10

FA 13 Agreements recharacterised as sale with finance provided

Value to seller

(1) For a seller under a hire purchase agreement, the amount of the loan is determined under section EW 32 (Consideration for agreement for sale and purchase of property or services, hire purchase agreement, specified option, or finance lease).

Value to buyer

(2) For a buyer under a hire purchase agreement, the amount to the buyer is determined under sections EW 32 and EW 33 (which relate to the value of consideration under the financial arrangements rules).

Defined in this Act: amount, hire purchase agreement, loan

Compare: 2004 No 35 ss FC 10(1)(a), OB 1 "consideration", "lessee's acquisition cost", "lessor's disposition value"

FA 14 Deductibility of expenditure or loss under hire purchase agreement

Buyer treated as owner

(1) The buyer in section FA 12 is treated as the owner of the property for the purposes of subpart EE (Depreciation).

Seller not treated as owner

(2) The seller in section FA 12 is not treated as the owner of the property for the purposes of subpart EE.

Discounted or bad debts

(3) Subsection (4) applies if the seller takes an amount calculated under section FA 15 into account as the cost of trading stock or in the calculation of their net income for an income year.

No deduction for seller

(4) The seller is denied a deduction under section DB 14 or DB 31 (which relate to debts sold at a discount and bad debts) for an amount owing under the hire purchase agreement.

Defined in this Act: amount, deduction, hire purchase agreement, income year, net income, trading stock

Compare: 2004 No 35 s FC 10(1)(c), (5)(c)

FA 15 Treatment when agreement ends: seller acquiring property

When this section applies

(1) This section applies, subject to sections FA 16 and FA 17, when—

(a) a hire purchase agreement described in section FA 12 ends by the date on which its term ends or after that date; and

(b) the buyer does not acquire ownership of the property; and

(c) a person associated with the buyer does not acquire ownership of the property.

Sale of property

(2) The seller is treated as buying the property from the buyer for an amount equal to the outstanding balance calculated under subsection (3), and the buyer is treated as selling the property to the seller for that amount. The date of the sale is the date the agreement ends.

Outstanding balance

(3) The outstanding balance is the amount calculated using the formula—

net balance due on termination − buyer's termination payment + seller's termination payment.

Definition of items in formula

(4) In the formula,—

(a) **net balance due on termination** is the net balance due under the hire purchase agreement on the date the agreement ends less any costs referred to in section 83ZE(2)(a) and (b) of the Credit Contracts and Consumer Finance Act 2003:

(b) **buyer's termination payment** is the sum of the following amounts, as applicable:

(i) an amount paid by the buyer, or an associated person, to the seller, or an associated person, under the agreement; and

(ii) an amount paid as a consequence of the ending of the agreement; and

(iii) an amount required to be taken into account by the buyer under the base price adjustment in section EW 31 (Base price adjustment formula) or in item "a" of the formula in section EZ 38(1) (Income and expenditure where financial arrangement redeemed or disposed of):

(c) **seller's termination payment** is the sum of the following amounts, as applicable:

(i) an amount paid by the seller, or an associated person, to the buyer, or an associated person, under the agreement; and

(ii) an amount paid as a consequence of the ending of the agreement; and

(iii) an amount required to be taken into account by the buyer under the base price adjustment in section EW 31 or by the seller in item "b" or "c" of the formula in section EZ 38(1) or (2).

Base price adjustment

(5) For the purposes of section EW 31, the outstanding balance is taken into account as the consideration paid by the buyer to the seller under the hire purchase agreement.

Defined in this Act: amount, associated person, hire purchase agreement, outstanding balance

Compare: 2004 No 35 ss FC 10(2), (5)(a), OB 1 "lessee's outstanding balance", "lessor's outstanding balance", "net balance due"

Section FA 15(4)(a): amended, on 6 June 2015, by section 82 of the Credit Contracts and Consumer Finance Amendment Act 2014 (2014 No 33).

FA 16 Treatment when agreement ends: when seller is cash basis person

When this section applies

(1) This section applies for the purposes of section FA 15 when the seller is a cash basis person.

Reduction

(2) The amount treated as the seller's purchase price in section FA 15(2) is reduced by an amount for accrued but unpaid interest on the hire purchase agreement calculated using the formula—

accrual income − income.

Definition of items in formula

(3) In the formula,—

(a) **accrual income** is the amount of income that would have been derived under 1 of the spreading methods for payments under the hire purchase agreement if—

(i) the seller were not a cash basis person; and

(ii) section EW 31 (Base price adjustment formula) did not apply to the seller and the agreement in the income year when the agreement ends:

(b) **income** is the amount of the seller's income from payments received under the hire purchase agreement.

Defined in this Act: amount, cash basis person, hire purchase agreement, income, income year, interest, pay, spreading method

Compare: 2004 No 35 s FC 10(3)

FA 17 Treatment when agreement ends: when buyer is cash basis person

When this section applies

(1) This section applies for the purposes of section FA 15 when the buyer is a cash basis person.

Reduction

(2) The amount treated as the buyer's sale price in section FA 15(2) is reduced by an amount for accrued but unpaid interest on the hire purchase agreement calculated using the formula—

prepaid expenditure − expenditure.

Definition of items in formula

(3) In the formula,—

(a) **prepaid expenditure** is the amount of prepaid expenditure that would have been incurred under 1 of the spreading methods for payments under the hire purchase agreement if—

(i) the buyer were not a cash basis person; and

(ii) section EW 31 (Base price adjustment formula) did not apply to the buyer and the agreement in the income year when the agreement ends:

(b) **expenditure** is the amount of expenditure incurred by the buyer and treated as interest under the hire purchase agreement.

Defined in this Act: amount, cash basis person, hire purchase agreement, income year, interest, pay, prepaid expenditure, spreading method

Compare: 2004 No 35 s FC 10(4)

FA 18 Treatment of amounts paid in income years after agreement ends

When this section applies

(1) This section applies when an amount that is liable to be paid under a hire purchase agreement is paid in an income year that is later than the income year in which the agreement ends.

Liability under agreement

(2) If the buyer is liable to pay the amount under the terms of the agreement to the seller, the amount is income of the seller under section CC 13(2) (Amounts paid in income years after hire purchase agreement ends).

Payment after end of agreement

(3) If the seller pays the amount to the buyer under the agreement and, consequent on the ending of the agreement, the amount was not taken into account, the amount is treated as—

(a) expenditure incurred by the seller in the income year in which the amount is paid; and

(b) income of the buyer under section CC 13(3), if they have been allowed a deduction in relation to the property under the agreement in the income year in which the amount is paid.

Associated persons

(4) In this section, the seller or the buyer includes a person associated with them.

Defined in this Act: amount, associated person, deduction, hire purchase agreement, income, income year, pay

Compare: 2004 No 35 s FC 10(5)(d)–(f)

Subpart FB—Transfers of relationship property

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FB 1 When this subpart applies

This subpart applies when property is transferred on a settlement of relationship property.

Defined in this Act: property, settlement of relationship property

Section FB 1: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 161(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FB 1B Meaning of settlement of relationship property and property

In this subpart,—

(a) **settlement of relationship property** means a transaction under a relationship agreement that creates a disposal and acquisition of property between—

(i) a person who is a party to the relationship agreement or is associated with a party to the agreement:

(ii) another person who is a party to the relationship agreement or is associated with a party to the agreement:

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

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

Section FB 1B: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 162(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FB 1B: replaced (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 24 February 2016, by section 163(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FB 1B(a): replaced, on 24 February 2016, by section 164 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FB 1C Obligations for periods before and from transfer of property

Obligations relating to period before transfer

(1) A transferor of property on a settlement of relationship property remains responsible for all tax obligations relating to the property and the period ending immediately before the transfer.

Obligations relating to period from transfer

(2) In determining the tax obligations relating to property transferred on a settlement of relationship property and the period beginning with the transfer,—

(a) the transferee is treated as—

(i) acquiring the property at the cost of the property to the transferor; and

(ii) acquiring the property on the date on which the transferor acquired the property; and

(iii) acquiring and holding the property with the status, intention, and purpose of the transferor in relation to the property:

(b) the transferor is treated as having not owned the property.

Relationship with sections FB 2 to FB 21

(3) Sections FB 2 to FB 21 override this section.

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

Section FB 1C: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 165(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FB 2 Personal property

When this section applies

(1) This section applies for the purposes of sections CB 4 (Personal property acquired for purpose of disposal) and CB 5 (Business of dealing in personal property) when personal property, or an interest in personal property, is transferred on a settlement of relationship property.

Transfer at cost

(2) The transfer is treated as a disposal and acquisition of the property for an amount that equals the cost of the property or, as applicable, the interest in the property, to the transferor.

Further disposal treated as dealing

(3) If, after the transfer, the transferee disposes of the property, they are treated in relation to the disposal as carrying on a business of dealing in the property.

Defined in this Act: amount, business, settlement of relationship property

Compare: 2004 No 35 s FF 4

FB 3A Residential land

When this section applies

(1) This section applies for the purposes of sections CB 6A and CB 16A (which relate to the bright-line test for residential land), and Part D (Deductions) when residential land is transferred on a settlement of relationship property.

Transfer at cost

(2) The transfer is treated as a disposal and acquisition for an amount that equals the total cost of the residential land to the transferor at the date of transfer.

Bright-line start date

(3) The transferee's bright-line start date for the land is the transferor's bright-line start date.

Defined in this Act: bright-line start date, date of transfer, dispose, residential land, settlement of relationship property

Section FB 3A: inserted (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 12(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section FB 3A(1): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FB 3A(1): amended (with effect on 27 March 2021), on 30 March 2021, by section 61(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FB 3A(1): amended, on 23 March 2020, by section 115(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FB 3A(3) heading: replaced, on 30 March 2025, by section 59(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FB 3A(3): replaced, on 30 March 2025, by section 59(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FB 3A list of defined terms **bright-line start date**: inserted, on 30 March 2025, by section 59(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FB 3 Land acquired for certain purposes or under certain conditions

When this section applies

(1) This section applies for the purposes of sections CB 6 to CB 12, CB 14, CB 17, CB 20, and CB 23 (which relate to the disposal of land) and Part D (Deductions) when land was acquired for a purpose set out in or under the

conditions set out in any of those sections, and the land is transferred on a settlement of relationship property.

Transfer at cost

(2) The transfer is treated as a disposal and acquisition for an amount that equals the total cost of the land to the transferor at the date of transfer.

Date of acquisition

(3) The transferee is treated as having acquired the land on the date it was acquired by the transferor.

Further disposal

(4) For the tax consequences if the transferee disposes of the land, *see* section FB 5.

Defined in this Act: amount, date of transfer, dispose, land, settlement of relationship property, tax

Compare: 2004 No 35 s FF 6(1)(a)

FB 4 Land under scheme for major development or division

When this section applies

(1) This section applies for the purposes of section CB 13 (Disposal: amount from major development or division and not already in income) and Part D (Deductions) when land is transferred on a settlement of relationship property.

Transfer at market value plus expenditure

(2) If the transferor has already begun an undertaking or scheme of the kind referred to in section CB 13, the transfer is treated as a disposal by them for an amount that equals the sum of—

(a) the market value of the land on the date on which they began the undertaking or scheme:

(b) the expenditure that they have incurred in carrying on the undertaking or scheme before the date of transfer.

Expenditure incurred by transferee

(3) For the purposes of subsection (2), the transferee is treated as having incurred expenditure in—

(a) acquiring the land of an amount equal to the market value referred to in subsection (2)(a); and

(b) carrying on the undertaking or scheme of an amount equal to the expenditure in subsection (2)(b).

When scheme not begun at date of transfer

(4) If no undertaking or scheme as described in subsection (2) has begun at the date of transfer, the transferee is treated as having acquired the land for an amount that equals the total cost of the land to the transferor at the date of transfer.

Further disposal

(5) For the tax consequences if the transferee disposes of the land, *see* section FB 5.

Defined in this Act: amount, date of transfer, dispose, land, market value, settlement of relationship property, tax

Compare: 2004 No 35 s FF 6(1)(b)

FB 5 Disposal of land

When this section applies

(1) This section applies for the purposes of sections FB 3 and FB 4 when the transferor and the transferee are not associated persons.

Persons treated as associated

(2) If the transferee disposes of the land, section CB 15 (Transactions between associated persons) applies as if the transferor and the transferee were associated persons.

Land disposed of by mortgagee

(3) If a mortgagee disposes of land because the transferee defaults under the mortgage, the disposal is treated as a disposal of land.

Defined in this Act: associated person, dispose, land, mortgage

Compare: 2004 No 35 s FF 6(1)(a)(iv), (b)(iv), (2)

FB 6 Timber or right to take timber

When this section applies

(1) This section applies for the purposes of section CB 24 (Disposal of timber or right to take timber) when timber, or a right to take timber, is transferred on a settlement of relationship property.

Transfer at cost of timber at date of transfer

(2) The transfer is treated as if—

(a) it were a disposal and acquisition for consideration; and

(b) the amount of consideration were equal to the total cost of timber, or the right to take timber, to the transferor at the date of transfer.

Defined in this Act: amount, cost of timber, date of transfer, right to take timber, settlement of relationship property, timber

Compare: 2004 No 35 s FF 7(1), (2)

FB 7 Land with standing timber

When this section applies

(1) This section applies for the purposes of section CB 25 (Disposal of land with standing timber) when—

(a) land with standing timber on it is transferred on a settlement of relationship property; and

(b) the standing timber does not consist of ornamental or incidental trees, as evidenced by a certificate given under section 44C of the Tax Administration Act 1994.

Transfer at cost of timber at date of transfer

(2) The transfer is treated as if—

(a) it were a disposal and acquisition for consideration; and

(b) the amount of consideration were equal to the total cost of timber to the transferor at the date of transfer.

Defined in this Act: amount, cost of timber, date of transfer, land, settlement of relationship property, standing timber, timber

Compare: 2004 No 35 s FF 7(3), (4)

FB 8 Patent applications and patent rights

When this section applies

(1) This section applies for the purposes of sections CB 30 and DB 38 to DB 40 (which relate to patent applications and patent rights) when a patent application with complete specifications or a patent right is transferred on a settlement of relationship property.

Transfer: part of expenditure or cost of rights

(2) The transfer is treated as a disposal and acquisition for an amount that equals, as applicable,—

(a) expenditure referred to in section DB 38 (Patent rights: devising patented inventions) for which the transferor is denied a deduction; or

(b) the cost of the applications or rights referred to in section DB 39 (Patent rights acquired before 1 April 1993) for which the transferor is denied a deduction.

Defined in this Act: amount, deduction, patent rights, settlement of relationship property

Compare: 2004 No 35 s FF 8

FB 9 Financial arrangements rules

The financial arrangements rules do not apply to a financial arrangement transferred on a settlement of relationship property if the financial arrangement meets the criteria set out in section EW 10(6) (Financial arrangements to which financial arrangements rules apply). For the application of the old financial arrangements rules, *see* section EZ 45(c) (Application of old financial arrangements rules).

Defined in this Act: financial arrangement, financial arrangements rules, old financial arrangements rules, settlement of relationship property

Compare: 2004 No 35 s FF 2

Section FB 9: amended (with effect on 1 April 2008), on 6 October 2009, by section 203(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FB 10 Continuity provisions: shares and options

When this section applies

(1) This section applies to modify sections YC 2 to YC 6 (which relate to voting interests and market value interests) for the purposes of the application of the continuity provisions when a share, or option over a share, is transferred on a settlement of relationship property.

Transferee treated as holding share or option

(2) The transferee is treated as having acquired the share or option on the date it was acquired by the transferor, and to have held it at all times up to the date of transfer.

Defined in this Act: continuity provisions, date of transfer, option, settlement of relationship property, share

Compare: 2004 No 35 s FF 1

FB 10B Look-through companies

When this section applies

(1) This section applies for the purposes of sections HB 4 to HB 10 (which relate to transfers of interests) when a look-through interest for a look-through company is transferred on a settlement of relationship property.

Transferee treated as holding interest

(2) The transferee is treated as having acquired the look-through interest on the date it was acquired by the transferor, and to have held it at all times up to the date of transfer.

Defined in this Act: date of transfer, look-through company, look-through interest, settlement of relationship property

Section FB 10B: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 62(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

FB 11 Pension payments to former employees

When this section applies

(1) This section applies for the purposes of section DC 2 (Pension payments to former employees) when a person is entitled to the payment of a pension from a former employer, and because of a settlement of relationship property, the employer pays some or all of the amount of the pension to another person.

Deduction for employer

(2) Section DC 2(1) and (2) applies to the amount paid as if it were the payment of a pension to the former employee.

Defined in this Act: amount, deduction, employee, employer, pay, settlement of relationship property

Compare: 2004 No 35 s FF 17(1)

FB 12 Pension payments to former partners

When this section applies

(1) This section applies for the purposes of section DC 3 (Pension payments to former partners) when a person is entitled to the payment of a pension from a partner in a partnership or from any person, and because of a settlement of relationship property, the partnership, partner, or person pays some or all of the amount of the pension to another person.

Deduction for partner

(2) Section DC 3 applies to the amount paid as if it were the payment of a pension to the former partner.

Defined in this Act: amount, deduction, partner, partnership, pay, settlement of relationship property

Compare: 2004 No 35 s FF 17(2), (3)

Section FB 12 list of defined terms **partner**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FB 12 list of defined terms **partnership**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FB 13 Trading stock

When this section applies

(1) This section applies for the purposes of subpart EB (Valuation of trading stock (including dealer's livestock)) when trading stock is transferred on a settlement of relationship property.

When transferor holds and uses trading stock in business

(2) If the transferor used trading stock in carrying on a business and held the trading stock at the start of the year of transfer, the transfer is treated as a disposal by the transferor and an acquisition by the transferee for an amount equal to the greater of—

(a) the value of the trading stock under section EB 3 (Valuation of trading stock) for the transferor at the end of the income year before the year of transfer; or

(b) the value of the trading stock under section EB 3 for the transferee at the end of the year of transfer.

When transferor acquires and uses trading stock in business

(3) If the transferor used the trading stock in carrying on a business and acquired the trading stock during the year of transfer, the transfer is treated as a disposal by the transferor and an acquisition by the transferee for an amount equal to the cost of the trading stock to the transferor.

When transferor has not used trading stock in business

(4) If the transferor did not use the trading stock in the carrying on of a business, the transfer is treated as a disposal by the transferor and acquisition by the transferee for an amount equal to the cost of the trading stock to the transferor.

When transferee disposes of trading stock

(5) If, after a transfer under subsection (2) or (3), the trading stock was not used by the transferee in the carrying on of a business and they dispose of the trading stock at any time, the disposal is treated as a disposal of trading stock used by the transferee in the carrying on of a business.

Specified livestock in dealing operation

(6) For the purposes of subsection (2), trading stock does not include specified livestock unless it is used in a dealing operation and sections FB 14 and FB 17 apply.

Relationship with sections GC 1 and GC 2

(7) This section overrides sections GC 1 and GC 2 (which relate to the disposal of trading stock for inadequate consideration).

Defined in this Act: amount, business, consideration, dispose, income year, settlement of relationship property, specified livestock, trading stock, year of transfer

Compare: 2004 No 35 s FF 13

Section FB 13 list of defined terms **dispose**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FB 14 Specified livestock

When this section applies

(1) This section applies for the purposes of sections EC 6 to EC 26 (which relate to the valuation of specified livestock) when—

(a) specified livestock is transferred on a settlement of relationship property; and

(b) the transferor used the livestock in the carrying on of a business other than a business of dealing in livestock, and held the livestock at the start of the year of transfer; and

(c) the value of the livestock is not determined under the herd scheme, *see* section FB 15.

Transfer at amount determined under subparts EA and EC

(2) The transfer is treated as a disposal and acquisition for an amount equal to the value that the transferor determined under subpart EC (Valuation of livestock) and took into account in section EA 1 (Trading stock, livestock, and excepted financial arrangements) at the end of the income year before the year of transfer.

Relationship with sections GC 1 and GC 2

(3) This section overrides sections GC 1 and GC 2 (which relate to the disposal of trading stock for inadequate consideration).

Defined in this Act: amount, business, herd scheme, income year, settlement of relationship property, specified livestock, year of transfer

Compare: 2004 No 35 s FF 13(1)(a)(i), (3)

FB 15 Specified livestock valued under herd scheme

If specified livestock is transferred on a settlement of relationship property and the specified livestock is valued under the herd scheme by the transferor, then sections EC 4B and EC 4C (which relate to livestock) apply.

Defined in this Act: herd scheme, settlement of relationship property, specified livestock

Section FB 15: replaced (with effect on 28 March 2012), on 17 July 2013, by section 55 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FB 15: amended, on 30 June 2014, by section 103 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FB 16 Non-specified livestock

When subsections (2) to (4) apply

(1) Subsections (2) to (4) apply for the purposes of section EC 31 (Enhanced production) in an income year when—

(a) non-specified livestock is transferred on a settlement of relationship property; and

(b) because of the transfer, the transferee starts to derive, or once again derives, income from non-specified livestock.

Transferee not starting to derive income

(2) The transferee is treated as not starting to derive, or once again deriving income from non-specified livestock. However, the transfer is taken into account in working out whether any later acquisition by the transferee of non-specified livestock means that they start to derive, or once again derive, income from non-specified livestock.

When subsection (4) applies

(3) Subsection (4) applies when the transferee uses the non-specified livestock in deriving income and was not, before the transfer, deriving income from non-specified livestock.

Livestock being written down to standard value

(4) If the year of transfer falls in the first or second year of the 3-year period referred to in section EC 31(1)(b), the transferee must apply section EC 31(2) as if they were the transferor and the transfer had not taken place.

Transferee not acquiring land for production

(5) For the purposes of section EC 31(1)(a)(ii) and (iii), if land is transferred on a settlement of relationship property, the transferee is treated as having acquired the land on the date it was acquired by the transferor.

Defined in this Act: income, income year, land, non-specified livestock, settlement of relationship property, standard value, year of transfer

Compare: 2004 No 35 s FF 10

FB 17 High-priced livestock

When this section applies

(1) This section applies for the purposes of sections EC 32 to EC 37 (which relate to the valuation of high-priced livestock) when high-priced livestock is transferred on a settlement of relationship property.

Transfer at cost

(2) The transfer is treated as a disposal and acquisition for an amount equal to the cost of the livestock to the transferor. The transferee is treated as having acquired the livestock on the day it was acquired by the transferor.

Straight-line method of valuation

(3) In determining the value of the livestock at the end of the year of transfer, the transferee must take into account the amount referred to in subsection (2) reduced by the depreciation percentage of its cost price under section EC 34(2) (General rule). Subsection (4) overrides this subsection.

When diminishing value chosen

(4) If the transferor had chosen to apply the diminishing value method to the valuation of the livestock, the transferee is treated as also having made that choice, and the reduction is calculated under section EC 34(3). But if the transferor had not chosen to apply the diminishing value method, the transferee may make a choice between the methods set out in section EC 34(2) and (3) only if the livestock was acquired by the transferor in the year of transfer.

Defined in this Act: amount, cost price, depreciation percentage, diminishing value method, dispose, high-priced livestock, settlement of relationship property, straight-line method, year of transfer

Compare: 2004 No 35 s FF 11

Section FB 17 list of defined terms **dispose**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FB 18 Bloodstock

When this section applies

(1) This section applies for the purposes of section EC 41 (Reduction: bloodstock not previously used for breeding in New Zealand) when bloodstock is transferred on a settlement of relationship property.

Use for breeding purposes in New Zealand

(2) If the bloodstock has been used for breeding purposes in New Zealand by the transferor, then for valuation purposes by the transferee and the amount of reduction applying to the value of an animal, the bloodstock is treated as not having been used for breeding purposes in New Zealand by the transferor.

Defined in this Act: amount, bloodstock, New Zealand, settlement of relationship property

Compare: 2004 No 35 s FF 12

FB 19 Leased assets

When this section applies

(1) This section applies when—

(a) a person leases, rents, or hires plant, machinery, or other equipment, including a motor vehicle or a temporary building; and

(b) they are allowed a deduction in an income year for an amount paid under the agreement to lease, rent, or hire; and

(c) they acquire the lease asset at any time, or a person associated with them acquires the asset; and

(d) either they, or the associated person, transfer the asset on a settlement of relationship property.

Income when transferee disposes of asset

(2) If the transferee disposes of the asset for an amount that is more than the transfer amount, they are treated as deriving income as described in section FA 5 (Assets acquired and disposed of after deduction of payments under lease) in the income year of the disposal of the asset equal to the lesser of—

(a) the amount by which the amount derived on disposal is more than the transfer amount; or

(b) the sum of the amounts for which the transferor has been allowed a deduction.

Transfer amount

(3) In this section, the **transfer amount** is the amount that equals, as applicable,—

(a) the adjusted tax value of the asset at the start of the year of transfer; or

(b) if the asset was acquired by the transferor or the associated person during the year of transfer, the base value of the asset.

Defined in this Act: adjusted tax value, amount, associated person, deduction, income, income year, lease, pay, settlement of relationship property, temporary building, transfer amount, year of transfer

Compare: 2004 No 35 s FF 14

FB 20 Mining assets

[Repealed]

Section FB 20: repealed, on 1 April 2014, by section 69 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

FB 21 Depreciable property

When this section applies

(1) This section applies when a person who is allowed a deduction for an amount of depreciation loss for an item of property transfers the item on a settlement of relationship property.

Persons to whom section does not apply

[Repealed]

(2) *[Repealed]*

Transfer at cost or adjusted tax value

(3) The transfer is treated as a disposal and acquisition for an amount equal to, as applicable,—

(a) if the transferor acquired the item in the year of transfer, the cost of the item to them; or

(b) in any other case, the adjusted tax value of the item measured at the start of the year of transfer.

Treatment of transferee

(4) In relation to amounts of depreciation loss for the item, the transferee—

(a) has an amount of depreciation loss for the item from the date of transfer, whether or not the transferor has in fact had an amount of depreciation loss:

(b) is treated as having had an amount of depreciation loss equal to all amounts of depreciation loss that the transferor had for the item in income years before the year of transfer:

(c) does not have a greater amount of depreciation loss than that which the transferor would have had if they had kept the item.

When item is building

(5) If the item is a building, the transferee's amount of depreciation loss must be determined having regard to the original cost of the building to the transferor.

Activities in year of transfer

(6) If the item has been acquired, erected, installed, altered, extended, improved, or attached by the transferor in the year of transfer, the item is treated as if it were acquired, erected, installed, altered, extended, improved, or attached by the transferee in the income year.

Conditions applying to item

(7) For the purposes of determining the rate that applies to the item under section EE 31(2)(b) or EZ 23(4) (which relate to depreciation rates for new assets), if either of the following conditions applied to the item when the transferor acquired or erected it, the condition is treated as applying to the item at the date of transfer:

(a) the item had not previously been used by a person, or acquired or held by a person for their use; and

(b) if the item is a building or part of a building, it had not previously been occupied.

Defined in this Act: acquire, adjusted tax value, amount, date of transfer, deduction, depreciable property, depreciation loss, dispose, income year, property, settlement of relationship property, year of transfer

Compare: 2004 No 35 ss FF 15, FF 16

Section FB 21(2) heading: repealed, on 1 April 2014, pursuant to section 70(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FB 21(2): repealed, on 1 April 2014, by section 70(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FB 21 list of defined terms **property**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FB 21 list of defined terms **resident mining operator**: repealed, on 1 April 2014, by section 70(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Subpart FC—Distribution, transmission, and gifts of property

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Introductory provisions

FC 1 Disposals to which this subpart applies

Types of distributions and gifts

(1) This subpart provides a value for property that is disposed of under the transactions referred to in section FC 10 and under transactions that are—

(a) the transfer of a person's estate to an executor or administrator on the death of the person:

(b) the transfer of property on a distribution by an executor, administrator, or trustee of a deceased person's estate to a beneficiary who is beneficially entitled to receive the property under the will or the rules governing intestacy:

(c) the transfer of property on a distribution by a trustee of a trust to a beneficiary of the trust, unless the distribution is part of an arrangement under which the beneficiary pays an amount for the property that would reasonably be expected to be paid on a disposal at arm's length:

(d) the transfer of property on a distribution in kind by a company in a transfer of company value caused by a shareholding in the company under section CD 6 (When is a transfer caused by a shareholding relationship?):

(e) the transfer of property on the making of a gift, other than a gift of trading stock or an interest in trading stock:

(f) the transfer of property on a settlement by the trustee of a trust on the trustee of another trust, if authorised under—

(i) a trust instrument as a power of advancement or resettlement:

(ii) section 64 of the Trusts Act 2019 as the payment or application of capital money or other capital assets.

Some definitions

(2) In this subpart,—

close relative, in relation to a transfer from a person's estate, means—

(a) a surviving spouse, civil union partner, or de facto partner of the deceased person:

(b) a person who is within the second degree of relationship to the deceased person

property includes a look-through interest for a look-through company

tax-base property means—

(a) revenue account property:

(b) an attributing interest in a foreign investment fund (FIF):

(c) a financial arrangement other than an arrangement for which the deceased person, or their trustee, was a cash basis person:

(d) an item for which a deduction for an amount of depreciation loss arises.

Defined in this Act: amount, attributing interest, cash basis person, company, deduction, de facto partner, depreciation loss, FIF, financial arrangement, look-through company, look-through interest, property, revenue account property, settlement, trading stock, transfer of company value, trustee

Compare: 2004 No 35 s FI 1

Section FC 1 heading: replaced (with effect on 1 April 2008), on 24 February 2016, by section 166(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FC 1(1): amended, on 30 March 2017, by section 98 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FC 1(1)(c): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 166(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FC 1(1)(d): amended, on 23 March 2020, by section 116(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FC 1(1)(e): amended, on 1 April 2024, by section 74(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FC 1(1)(f)(ii): replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section FC 1(2) **property**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 63(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FC 1 list of defined terms **look-through company**: inserted, on 1 April 2011, by section 63(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FC 1 list of defined terms **look-through interest**: inserted, on 1 April 2011, by section 63(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FC 1 list of defined terms **property**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 166(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FC 1 list of defined terms **trading stock**: inserted, on 1 April 2024, by section 74(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FC 1 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 116(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FC 1 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 116(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

FC 2 Transfer at market value

Market value

(1) The transfer of property in circumstances described in section FC 1(1) is treated as a disposal by the transferor and an acquisition by the transferee at the market value of the item for the transferor. The disposal is treated as occurring on the date of the transaction.

Date of transfer of estate of deceased person

(2) For property referred to in section FC 1(1)(a), the disposal and acquisition is treated as occurring immediately before the death of the person.

Exceptions to general rule

(3) Sections ED 2B (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary) and FC 3 to FC 9, FC 10, FD 1, and FD 2 override this section.

Relationship with settlements and distributions for trusts

(4) Subsection (1) does not apply for the purposes of determining whether a transfer of property is—

(a) a settlement on a trust:

(b) a distribution from a trust as defined in section HC 14 (Distributions from trusts).

Defined in this Act: dispose, distribution, market value, property, settlement

Compare: 2004 No 35 ss FI 2, FI 3

Section FC 2(1): amended, on 30 March 2017, by section 99(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FC 2(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 204 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FC 2(3): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FC 2(3): amended, on 29 March 2018 (with effect on 1 April 2016), by section 94 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FC 2(3): amended, on 2 November 2012, by section 67 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section FC 2(4) heading: replaced (with effect on 18 March 2019), on 23 March 2020, by section 117(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FC 2(4): replaced (with effect on 18 March 2019), on 23 March 2020, by section 117(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FC 2 list of defined terms **distribution**: inserted, on 18 March 2019, by section 192(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FC 2 list of defined terms **property**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FC 2 list of defined terms **settlement**: inserted (with effect on 18 March 2019), on 23 March 2020, by section 117(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Exceptions for property transferred on death of person

FC 3 Property transferred to spouse, civil union partner, or de facto partner

When this section applies

(1) This section applies in the circumstances described in section FC 1(1)(a) or (b) when property is transferred on a person's death to the surviving spouse, civil union partner, or de facto partner of the deceased person. However, this section does not apply if—

(a) the property is tax-base property; and

(b) a person who is not a close relative of the deceased person is beneficially entitled under the will or intestacy to other property that is tax-base property.

Disposal to spouse or partner

(2) The transfer of property to the surviving spouse, civil union partner, or de facto partner of the deceased person, including any intervening transfer to an executor or administrator, is treated as a transfer of property under a settlement of relationship property under subpart FB (Transfers of relationship property).

Relationship with subject matter

(3) Section FC 9 overrides this section for certain transfers of residential land.

Defined in this Act: close relative, de facto partner, property, residential land, settlement of relationship property, tax-base property

Compare: 2004 No 35 s FI 4

Section FC 3(3) heading: inserted (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 13(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section FC 3(3): inserted (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 13(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section FC 3 list of defined terms **property**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FC 3 list of defined terms **residential land**: inserted (with effect on 1 October 2015), on 16 November 2015, by section 13(2) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

FC 4 Property transferred to charities or to close relatives and others

When this section applies

(1) This section applies in the circumstances described in section FC 1(1)(b) when tax-base property is transferred on a person's death if—

(a) each beneficiary of the deceased person is described in subsection (2); and

(b) no life interest in the property is created; and

(c) no trust over the property is created, other than a trust to execute the will and administer the estate; and

(d) the net income of the estate is distributed as described in subsection (3).

Beneficiaries of deceased

(2) A beneficiary of the deceased person must be—

(a) a close relative of the deceased person:

(b) a person exempt under section CW 41, CW 42, or CW 43 (which relate to exempt income of charities).

Income from estate must be distributed

(3) While the administration of the estate is continuing, the net income of the estate is distributed to the extent allowed—

(a) under the will or the rules governing intestacy; and

(b) by the trustee's legal obligations.

Transfer subject to subpart FB

(4) The transfer is treated as a transfer of property on a settlement of relationship property under subpart FB (Transfers of relationship property).

Defined in this Act: close relative, net income, property, settlement of relationship property, tax-base property, trustee

Section FC 4: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 167(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FC 4(1): amended (with effect on 6 October 2009), on 24 February 2016, by section 168(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FC 4(4): amended (with effect on 6 October 2009), on 24 February 2016, by section 168(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FC 5 Land transferred to close relatives

What this section applies to

(1) This section applies in the circumstances described in section FC 1(1)(a) or (b) when land is transferred on a person's death to a close relative of the person.

Land

(2) Sections CB 9 to CB 11 and CB 14 (which relate to the disposal of land) do not apply to the transfer of land, including any intervening transfer to an executor or administrator that, if it had been disposed of by the deceased person, would have resulted in income under any of those sections.

Cost of land

(3) If the land is transferred to a person who disposes of it within 10 years of its acquisition by the deceased person, and the person derives income under any of sections CB 9 to CB 11 and CB 14, the cost of land to the person is—

(a) the cost of the land incurred by the deceased person; and

(b) all other expenditure incurred by the person, the deceased person, or the administrator or executor of the deceased person, as applicable, for which no deduction has been allowed.

Defined in this Act: close relative, deduction, dispose, income, land, year

Compare: 2004 No 35 s FI 7

Section FC 5(3)(b): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 104(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FC 6 Forestry assets transferred to close relatives

What this section applies to

(1) This section applies in the circumstances described in section FC 1(1)(a) or (b) when forestry assets are transferred on a person's death to a close relative of the person.

Forestry assets

(2) A transfer of a forestry asset, including any intervening transfer to an executor or administrator, is treated as a transfer of property on a settlement of relationship property—

(a) under section FB 6 (Timber or right to take timber), when the forestry asset is timber or a right to take timber:

(b) under section FB 7 (Land with standing timber), when the forestry asset is standing timber.

Meaning of forestry assets

(3) In this section, **forestry assets** means timber, standing timber, or a right to take timber.

Defined in this Act: close relative, forestry assets, right to take timber, settlement of relationship property, standing timber, timber

Compare: 2004 No 35 s FI 6

Section FC 6(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 169(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FC 7 Transfer of prepaid property

What this section applies to

(1) This section applies, in the circumstances described in section FC 1(1)(a) or (b), to a transfer of property on a person's death for which the deceased person has, in the year of transfer, an unexpired portion of expenditure under section EA 3 (Prepayments).

Unexpired prepayments

(2) If section EA 3 applies to the property transferred, the property must be valued under section EA 3(4) to (7), as if the date of transfer were the end of an income year.

Defined in this Act: income year, property, year

Compare: 2004 No 35 s FI 8

Section FC 7 list of defined terms **property**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FC 8 Transfer of certain financial arrangements

What this section applies to

(1) This section applies, in the circumstances described in section FC 1(1)(a) or (b), to a transfer of a financial arrangement on a person's death.

Financial arrangements: cash basis person

(2) If the deceased person was a cash basis person and the trustee of the deceased person's estate is a cash basis person under section EW 60(1) (Trustee of deceased's estate), the property must be valued at cost.

Defined in this Act: cash basis person, financial arrangement, property, trustee

Compare: 2004 No 35 s FI 11

Section FC 8 list of defined terms **property**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FC 9 Residential land transferred to executor, administrator, or beneficiary on death of person

What this section applies to

(1) This section applies in the circumstances described in section FC 1(1)(a) or (b) when residential land is transferred on a person's death and section FC 5 does not apply.

Residential land

(2) Section CB 6A (Disposal within 2 years: bright-line test for residential land) does not apply to the transfer of residential land (*see also*: section CB 6A(5)(c)).

Cost of residential land

(3) If the residential land is transferred to a person who disposes of it, and the person derives income, the cost of the land to the person is—

(a) the cost of the land incurred by the deceased person; and

(b) all other expenditure incurred by the person, the deceased person, or the administrator or executor of the deceased person, as applicable, for which no deduction has been allowed.

Rollover relief extended

(4) Despite subsection (3), if the residential land is transferred by a beneficiary of the deceased person to a person who is a recipient as described in subpart FD, and the person disposes of it, section CB 6A does not apply to the disposal.

Defined in this Act: deduction, dispose, income, land, person, residential land

Section FC 9: inserted (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 15(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section FC 9(2): replaced, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FC 9(2): amended (with effect on 1 July 2024), on 29 March 2025, by section 60(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FC 9(2): amended (with effect on 1 July 2024), on 29 March 2025, by section 60(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FC 9(4) heading: inserted (with effect on 27 March 2021), on 31 March 2023, by section 66(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FC 9(4): inserted (with effect on 27 March 2021), on 31 March 2023, by section 66(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FC 9(4): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Exceptions for residential land transferred to trustees of certain trusts or other entities

Heading: inserted, on 1 April 2022, by section 104 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

FC 9B Residential land: certain transferors

[Repealed]

Section FC 9B: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

FC 9C Residential land: certain recipients

[Repealed]

Section FC 9C: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

FC 9D Residential land: certain recipients of Treaty of Waitangi land

[Repealed]

Section FC 9D: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Bankruptcy or insolvency of person under Insolvency Act 2006

Heading: inserted, on 30 March 2017, by section 100 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FC 10 Transfers from person to Official Assignee under Insolvency Act 2006

When this section applies

(1) This section applies when a person is adjudicated bankrupt under the Insolvency Act 2006 or is subject to a procedure under Part 5 of that Act.

Transfer of revenue account property subject to section EA 1

(2) If revenue account property of the person that is subject to section EA 1 (Trading stock, livestock, and excepted financial arrangements) vests in the Official Assignee, the transfer is treated as a disposal and acquisition of the property for an amount equal to the market value of the property on the date (the **transfer date**) on which the person is adjudicated bankrupt or the procedure under Part 5 of the Insolvency Act 2006 is approved by the Court.

Transfer of revenue account property subject to section EA 2

(3) If revenue account property of the person that is subject to section EA 2 (Other revenue account property) vests in the Official Assignee,—

(a) the person does not have a deduction under section DB 23 (Cost of revenue account property) for the cost of the revenue account property; and

(b) the cost of the property for the Official Assignee for the purposes of sections DB 23 and EA 2(2) is treated as being equal to the cost of the property for the person.

Transfer of depreciable property

(4) If depreciable property of the person vests in the Official Assignee,—

(a) the person is treated as disposing of the property for an amount equal to the adjusted tax value of the property on the transfer date:

(b) the Official Assignee is treated as acquiring the property—

(i) with an acquisition date, base value, and adjusted tax value that are the same as those quantities are for the person immediately before the transfer date; and

(ii) without incurring an amount of expenditure as consideration for the transfer.

Deductions not already allocated to period before transfer

(5) Subsection (6) applies if, before the transfer date, the person incurs expenditure relating to property and, by the transfer date, deductions of the person relating to the expenditure (the **unallocated deductions**) are not allocated to a period ending before the transfer date.

Official Assignee and unallocated deductions

(6) An amount of unallocated deductions is treated as not being a deduction of the person and as being a deduction of the Official Assignee that relates to property of the Official Assignee and that may be allocated by the Official Assignee—

(a) to a period beginning on or after the transfer date; and

(b) in a way that the person could have allocated the deduction but for the adjudication or procedure under the Insolvency Act 2006.

Defined in this Act: adjusted tax value, amount, deduction, depreciable property, revenue account property

Section FC 10: inserted, on 30 March 2017, by section 100 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FC 10 list of defined terms **adjusted tax value**: inserted, on 29 March 2018 (with effect on 30 March 2017), by section 96 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FC 10 list of defined terms **amount**: inserted, on 29 March 2018 (with effect on 30 March 2017), by section 96 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FC 10 list of defined terms **deduction**: inserted, on 29 March 2018 (with effect on 30 March 2017), by section 96 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FC 10 list of defined terms **depreciable property**: inserted, on 29 March 2018 (with effect on 30 March 2017), by section 96 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FC 10 list of defined terms **revenue account property**: inserted, on 29 March 2018 (with effect on 30 March 2017), by section 96 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart FD—Rollover relief from the bright-line test

Subpart FD: replaced (with effect on 1 July 2024), on 29 March 2025, by section 61(1) (and see section 61(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

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FD 1 Relief from bright-line test for transfers between associated persons

When this section applies

(1) This section applies for the purposes of sections CB 6A and CB 16A (which relate to the bright-line test for residential land) and Part D (Deductions) when residential land is disposed of by a person (**person A**) to another person (**person B**) who is—

(a) a person associated with person A under any of sections YB 2 to YB 13 (which relate to associated persons) at the date of the disposal and for at least 2 years before that date; or

(b) a trustee of a trust in which all beneficiaries, other than person A in their capacity as a beneficiary, are—

(i) associated with person A at the date of disposal and for at least 2 years before that date, except for beneficiaries aged less than 2 years and persons who have become associated with person A due to adoption, marriage, civil union, or de facto relationship who must be associated with person A since birth, adoption, marriage, civil union, or the start of the de facto relationship, as applicable; or

(ii) an association, club, institution, society, organisation, or trust not carried on for the private profit of any person whose funds are applied wholly or principally to any civic, community, charitable, philanthropic, religious, benevolent, or cultural purpose, whether in New Zealand or elsewhere.

Disposal at cost

(2) The disposal is treated as a disposal and acquisition, at the date of disposal, for an amount that equals the cost of the residential land to person A.

Bright-line start date

(3) Person B's bright-line start date for the land is person A's bright-line start date.

Transitional rule for change in terminology

(4) For the purposes of subsection (3), person B's bright-line start date is—

(a) the date of person A's bright-line acquisition date, if person A acquired the land before 1 July 2024 and on or after 27 March 2021:

(b) 27 March 2021, if person A acquired the land before 27 March 2021.

Use of property

(5) For the purposes of determining whether section CB 16A (Main home exclusion for disposal within 2 years) applies, person A's use of the property is attributed to person B (for example, if person A used the property as a main home for 1 year, this is attributed to person B).

Relationship with sections HB 1 and HG 2

(6) For the purposes of determining association under subsection (1)(a) and a disposal between a person who has an effective look-through interest for a look-through company and the look-through company or a person and a partnership, sections HB 1 (Look-through companies are transparent) and HG 2 (Partnerships are transparent) are ignored and association is determined under section YB 12 or YB 13.

When this section does not apply

(7) This section does not apply to a disposal of residential land if the section has already been applied to a disposal (the **first disposal**) of the residential land and 2 years have not passed from the date of the first disposal.

Defined in this Act: amount, associated, bright-line end date, bright-line period, bright-line start date, charitable purpose, dispose, effective look-through interest, look-through company, main home, New Zealand, partnership, residential land, year

Section FD 1: replaced (with effect on 1 July 2024), on 29 March 2025, by section 61(1) (and see section 61(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FD 2 Relief from bright-line test for Māori rollover trusts

When this section applies

(1) This section applies for the purposes of sections CB 6A and CB 16A (which relate to the bright-line test for residential land) and Part D (Deductions) when residential land is disposed of as described in the following table:

Row	Disposal	Conditions to be satisfied
1	Disposal to a Māori rollover trust	The transferor is a settlor and beneficiary of a Māori rollover trust; and the transferee is a trustee of the Māori rollover trust.
2	Disposal from one Māori rollover trust to another	The transferor is a trustee of a Māori rollover trust; and the transferee is a trustee of another Māori rollover trust; and

		the beneficiaries for both trusts are the same.
3	Disposal by a Māori rollover trust	The transferor is the trustee of a Māori rollover trust; and the transferee is a settlor of the Māori rollover trust; and the settlors— a) originally transferred the land to the trustee; and b) acquired proportionally the same amount of land back from the trustee as they had originally transferred or, when one of the settlors has died, the settlors receive at least the same proportion of the land back from the trustee as they had originally transferred; and c) are beneficiaries of the trust.

How to use this table: Read the columns from left to right according to the row that fits the situation. If the parties to the disposal meet the relevant conditions, then this section applies to them.

Other capacities

(2) For the purposes of subsection (1), the transferors and transferees may have different capacities in relation to the different conditions in that subsection (for example, a transferee may be a settlor in their personal capacity and a beneficiary as an owner of a look-through company).

Transfer at greater of cost or consideration derived

(3) The disposal is treated as a disposal and acquisition, at the date of disposal, for an amount that equals the greater of the cost of the residential land to the transferor or the consideration paid by the transferee.

Bright-line start date

(4) The transferee's bright-line start date for the land is the transferor's bright-line start date.

Transitional rule for change in terminology

(5) For the purposes of subsection (4), if the transferor acquired the land before 1 July 2024, the transferor's bright-line acquisition date is treated as a bright-line start date.

Meaning of Māori rollover trust

(6) **Māori rollover trust** means, at the time of a relevant transfer to or from a relevant trust, a trust in which—

(a) a trustee of the trust is a Maori authority or eligible to elect to be a Maori authority; and

(b) all beneficiaries are—

(i) members of the same iwi or hapū:

(ii) descendants of the same tipuna; and

(c) the land is subject to Te Ture Whenua Maori Act 1993.

Defined in this Act: bright-line period, bright-line start date, dispose, look-through company, Maori authority, Māori rollover trust, residential land, settlor, trustee

Section FD 2: replaced (with effect on 1 July 2024), on 29 March 2025, by section 61(1) (and see section 61(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FD 3 Certain transfers of residential land included in settlement of claim under Treaty of Waitangi

When this section applies

(1) This section applies for the purposes of sections CB 6A and CB 16A (which relate to the bright-line test for residential land) and Part D (Deductions) to a disposal of residential land that is—

(a) subject to Te Ture Whenua Maori Act 1993; and

(b) made as part of the settlement of a claim under the Treaty of Waitangi; and

(c) disposed of to a trustee of a trust that is a Maori authority or is eligible to be a Maori authority under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?).

Transfer by transferor

(2) The transferor is treated as transferring the land at the greater of the cost of the land to them or the consideration they derive from the disposal.

Transfer to transferee

(3) The transferee is treated as acquiring the land at its market value at the time the land was transferred from the Crown.

Bright-line start date

(4) The transferee's bright-line start date for the land is the transferor's bright-line start date.

Transitional rule for change in terminology

(5) For the purposes of subsection (4), if the transferor acquired the land before 1 July 2024, the transferor's bright-line acquisition date is treated as a bright-line start date.

Defined in this Act: bright-line period, bright-line start date, dispose, Maori authority, residential land, trust, trustee

Section FD 3: replaced (with effect on 1 July 2024), on 29 March 2025, by section 61(1) (and see section 61(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Subpart FE—Interest apportionment on thin capitalisation

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Introductory provisions

FE 1 What this subpart does

Interest adjustment

(1) This subpart applies to adjust the effective level of interest deductions for a New Zealand taxpayer by treating the taxpayer as deriving income—

(a) if the taxpayer is not a foreign-owned bank and the level of debt in New Zealand of the taxpayer's New Zealand group (identified in sections FE

3 or FE 25 to FE 30) is disproportionately high, either by comparison with the total level of debt worldwide of the taxpayer's worldwide group (identified in sections FE 31 to FE 32) or, in some situations, by comparison with the level of the taxpayer's debt in New Zealand arising from debt funding provided by third parties, and the taxpayer—

(i) is controlled by a single non-resident:

(ii) is controlled by a non-resident owning body:

(iii) is controlled by a trustee of a trust, if 50% or more by value of settlements on the trust are from persons who are, or are controlled by, non-residents or non-resident owning bodies and who act in concert:

(iv) is a person (an **outbound entity**) with an income interest in a CFC or with an interest in a FIF that satisfies the requirements of section EX 35 (Exemption for FIF resident in Australia) or for which the person uses the attributable FIF income method:

(v) is a New Zealand entity who controls an outbound entity; and

(b) if the taxpayer is a foreign-owned bank and the level of equity for the taxpayer's New Zealand banking group (identified in sections FE 33 to FE 37) is less than the acceptable threshold level.

Structure of subpart

(2) This subpart sets out—

(a) the persons to whom the interest apportionment rules may apply:

(b) the thresholds for the application of the rules:

(c) the consequences of application of the rules:

(d) how to calculate the debt percentages of a New Zealand group and a worldwide group:

(e) how to calculate a reporting bank's New Zealand equity threshold, net equity, and funding debt:

(f) how to determine the membership of a New Zealand group, a worldwide group, and a New Zealand banking group:

(g) how to measure ownership interests in companies for the purposes of this subpart.

Defined in this Act: attributable FIF income method, CFC, FIF, income, income interest, interest, New Zealand, New Zealand banking group, non-resident, non-resident owning body, ownership interest, reporting bank, source in New Zealand, taxpayer, trustee

Compare: 2004 No 35 s FG 1

Section FE 1(1) heading: replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 105(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 1(1): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 105(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 1(1)(a)(iii): replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 170(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 1 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 50(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 1 list of defined terms **CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 206(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 1 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 1 list of defined terms **FIF**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 50(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 1 list of defined terms **income derived from New Zealand**: repealed, on 21 December 2010, by section 64(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FE 1 list of defined terms **income interest**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 206(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 1 list of defined terms **non-resident owning body**: inserted, on 1 April 2015, by section 105(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 1 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 105(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 1 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 64(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FE 1 list of defined terms **trustee**: inserted, on 1 April 2015, by section 105(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 2 When this subpart applies

Persons to whom interest apportionment rules may apply

(1) The interest apportionment rules in sections FE 6 and FE 7 may apply to the following persons if, at a time in an income year, they are:

(a) a non-resident who is not a company:

(b) a non-resident company unless the company is 1 in which—

(i) a person resident in New Zealand has a direct ownership interest of 50% or more; and

(ii) no non-resident has a direct ownership interest of 50% or more, when added to any direct ownership interests of all persons associated with them:

(c) a company that is resident in New Zealand if a non-resident has—

(i) an ownership interest in the company of 50% or more:

(ii) control of the company by any other means:

(cb) a company that is resident in New Zealand if the company has members who make up a non-resident owning body for the company—

(i) holding total ownership interests in the company of 50% or more, after adjustment to the extent necessary to avoid multiple counting if ownership interests in the company would otherwise be counted more than once:

(ii) having control of the company by any other means:

(cc) a company that is resident in New Zealand if a trustee who meets the requirements of paragraph (d) or (db)—

(i) holds total ownership interests in the company of 50% or more:

(ii) has control of the company by any other means:

(cd) the trustee of a trust on which a non-resident makes a settlement in or before the income year and for which 50% or more of the value of settlements made on the trust in or before the income year is from settlements made by the non-resident or by a person who is associated with the non-resident in the income year:

(d) the trustee of a trust if 50% or more of the value of settlements made on the trust is from settlements made by—

(i) *[Repealed]*

(ii) a person who is described in paragraphs (a) to (cc) or would be described by this paragraph or paragraph (db) if settlements made by the trustee and powers of appointment or removal held by the trustee were ignored:

(iii) a group of persons who act in concert, each of whom is described in paragraphs (a) to (cc) or would be described by this paragraph or paragraph (db) if settlements made by the trustee and powers of appointment or removal held by the trustee were ignored:

(db) the trustee of a trust if a person described in paragraphs (a) to (cc), or would be described by this paragraph or paragraph (d) if settlements made by the trustee and powers of appointment or removal held by the trustee were ignored, has the power to appoint or remove a trustee of the trust other than for the purpose of protecting a security interest:

(e) a company that is resident in New Zealand and has—

(i) an income interest in a CFC:

(ii) an interest in a FIF that satisfies the requirements of section EX 35 (Exemption for interest in FIF resident in Australia):

(iii) an interest in a FIF for which the person uses the attributable FIF income method:

(f) a company that is resident in New Zealand and has—

(i) an ownership interest in a company described in paragraph (e) of 50% or more:

(ii) control of a company described in paragraph (e) by any other means:

(g) a natural person, or a trustee of a trust settled by a New Zealand resident, if the natural person or trustee is resident in New Zealand and has—

(i) an income interest in a CFC:

(ib) an interest in a FIF that satisfies the requirements of section EX 35:

(ic) an interest in a FIF for which the person uses the attributable FIF income method:

(ii) an ownership interest in a company described in paragraph (e) or (f) of 50% or more:

(iii) control of a company described in paragraph (e) or (f) by any other means.

Non-resident owning bodies

(1B) For the purposes of this subpart and the definition of **non-resident owning body**,—

(a) a non-resident includes a person who meets the requirements of section FE 2(1)(cc), (d), or (db):

(b) in determining the relationship between the amount of a company's debt relating to a member and the level of ownership interests in the company relating to the member, the level of each type of ownership interest in the company is considered, despite section FE 39.

Ownership interests

(2) Ownership interests in a company are determined under sections FE 38 to FE 41.

Treatment of foreign companies

(3) For the purposes of this section, a company resident in New Zealand is treated as being a non-resident company if it is treated under a double tax agreement as not being resident in New Zealand.

Association between person and non-resident relative for subsection (1)

(4) A resident of New Zealand and a relative who is a non-resident are not associated persons—

(a) in relation to a company for the purposes of subsection (1)(b)(ii), if the non-resident does not have a direct or indirect ownership interest in the company.

(b) *[Repealed]*

New Zealand banking group of Crown-owned registered bank

(5) If the members of the New Zealand banking group of a registered bank are given by section FE 36B, the interests held by a member of the group for the purposes of subsection (1)(e) and (f) do not include interests held by an associated person who is not a member of the group.

Defined in this Act: associated person, attributable FIF income method, CFC, company, double tax agreement, FIF, income interest, income year, interest, New Zealand, New Zealand banking group, non-complying trust, non-resident, non-resident company, non-resident owning body, ownership interest, relative, resident in New Zealand, settlement, trustee

Compare: 2004 No 35 s FG 2(1), (6), (8)

Section FE 2(1)(cb): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 106(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 2(1)(cb)(i): replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 171(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 2(1)(cc): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 106(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 2(1)(cd): inserted (with effect on 1 April 2015), on 30 March 2021, by section 63(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 2(1)(d): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 106(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 2(1)(d)(i): repealed (with effect on 1 April 2015), on 30 March 2021, by section 63(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 2(1)(db): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 106(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 2(1)(e): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 51(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2(1)(f): added (with effect on 30 June 2009), on 6 October 2009, by section 207(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 2(1)(g): added (with effect on 30 June 2009), on 6 October 2009, by section 207(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 2(1)(g)(ib): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 51(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2(1)(g)(ic): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 51(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2(1B) heading: inserted, on 30 March 2017, by section 101(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 2(1B): inserted, on 30 March 2017, by section 101(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 2(1B)(a): amended, on 29 March 2018 (with effect on 30 March 2017), by section 97 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FE 2(4) heading: replaced (with effect on 1 April 2015), on 30 March 2021, by section 63(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 2(4): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 106(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 2(4)(b): repealed (with effect on 1 April 2015), on 30 March 2021, by section 63(4) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 2(5) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 51(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2(5): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 51(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 51(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2 list of defined terms **CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 207(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 2 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 2 list of defined terms **double tax agreement**: inserted, on 30 March 2017, by section 101(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 2 list of defined terms **FIF**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 51(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2 list of defined terms **income interest**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 207(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 2 list of defined terms **New Zealand banking group**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 51(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 2 list of defined terms **non-resident owning body**: inserted, on 1 April 2015, by section 106(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 2 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 106(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 3 Interest apportionment for individuals

Natural persons and trustees: inbound, not described in section FE 2(1)(g)

(1) This subpart applies to a natural person or trustee not described in section FE 2(1)(g) with the following modifications:

(a) the New Zealand group of a natural person is made up of the person and all associated persons who—

(i) are resident in New Zealand; or

(ii) are carrying on business in New Zealand through a fixed establishment in New Zealand; or

(iii) derive income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable:

(b) the amount of the total assets of a natural person is calculated excluding the person's private and domestic assets:

(c) the New Zealand group of a trustee is made up of the trustee and all companies identified under section FE 27 as being under the control of the trustee, other than a company with a New Zealand parent not determined under section FE 26(4D):

(d) the worldwide group of a trustee is made up of the trustee's New Zealand group.

Natural persons and trustees: outbound, described in section FE 2(1)(g)

(2) This subpart applies to a natural person or trustee described in section FE 2(1)(g) with the following modifications:

(a) the New Zealand group of the natural person or trustee is made up of the natural person or trustee and all associated persons who are not excess debt outbound companies and are not included in a New Zealand group of an excess debt outbound company, and who—

(i) are resident in New Zealand; or

(ii) are carrying on business in New Zealand through a fixed establishment in New Zealand; or

(iii) derive income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable:

(b) the worldwide group of the trustee is made up of the trustee and—

(i) the trustee's New Zealand group; and

(ii) all CFCs in which the trustee or a member of the trustee's New Zealand group has an income interest; and

(iii) all FIFs in which the trustee or a member of the trustee's New Zealand group has an interest that meets the requirements of sec-

tion EX 35 (Exemption for interest in FIF resident in Australia); and

(iv) all FIFs in which the trustee or a member of the trustee's New Zealand group has an interest for which the person uses the attributable FIF income method:

(c) in the calculation of the amount of the natural person's total assets, private and domestic assets are excluded.

Defined in this Act: attributable FIF income method, amount, associated person, business, CFC, double tax agreement, FIF, fixed establishment, generally accepted accounting practice, group of companies, income, income interest, natural person, New Zealand, New Zealand tax, non-resident, non-resident passive income, resident in New Zealand, source in New Zealand, total group assets, total group debt, trustee

Section FE 3: substituted (with effect on 30 June 2009), on 6 October 2009, by section 208(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 3(1)(a): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FE 3(1)(a): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 107(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 3(1)(a)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 52(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3(1)(b): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 107(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 3(1)(c): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 107(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 3(1)(d): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 107(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 3(2)(a)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 52(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3(2)(b)(ii): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 52(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3(2)(b)(iii): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 52(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3(2)(b)(iv): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 52(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 52(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3 list of defined terms **FIF**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 52(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3 list of defined terms **income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 52(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3 list of defined terms **New Zealand tax**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 52(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 3 list of defined terms **non-resident**: inserted, on 1 April 2015, by section 107(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 3 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 52(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

FE 4 Some definitions

Definitions

(1) In this subpart,—

excess debt entity for an income year is a person who—

(a) meets the requirements of section FE 2 in the income year; and

(b) is not, at any time in the income year, a reporting bank for a New Zealand banking group, or part of a New Zealand banking group; and

(c) is not a natural person

excess debt outbound company for an income year is an excess debt entity that meets the requirements of section FE 2(1)(e) or (f), and none of the requirements of section FE 2(1)(a) to (db)

linked trustee, for a person, is a trustee to whom the person has provided money under a settlement or arrangement

natural person, for an income year, is a natural person who meets the requirements of section FE 2 in the income year

reporting bank for a New Zealand banking group is a person who—

(a) meets the requirements of section FE 2; and

(b) is the person determined under section FE 37.

Types of ownership interest

[Repealed]

(2) *[Repealed]*

Defined in this Act: excess debt entity, income year, New Zealand banking group, reporting bank, trustee

Section FE 4(1) heading: inserted, on 1 April 2015, by section 108(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 4(1) **excess debt entity** paragraph (c): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FE 4(1) **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 209(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 4(1) **excess debt outbound company**: amended (with effect on 1 April 2015), on 26 June 2019, by section 66 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section FE 4(1) **linked trustee**: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 108(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 4(1) **natural person**: replaced, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FE 4(1) **non-resident owning body**: repealed, on 30 March 2017, by section 102(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4(1) **reporting bank**: substituted (with effect on 1 April 2008), on 6 October 2009, by section 209(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 4(2) heading: repealed, on 30 March 2017, pursuant to section 102(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4(2): repealed, on 30 March 2017, by section 102(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4 list of defined terms **control interest**: repealed (with effect on 1 April 2015), on 24 February 2016, by section 172 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 4 list of defined terms **natural person**: repealed, on 30 March 2017, by section 102(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4 list of defined terms **New Zealand**: repealed, on 30 March 2017, by section 102(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4 list of defined terms **non-resident**: repealed, on 30 March 2017, by section 102(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4 list of defined terms **non-resident owning body**: repealed, on 30 March 2017, by section 102(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4 list of defined terms **ownership interest**: repealed, on 30 March 2017, by section 102(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 4 list of defined terms **registered bank**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 209(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 4 list of defined terms **widely-held company**: repealed, on 30 March 2017, by section 102(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FE 4B Meaning of public project asset, public project debt, and public project participant debt

Meaning of public project asset

(1) **Public project asset** means an interest in an asset in New Zealand—

(a) arising from a project performed under a contract—

(i) with the Sovereign in right of New Zealand or a public authority; and

(ii) for which borrowing by the Crown or public authority is approved by the Minister of Finance under the Public Finance Act 1989 or the Crown Entities Act 2004; and

(iii) for a period of 10 years or more; and

(iv) requiring the persons performing the project to provide, upgrade, or create assets in New Zealand and to operate or maintain the assets in New Zealand; and

(v) requiring that, after completion of the contract, the assets be owned by the Sovereign in right of New Zealand or the public authority; and

(b) that each person performing the contract is not permitted under the terms of the contract to dispose of within 10 years from the beginning of the project, except to the Sovereign in right of New Zealand or a public authority, as provided by the contract, or to another person performing the project; and

(c) the income from which has a source in New Zealand for each person performing the contract.

Meaning of public project debt

(2) **Public project debt**, for an excess debt entity and a project, means a total amount of debt, each part of which is for a loan to the excess debt entity, that—

(a) is applied by the excess debt entity to—

(i) the project to give rise to public project assets or income derived from public project assets:

(ii) refinance a loan that has been applied in a way satisfying this paragraph; and

(b) does not provide funds, exceeding a minor or incidental amount, that the excess debt entity lends—

(i) to a person who is not an associated person performing the project; and

(ii) for a period that is not a delay in the application of the funds to the project; and

(c) gives rise to interest expenditure that the excess debt entity incurs in New Zealand.

Meaning of public project participant debt

(3) **Public project participant debt**, for an excess debt entity and a project, means an amount of a loan that is—

(a) public project debt for the project; and

(b) if the excess debt entity is the sole person performing the contract, is made or refinanced—

(i) by 1 of the persons (the **owners**) who holds ownership interests in the excess debt entity; and

(ii) under an arrangement between the owners with a purpose or effect that each owner provide funding in proportion to the ownership interest in the excess debt entity held by the owner; and

(c) if the excess debt entity is 1 of the persons performing the contract (the **project participants**), made or refinanced—

(i) by 1 of the project participants, or by a person associated with a project participant; and

(ii) under an arrangement between the project participants with a purpose or effect that each project participant, or a person associated with the project participant, provide funding in proportion to the interest in the project held by the project participant.

Defined in this Act: amount, associated person, company, dispose, excess debt entity, income, interest, loan, New Zealand, non-resident, non-resident owning body, ownership interest, public authority, public project asset, public project debt, public project participant debt, source in New Zealand

Section FE 4B: inserted, on 1 July 2018, by section 19(1) (and see section 19(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Interest apportionment rules

FE 5 Thresholds for application of interest apportionment rules

Threshold for excess debt entity

(1) An excess debt entity must apportion its interest expenditure for an income year under section FE 6 if,—

(a) the excess debt entity is none of an excess debt outbound company, an excess debt entity with a worldwide group given by section FE 31D, and a trustee who is described in section FE 2(1)(g), and—

(i) the debt percentage of its New Zealand group for the income year is more than 60%; and

(ii) for a company or a trustee, the debt percentage of its New Zealand group for the income year is more than 110% of the debt percentage of the worldwide group; or

(ab) the excess debt entity has a worldwide group given by section FE 31D, and—

(i) the debt percentage of its New Zealand group for the income year is more than 60%; and

(ii) the debt percentage of its New Zealand group for the income year is more than 100% of the debt percentage of the worldwide group; or

(b) the excess debt entity is an excess debt outbound company, or is a trustee who is described in section FE 2(1)(g), and—

(i) the debt percentage of its New Zealand group for the income year is more than 75%; and

(ii) for a company or a trustee, the debt percentage of its New Zealand group for the income year is more than 110% of the debt percentage of the worldwide group.

Exceptions for excess debt outbound companies

(1B) Despite subsection (1), an excess debt outbound company and a natural person or trustee who is described in section FE 2(1)(g) do not have to apportion interest expenditure for an income year under section FE 6 if, for the income year,—

(a) a ratio of 90% or greater is obtained by dividing the amount for its New Zealand group of the total group assets measured under section FE 16 and reduced by the total group non-debt liabilities, measured under section FE 16B, by the amount for its worldwide group of the total group assets measured under section FE 18 and reduced by the total group non-debt liabilities, measured under section FE 18:

(ab) the company or person is eligible to choose, and chooses, under subsection (1BB) to use the threshold test in subsection (1D):

(b) *[Repealed]*

Eligibility for optional threshold, apportionment method

(1BB) A company or person referred to in subsection (1B) that would otherwise be required to make an apportionment under section FE 6 may choose instead to be subject to the threshold in subsection (1D) and to the apportionment method in section FE 6B only if—

(a) for each of the New Zealand group and the worldwide group, the amount (the **adjusted net profit**) given by subsection (1BC) is greater than zero; and

(b) for the New Zealand group, the deductions for interest allowed to the group under sections DB 6 to DB 9 (which relate to deductions for interest) exceed the income of the group that is interest; and

(c) for the worldwide group, treating the members as residents for the purposes of this paragraph, the deductions for interest allowed to the group under sections DB 6 to DB 9 exceed the income of the group that is interest; and

(d) for the worldwide group, the amount of the total group debt, calculated for the income year as if for the purposes of determining the group's debt percentage under section FE 12, is equal to or more than 75% of the amount of total group assets, not including goodwill and reduced by total group non-debt liabilities; and

(e) for the worldwide group, the proportion of the total group debt, calculated as for paragraph (d), for which the lender is not associated with the group under subpart YB (Associated persons) is equal to or more than 80%.

Formula for adjusted net profit

(1BC) The adjusted net profit for a group is the amount calculated using the formula—

net − attributed + net interest + depreciation + amortisation.

Definition of items in formula

(1BD) In the formula in subsection (1BC),—

(a) **net** is the net profit or loss of the group before tax using generally accepted accounting practice, treating a net loss as a negative amount:

(b) **attributed**, for the worldwide group, is zero and, for the New Zealand group, is the income—

(i) under generally accepted accounting practice from an interest in a FIF or CFC described in section FE 2(1)(e) to (g); and

(ii) included in the calculation of the item net profit or loss and not included in the calculation of the item net interest:

(c) **net interest** is the deductions for interest allowed to the group under sections DB 6 to DB 9 from a financial arrangement providing funds to the group, treating the members as residents for the purpose of calculating this item for a worldwide group, reduced by the income of the group from a financial arrangement on arm's-length terms providing funds to a person who meets the requirements of section FE 13(3):

(d) **depreciation** is the depreciation for the group using generally accepted accounting practice:

(e) **amortisation** is the amortisation for the group using generally accepted accounting practice.

Natural persons' worldwide group total assets

(1C) For the purposes of subsection (1B)(a), the total group assets and total group non-debt liabilities of a natural person's worldwide group under section FE 18 are measured on the basis that the natural person is an excess debt entity that has a worldwide group made up of—

(a) the natural person; and

(b) the natural person's New Zealand group; and

(c) all CFCs in which the natural person or a member of the natural person's New Zealand group has an income interest; and

(d) all FIFs in which the natural person or a member of the natural person's New Zealand group has an interest that meets the requirements of section EX 35 (Exemption for interest in FIF resident in Australia); and

(e) all FIFs in which the natural person or a member of the natural person's New Zealand group has an interest for which the natural person or member uses the attributable FIF income method.

Elective threshold for excess debt entity

(1D) A company or person that chooses to be subject to the threshold test in this subsection must apportion the interest expenditure for the income year under section FE 6B except if the ratio (the **interest-income ratio**) given by subsection (1E) for the company or person's New Zealand group is equal to or less than the lesser of—

(a) 110% of the interest-income ratio for the company or person's worldwide group:

(b) 50%.

Formula for group's interest-income ratio

(1E) The interest-income ratio for a group is calculated using the formula—

net interest ÷ adjusted net profit.

Definition of items in formula

(1F) In the formula in subsection (1E),—

(a) **net interest** is the deductions for interest allowed to the group under sections DB 6 to DB 9 from a financial arrangement providing funds to the group, treating the members as residents for the purpose of calculating this item for a worldwide group, reduced by the income of the group from a financial arrangement on arm's-length terms providing funds to a person who meets the requirements of section FE 13(3):

(b) **adjusted net profit** is the amount given for the group by subsection (1BC).

Threshold for reporting bank

(2) A reporting bank must apportion its interest expenditure for an income year under section FE 7 if—

(a) the New Zealand net equity of its New Zealand banking group for a tax year is less than its equity threshold; and

(b) its group funding debt for the corresponding tax year is more than zero.

Threshold for natural person

(3) A natural person must apportion their interest expenditure for an income year under section FE 6 if,—

(a) they are not described in section FE 2(1)(g), and the debt percentage of their New Zealand group for the income year is more than 60%; or

(b) they are described in section FE 2(1)(g), and the debt percentage of their New Zealand group for the income year is more than 75%.

Debt percentages

(4) The debt percentage of a New Zealand group is calculated under sections FE 14 to FE 16. The debt percentage of a worldwide group is calculated under sections FE 17 and FE 18.

Equity threshold, net equity, group funding debt

(5) The calculations that a reporting bank must make for the purposes of section FE 7 are set out as follows:

(a) for the banking group's equity threshold, *see* section FE 19:

(b) for the banking group's New Zealand net equity, *see* section FE 21:

(c) for the banking group's funding debt, *see* section FE 23.

Group acting in concert

[Repealed]

(6) *[Repealed]*

Defined in this Act: attributable FIF income method, CFC, company, excess debt entity, excess debt outbound company, group funding debt, income interest, income year, interest, natural person, New Zealand, New Zealand banking group, New Zealand net equity, non-resident passive income, reporting bank, tax year, total group assets, total group non-debt liabilities, trustee

Compare: 2004 No 35 s FG 3

Section FE 5(1): substituted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 87(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section FE 5(1)(a): amended, on 1 July 2018, by section 20(1) (and see section 20(8) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 5(1)(ab): inserted, on 1 July 2018, by section 20(2) (and see section 20(8) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 5(1B) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5(1B): inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5(1B)(a): replaced, on 1 July 2018, by section 20(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 5(1B)(ab): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1B)(b): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1BB) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1BB): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1BB)(d): amended, on 1 July 2018, by section 20(4) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 5(1BC) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1BC): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1BD) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1BD): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1C) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5(1C): inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5(1C): amended, on 1 July 2018, by section 20(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 5(1C)(c): amended (with effect on 1 July 2011), on 23 March 2020, by section 118 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FE 5(1C)(d): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1C)(e): inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1D) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1D): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1E) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1E): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1F) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(1F): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 53(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5(3): substituted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 87(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section FE 5(6) heading: repealed (with effect on 1 July 2018), on 18 March 2019, pursuant to section 193(1) (and see section 193(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FE 5(6): repealed (with effect on 1 July 2018), on 18 March 2019, by section 193(1) (and see section 193(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FE 5 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 53(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5 list of defined terms **CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5 list of defined terms **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5 list of defined terms **income interest**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 53(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 5 list of defined terms **total group assets**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 210(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 5 list of defined terms **total group non-debt liabilities**: inserted, on 1 July 2018, by section 20(7) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 6 Apportionment of interest by excess debt entity

Who this section applies to

(1) This section applies to an excess debt entity or a natural person if section FE 5 requires the entity or person to apportion their interest expenditure for an income year under this section or the entity or person has a debt percentage equal to zero under section FE 12(3) because the relevant New Zealand group's non-debt liabilities equal or exceed its assets. A natural person is treated as an excess debt entity for the purposes of this section other than in the item **threshold amount**.

General formula

(2) An excess debt entity having a worldwide group that is not given by section FE 31D is treated under section CH 9 (Interest apportionment: excess debt entity) as deriving in the income year an amount of income calculated for the income year using the formula—

$$(\text{total deduction} - \text{mismatch} + \text{FRD} - \text{adjust}) \times (\text{total debt} - \text{concession}) \div \text{total debt} \times \text{group debt factor}.$$

Items in formula

(3) In the formula in subsection (2),—

(a) **total deduction** is the whole amount of the excess debt entity's deduction for interest that would be allowed, in the absence of subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements), under any of sections DB 6 to DB 8 (which relate to deductions for interest expenditure) less—

(i) the total amount allowed in relation to interest payable to a company that is a member of the entity's New Zealand group under sections FE 3 and FE 28, but this does not include an amount referred to in subparagraph (ii); and

(ii) the total amount allowed in relation to interest payable under a financial arrangement excluded from the total group debt of its New Zealand group under section FE 15:

(aba) **mismatch** is the total of amounts denied as deductions in the income year under section FH 3 (Payments under financial instruments producing deduction without income) as unrecognised amounts under section FH 3(2) and as interest under sections FH 7 and FH 11 (which provide for the matching of deductions and income from multi-jurisdictional arrangements):

(ab) **FRD** is the total amount of dividends paid by the excess debt entity in relation to fixed-rate foreign equity or fixed-rate shares—

(i) issued by the entity; and

(ii) held by a person resident in New Zealand who is not a company that is a member of the entity's New Zealand group:

(ac) **adjust** is—

(i) zero, if the excess debt entity is not an excess debt outbound company or a natural person or trustee described in section FE 2(1)(g) and is a party to a financial arrangement that is removed under section FE 18(3B) from the measurement of total group debt for the excess debt entity or that is related-party debt for which the lender is not a New Zealand resident and does not carry on a business through a fixed establishment in New Zealand; or

(ii) the amount (the **group finance cost**) that is the total amount for the New Zealand group found by calculating for each member of the New Zealand group the total amount (the **member finance cost**) of the items total deduction and FRD for the member, if the group finance cost is $1,000,000 or less and subparagraph (i) does not apply; or

(iii) the amount found by multiplying the amount by which $2,000,000 exceeds the group finance cost by the ratio obtained by dividing

the member finance cost for the excess debt entity by the group finance cost, if the group finance cost is more than $1,000,000 and less than $2,000,000 and subparagraph (i) does not apply; or

(iv) zero, if the group finance cost is $2,000,000 or more and subparagraph (i) does not apply:

(b) **total debt** is the total amount of the debt of the excess debt entity's New Zealand group for the income year as calculated under section FE 15, before allowing for a reduction under section FE 13:

(c) **concession** is any reduction allowed under section FE 13 in the total group debt of the excess debt entity's New Zealand group for the income year, averaged when section FE 8(1)(a) or (b) applies:

(cb) **group debt factor** is—

(i) 1, if the excess debt entity's New Zealand group has a debt percentage for the income year equal to zero; or

(ii) the amount calculated by subtracting from 1 the amount calculated by dividing the threshold amount in paragraph (e) for the excess debt entity by the group debt percentage in paragraph (d) for the excess debt entity:

(d) **group debt percentage** is the debt percentage of the excess debt entity's New Zealand group for the income year:

(e) **threshold amount** is, as applicable,—

(i) if the excess debt entity is none of an excess debt outbound company, an excess debt entity with a worldwide group given by section FE 31D, and a trustee who is described in section FE 2(1)(g), the greater of 60% and 110% of the debt percentage of their worldwide group:

(ii) if the person is a natural person who is not described in section FE 2(1)(g), 60%:

(iii) if the excess debt entity is an excess debt outbound company, or is a trustee who is described in section FE 2(1)(g), the greater of 75% and 110% of the debt percentage of their worldwide group:

(iiib) *[Repealed]*

(iv) if the person is a natural person who is described in section FE 2(1)(g), 75%.

Formula for excess debt entities with worldwide group given by section FE 31D

(3B) An excess debt entity having a worldwide group that is given by section FE 31D is treated under section CH 9 as deriving in the income year an amount of income that is the greater of zero and the amount calculated for the income year using the formula—

(related interest – mismatch + FRD2) × (total debt – concession) ÷ total debt × group debt comparison factor.

Definition of items in formula

(3C) In the formula in subsection (3B),—

(a) **related interest** is the whole amount of the excess debt entity's interest, incurred under financial arrangements meeting the requirements of section FE 18(3B) for removal of a financial arrangement from the measurement of total group debt for the entity's worldwide group, that would be allowed, in the absence of subpart FH, as a deduction under any of sections DB 6 to DB 8 less—

(i) the total amount of deductions allowed for interest payable to a company that is a member of the entity's New Zealand group under sections FE 3 and FE 28 and not included in the amount given by subparagraph (ii); and

(ii) the total amount of deductions allowed for interest payable under a financial arrangement excluded from the total group debt for the entity's New Zealand group under section FE 15:

(b) **mismatch** is the total of amounts denied as deductions in the income year under section FH 3 as unrecognised amounts under section FH 3(2) and as interest under sections FH 7 and FH 11:

(c) **FRD2** is the total amount of dividends paid by the excess debt entity for fixed-rate foreign equity or fixed-rate shares that—

(i) are issued by the entity; and

(ii) are held by a person resident in New Zealand who is not a company that is a member of the entity's New Zealand group; and

(iii) would be removed under section FE 18(3B) from the measurement of total group debt of the entity's worldwide group if that provision applied to fixed-rate foreign equity and fixed-rate shares:

(d) **total debt** is the total amount of the debt of the excess debt entity's New Zealand group for the income year as calculated under section FE 15, before allowing for a reduction under section FE 13:

(e) **concession** is any reduction allowed under section FE 13 in the total group debt of the excess debt entity's New Zealand group for the income year, averaged when section FE 8(1)(a) or (b) applies:

(f) **group debt comparison factor** is—

(i) 1, if the excess debt entity's New Zealand group or the excess debt entity's worldwide group has a debt percentage under section FE 12(3) equal to zero for the income year; or

(ii) the amount calculated using the formula in subsection (3D), if subparagraph (i) does not apply.

Formula for group debt comparison factor

(3D) The group debt comparison factor under subsection (3C)(f)(ii) for an excess debt entity and an income year is the amount calculated using the formula—

(New Zealand group debt percentage – threshold amount) ÷ (New Zealand group debt percentage – worldwide group debt percentage).

Definition of item in formula

(3E) In the formula in subsection (3D), **threshold amount** is the amount that is the greater of 60% and the debt percentage of the excess debt entity's worldwide group for the income year.

Alternative calculation

(4) If a company that is in the same wholly-owned group of companies as the excess debt entity has a deduction for interest under any of sections DB 6 to DB 8, the company may choose to be treated as deriving the income that the excess debt entity would otherwise, under subsection (2) or (3B), be treated as deriving for the income year. The amount of income is not calculated using the formula in subsection (2) or (3B) but is limited as set out in subsection (5).

Limitation on election amount

(5) The amount of income for which the company may make the election under subsection (4), when added to any other income that the company chooses to treat itself as deriving under subsection (4), must not exceed—

(a) the total amount of deductions that the company has for interest in the income year, except if paragraph (b) applies; or

(b) the total amount of the company's interest, incurred under financial arrangements meeting the requirements of section FE 18(3B), if the excess debt entity has a worldwide group given by section FE 31D.

Defined in this Act: amount, company, deduction, dividend, excess debt entity, excess debt outbound company, financial arrangement, fixed establishment, fixed-rate foreign equity, fixed-rate share, income, income year, interest, natural person, New Zealand, New Zealand resident, pay, related-party debt, resident in New Zealand, total group debt, total worldwide debt, trustee, wholly owned group of companies

Compare: 2004 No 35 s FG 8

Section FE 6(1) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 211(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6(1): substituted (with effect on 30 June 2009), on 6 October 2009, by section 211(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6(1): amended (with effect on 1 July 2018), on 29 March 2025, by section 62 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 6(2) heading: replaced, on 30 March 2021, by section 64(1) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(2): amended, on 30 March 2021, by section 64(2) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(2) formula: amended (with effect on 1 July 2018), on 30 March 2021, by section 64(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(2) formula: amended, on 1 July 2018, by section 21(1) (and see section 21(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 6(2) formula: amended (with effect on 30 June 2009), on 6 October 2009, by section 211(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6(3): amended, on 30 March 2021, by section 64(4) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3)(a): amended, on 1 July 2018, by section 21(2) (and see section 21(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 6(3)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 211(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6(3)(a)(i): amended (with effect on 1 April 2008), on 29 August 2011, by section 45(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 6(3)(aba): inserted, on 1 July 2018, by section 21(3) (and see section 21(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 6(3)(ab): inserted (with effect on 30 June 2009), on 6 October 2009, by section 211(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6(3)(ac): inserted (with effect on 30 June 2009), on 6 October 2009, by section 211(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6(3)(ac)(i): replaced, on 1 July 2018, by section 21(4) (and see section 21(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 6(3)(ac)(i): amended (with effect on 1 July 2018), on 23 March 2020, by section 119(1) (and see section 119(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FE 6(3)(ac)(ii): substituted (with effect on 23 November 2010), on 29 August 2011, by section 45(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 6(3)(ac)(iii): substituted (with effect on 23 November 2010), on 29 August 2011, by section 45(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 6(3)(ac)(iv): substituted (with effect on 23 November 2010), on 29 August 2011, by section 45(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 6(3)(cb): inserted (with effect on 1 July 2018), on 30 March 2021, by section 64(5) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3)(e): substituted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 88(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section FE 6(3)(e)(i): replaced, on 1 July 2018, by section 21(5) (and see section 21(8) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 6(3)(e)(iiib): repealed, on 30 March 2021, by section 64(6) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3B) heading: inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3B): inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3C) heading: inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3C): inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3D) heading: inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3D): inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3E) heading: inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(3E): inserted, on 30 March 2021, by section 64(7) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(4) heading: added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 45(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 6(4): added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 45(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 6(4): amended, on 30 March 2021, by section 64(8) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6(5) heading: added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 45(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 6(5): replaced, on 30 March 2021, by section 64(9) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6 list of defined terms **dividend**: inserted, on 30 March 2021, by section 64(10) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6 list of defined terms **excess debt outbound company**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 88(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section FE 6 list of defined terms **fixed establishment**: inserted (with effect on 1 July 2018), on 23 March 2020, by section 119(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FE 6 list of defined terms **fixed-rate foreign equity**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 211(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6 list of defined terms **fixed-rate share**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 211(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 6 list of defined terms **New Zealand resident**: inserted (with effect on 1 July 2018), on 23 March 2020, by section 119(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FE 6 list of defined terms **related-party debt**: inserted (with effect on 1 July 2018), on 23 March 2020, by section 119(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FE 6 list of defined terms **resident in New Zealand**: inserted, on 30 March 2021, by section 64(10) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6 list of defined terms **total worldwide debt**: inserted, on 30 March 2021, by section 64(10) (and see section 64(11) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 6 list of defined terms **wholly owned group of companies**: added (with effect on 1 April 2008), on 29 August 2011 by section 45(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

FE 6B Alternative apportionment of interest by some excess debt entities

Who this section applies to

(1) This section applies to a company or person that is required by section FE 5(1D) to apportion its interest expenditure for an income year under this section.

Formula

(2) The company or person is treated under section CH 9 (Interest apportionment: excess debt entity) as deriving from New Zealand in the income year an amount of income calculated for the income year using the formula—

net interest × (NZ group ratio − threshold ratio) ÷ NZ group ratio.

Definition of items in formula

(3) In the formula,—

(a) **net interest** is the deductions for interest allowed to the company or person under sections DB 6 to DB 9 (which relate to deductions for interest) from a financial arrangement providing funds to the company or person, reduced by the income of the company or person from a financial arrangement on arm's-length terms providing funds to a person who meets the requirements of section FE 13(3):

(b) **NZ group ratio** is the interest-income ratio given by section FE 5(1E) for the New Zealand group of the company or person:

(c) **threshold ratio** is the lesser of—

(i) 50%:

(ii) 110% of the interest-income ratio given by section FE 5(1E) for the worldwide group of the company or person.

Defined in this Act: company, deduction, income, income year, interest, New Zealand

Section FE 6B: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 54(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 6B(3)(a): amended (with effect on 1 July 2009), on 2 November 2012, by section 68 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

FE 7 Apportionment of interest by reporting bank

When this section applies

(1) This section applies to a reporting bank if, at the relevant measurement date referred to in section FE 8(3),—

(a) the New Zealand net equity of its New Zealand banking group for an income year is less than its equity threshold under section FE 19; and

(b) its group funding debt for the corresponding tax year is more than zero.

Income

(2) The reporting bank is treated as deriving an amount of income under section CH 10 (Interest apportionment: reporting bank) calculated using the formula—

amount below threshold × (interest expenditure ÷ group funding debt)
× (days in period ÷ days in year).

Definition of items in formula

(3) In the formula,—

(a) **amount below threshold** is the amount by which the New Zealand net equity for the New Zealand banking group is less than the equity threshold under section FE 19:

(b) **interest expenditure** is the financial value for the New Zealand banking group of interest expenditure measured under generally accepted accounting practice that is—

(i) incurred by a member of the New Zealand banking group in the income year; and

(ii) incurred other than in relation to a share that contributes to the item **total interest** in the formula in section FE 23, or is a deduction referred to in the definition of the item **interest deductions** in that section; and

(iii) not denied as a deduction under section FH 3 (Payments under financial instruments producing deduction without income) as an unrecognised amount under section FH 3(2) or under section FH 7 or FH 11 (which provide for the matching of deductions and income from multi-jurisdictional arrangements):

(c) **days in period** is the number of days in the relevant measurement period:

(d) **group funding debt** is the group funding debt for the New Zealand banking group for the corresponding tax year:

(e) **days in year** is the number of days in the income year.

Apportionment of income to part-years

(4) If an amount of income described in subsection (2) must be apportioned under this Act to a part of an income year, the amount of income for a measurement period is attributed to the part of the income year in which the measurement period falls.

Defined in this Act: amount, deduction, financial value, generally accepted accounting practice, group funding debt, income, income year, interest, measurement period, New Zealand, New Zealand banking group, New Zealand net equity, reporting bank, share, tax year

Compare: 2004 No 35 s FG 8B

Section FE 7(3)(b): amended, on 1 July 2018, by section 22(1) (and see section 22(5) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 7(3)(b)(i): amended, on 1 July 2018, by section 22(2) (and see section 22(5) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 7(3)(b)(ii): amended, on 1 July 2018, by section 22(3)(a) (and see section 22(5) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 7(3)(b)(ii): amended, on 1 July 2018, by section 22(3)(b) (and see section 22(5) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 7(3)(b)(iii): inserted, on 1 July 2018, by section 22(4) (and see section 22(5) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 7B Interest on public project debt for certain excess debt entities

Who this section applies to

(1) This section applies for a project to an excess debt entity that—

(a) is a person meeting the requirements of section FE 2(1)(b), (c), (e), or (f); and

(b) has an amount of public project debt for the project; and

(c) elects to apply the section to the first calculation for the excess debt entity under this subpart that includes the public project debt for the project and to which the section may apply.

Debt percentages for public project debt

(2) Debt percentages relating to the excess debt entity and the public project debt are determined under this subpart as if—

(a) the excess debt entity has no debt other than the public project debt for the project, no assets other than the public project assets for the project and assets used in performing the project, and no non-debt liabilities other than non-debt liabilities that relate to the project; and

(b) the New Zealand group of the excess debt entity is the excess debt entity.

Income

(3) If the debt percentage of the excess debt entity's New Zealand group exceeds the threshold debt percentage given by section FE 5(1), the excess debt entity is treated as deriving an amount of income under section CH 10B (Interest

apportionment: public project debt) that is calculated, treating the value of a fraction with a zero denominator as being zero, using the formula—

(unrestricted interest × unrestricted excess ÷ unrestricted debt) + (member interest × member excess ÷ member debt).

Definition of items in formula

(4) In the formula,—

(a) **unrestricted interest** is the amount of interest expenditure incurred by the excess debt entity from the amount of public project debt referred to in the item unrestricted debt:

(b) **unrestricted excess** is—

(i) zero, if the amount of public project debt that is not public project participant debt does not exceed the amount (the **threshold debt amount**) obtained by multiplying the value of the public project assets and assets used in performing the project by the threshold debt percentage given by section FE 5(1) for the excess debt entity's New Zealand group:

(ii) the amount of the item unrestricted debt, if the amount of public project debt that is not public project participant debt and not included in the item unrestricted debt equals or exceeds the threshold debt amount:

(iii) the amount by which the amount of public project debt that is not public project participant debt exceeds the threshold debt amount, if subparagraphs (i) and (ii) do not apply:

(c) **unrestricted debt** is the amount of public project debt that is not public project participant debt and for which the creditor has security for repayment that is not restricted to the project:

(d) **member interest** is the amount of interest expenditure incurred by the excess debt entity from public project participant debt:

(e) **member excess** is—

(i) zero, if the amount of public project debt does not exceed the threshold debt amount:

(ii) the amount of public project participant debt, if the amount of public project debt that is not public project participant debt equals or exceeds the threshold debt amount:

(iii) the amount by which the amount of public project debt exceeds the threshold debt amount, if subparagraphs (i) and (ii) do not apply:

(f) **member debt** is the amount of public project participant debt.

Public projects treated separately

(5) This section applies separately to each project of an excess debt entity for which the excess debt entity has public project debt.

Public project debt, interest, assets, and non-debt liabilities, excluded for other applications

(6) Public project debt, interest on public project debt, public project assets and other assets, and non-debt liabilities, taken into account in the application of this section to an excess debt entity for a project are excluded from the debt, interest, assets, and non-debt liabilities, of the excess debt entity taken into account in the apportionment of interest expenditure for another project or under another section of this subpart.

Defined in this Act: amount, company, excess debt entity, excess debt outbound company, income, income year, interest, public project asset, public project debt, public project participant debt

Section FE 7B: inserted, on 1 July 2018, by section 23(1) (and see section 23(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 8 Measurement dates

Daily, 3-monthly, or annual basis for excess debt entity

(1) An excess debt entity must measure the amount of total group debt, total group assets, and total group non-debt liabilities of its New Zealand group for an income year using 1 of the following methods:

(a) the average amount at the end of each day of the income year; or

(b) the average amount at the end of each 3-month period in the income year; or

(c) the amount at the end of the income year.

Different balance dates

(2) For the purposes of subsection (1), if the members of the entity's New Zealand group do not have the same balance date, the alternatives in subsection (1) apply as if the entity has the same balance date as that of the New Zealand parent.

Daily, monthly, or quarterly for reporting bank

(3) A reporting bank must measure both the equity threshold and the net equity of its New Zealand banking group for an income year on 1 of the following dates:

(a) each day of the income year; or

(b) the last day of each calendar month of the income year; or

(c) if the reporting bank does not choose either paragraph (a) or (b), the last day of each quarter of an income year.

Change in identity of reporting bank

(4) If the identity of the reporting bank changes, the first measurement period for the new reporting bank begins on the day after the last measurement date of the former reporting bank.

Defined in this Act: amount, excess debt entity, income year, New Zealand, New Zealand banking group, quarter, reporting bank, total group assets, total group debt, total group non-debt liabilities

Compare: 2004 No 35 ss FG 4(5), (6), FG 8E

Section FE 8(1): amended, on 1 July 2018, by section 24(1) (and see section 24(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 8(4): amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years) by section 69(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section FE 8 list of defined terms **total group non-debt liabilities**: inserted, on 1 July 2018, by section 24(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 9 Elections

Return of income

(1) An election or choice under this subpart is made by providing a return of income for the relevant income year.

Measurement date

(2) A choice of measurement date under section FE 8 may be changed after a notice of assessment for an income year is received from the Commissioner.

Control threshold, enlarged New Zealand group

(3) A choice of control threshold under section FE 27, or an election to include certain other companies in a New Zealand group under section FE 30, is made by providing notice to the Commissioner with the return of income for the relevant income year.

Defined in this Act: assessment, Commissioner, company, income year, New Zealand, notice, return of income

Compare: 2004 No 35 s FG 10

Section FE 9(3): amended (with effect on 1 April 2008), on 30 March 2017, by section 103 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 9 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 9 list of defined terms **excess debt entity**: repealed, on 29 March 2018 (with effect on 30 March 2017), by section 98 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

FE 10 Currency

Calculations

(1) In this subpart, the following values must be calculated in New Zealand currency:

(a) an amount of total group debt, an amount of total group assets, and an amount of total group non-debt liabilities of a New Zealand group or of a worldwide group:

(b) a financial arrangement or risk-weighted exposure.

Currency conversions for excess debt entity

(2) If the value referred to in subsection (1) is denominated in a foreign currency, an excess debt entity must convert the value to New Zealand currency at—

(a) the close of trading spot exchange rate for the foreign currency on the relevant measurement date under section FE 8; or

(b) the forward exchange rate that applies on the first day of the income year for the relevant measurement date under section FE 8.

Currency conversions for reporting bank

(3) If the value referred to in subsection (1) is denominated in a foreign currency, a reporting bank must convert the value to New Zealand currency at the close of trading spot exchange rate for the foreign currency on the relevant measurement date under section FE 8.

Defined in this Act: amount, close of trading spot exchange rate, excess debt entity, financial arrangement, income year, New Zealand, reporting bank, total group assets, total group debt, total group non-debt liabilities

Compare: 2004 No 35 ss FG 4(7), FG 5(6), FG 7, FG 8I

Section FE 10(1)(a): amended, on 1 July 2018, by section 25(1) (and see section 25(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 10 list of defined terms **total group non-debt liabilities**: amended, on 1 July 2018, by section 25(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 11 Disregarded increases or decreases in value

When this section applies

(1) This section applies when the effect of an increase or decrease in a value on a calculation under this subpart (the **affected calculation**) is disregarded under section GB 51B (Increases or decreases in value).

Increase or decrease excluded from calculation

(2) The affected calculation is made excluding the effect of the increase or decrease.

Defined in this Act: income year

Section FE 11: replaced, on 1 July 2018, by section 26(1) (and see section 26(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Calculations

FE 12 Calculation of debt percentages

Requirement for New Zealand group

(1) An excess debt entity must calculate the debt percentage of its New Zealand group under the rules set out in sections FE 14 to FE 16. A natural person or an excess debt entity must calculate their debt percentage under the rules set out in sections FE 13 to FE 16 and FE 18.

Requirement for worldwide group

(2) If the debt percentage of the New Zealand group is, as applicable, more than 60% as described in section FE 5(1)(a) or (ab), or more than 75% as described in section FE 5(1)(b), then the entity must calculate the debt percentage of their worldwide group under the rules set out in sections FE 17 and FE 18.

Debt percentage of group

(3) A group has a debt percentage equal to zero, except if the amount of the item group assets given by subsection (3B)(b) exceeds the amount of the item non-debt liabilities given by subsection (3B)(c), when the group has a debt percentage calculated, on a consolidated basis for an income year or accounting year as applicable, using the formula—

group debt ÷ (group assets – non-debt liabilities).

Definition of items in formula

(3B) In the formula,—

(a) **group debt** is the amount of the total group debt defined in section FE 15 for a New Zealand group and section FE 18 for a worldwide group:

(b) **group assets** is the amount of the total group assets defined in section FE 16 for a New Zealand group and section FE 18 for a worldwide group:

(c) **non-debt liabilities** is the amount of the total group non-debt liabilities defined in section FE 16B for a New Zealand group and section FE 18 for a worldwide group.

Membership of company's New Zealand group

(4) For an excess debt entity that is a company, the New Zealand group is made up of all companies, traced tier by tier, that are identified as within the control threshold of the New Zealand parent, *see* section FE 27. Section FE 25 provides the process for determining who is a member of a group based on the identification of a New Zealand parent and the establishment of the control threshold.

Membership of company's worldwide group

(5) For an excess debt entity that is a company, the worldwide group is made up of all companies included as members of the worldwide group under—

(a) sections FE 31, FE 31D, and FE 32, for an excess debt entity that is not an excess debt outbound company:

(b) sections FE 31B, FE 31C, and FE 32, for an excess debt outbound company.

Natural persons: membership of New Zealand groups

(6) For a natural person, the membership of the New Zealand group is determined as described in section FE 3(1) and (2), as applicable.

Trustees: membership of New Zealand and worldwide groups

(7) For a trustee, the memberships of the New Zealand group and the worldwide group are determined as described in section FE 3(1) and (2), as applicable.

Defined in this Act: accounting year, amount, company, excess debt entity, excess debt outbound company, income year, natural person, New Zealand, non-resident, total group assets, total group debt, total group non-debt liabilities, trustee, ultimate parent

Compare: 2004 No 35 ss FG 3, FG 4(1), FG 5(1)

Section FE 12(1): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 46(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section FE 12(1): amended (with effect on 30 June 2009), on 6 October 2009, by section 212(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12(2): amended (with effect on 1 July 2018), on 30 March 2021, by section 65(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 12(2): amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 89(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section FE 12(2): amended (with effect on 30 June 2009), on 6 October 2009, by section 212(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12(3) heading: replaced, on 1 July 2018, by section 27(1) (and see section 27(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 12(3): replaced (with effect on 1 July 2018), on 30 March 2021, by section 65(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 12(3B) heading: inserted, on 1 July 2018, by section 27(1) (and see section 27(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 12(3B): inserted, on 1 July 2018, by section 27(1) (and see section 27(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 12(5) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 212(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12(5): substituted (with effect on 30 June 2009), on 6 October 2009, by section 212(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12(5)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 173(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 12(5)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 173(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 12(6) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 212(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12(6): substituted (with effect on 30 June 2009), on 6 October 2009, by section 212(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12(7) heading: added (with effect on 30 June 2009), on 6 October 2009, by section 212(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12(7): added (with effect on 30 June 2009), on 6 October 2009, by section 212(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12 list of defined terms **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 212(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 12 list of defined terms **total group non-debt liabilities**: inserted, on 1 July 2018, by section 27(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 12B Calculations for group for test and apportionment using interest-income ratio

Application of rules

(1) The rules in this section apply to the calculation, for an entity's New Zealand group or worldwide group, of the following amounts:

(a) deductions for interest allowed to the group under sections DB 6 to DB 9 (which relate to deductions for interest), for the purposes of section FE 5(1BB):

(b) the income of the group that is interest, for the purposes of section FE 5(1BB):

(c) the items in the formula for adjusted net profit in section FE 5(1BC):

(d) the items in the formula for interest-income ratio in section FE 5(1E).

Generally accepted accounting practice for consolidation

(2) An amount calculated under these rules for an entity's group must be calculated under generally accepted accounting practice for the consolidation of companies for the purposes of eliminating intra-group income, expenses, transactions, and balances.

Non-resident member of New Zealand group

(3) If a member of a New Zealand group is not resident in New Zealand, the amounts for the member are not included in a consolidation except to the extent that the amounts relate to—

(a) the carrying on of business in New Zealand through a fixed establishment in New Zealand:

(b) the derivation of income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable.

Defined in this Act: business, deduction, double tax agreement, fixed establishment, generally accepted accounting practice, income, interest, New Zealand, New Zealand tax, non-resident passive income, resident in New Zealand, source in New Zealand

Section FE 12B: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 55(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 12B(3)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 55(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 12B list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 55(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

FE 13 Financial arrangements entered into with persons outside group

When this section applies

(1) This section applies when—

(a) a person enters into a financial arrangement with another person (**person A**); and

(b) the person is a natural person, a member of a natural person's New Zealand group, an excess debt entity, or a member of an entity's New Zealand group or worldwide group; and

(c) in the absence of this section, the financial arrangement would be included in the calculation of the debt percentage of the natural person, excess debt entity, New Zealand group, or worldwide group; and

(d) the person—

(i) provides funds to person A under the financial arrangement:

(ii) is the trustee of a trust with no trust property other than financial arrangements and property incidental to financial arrangements.

Reduction

(2) In the calculation of the debt percentage of the New Zealand group and a worldwide group, the amount of total group debt and total group assets is reduced by the outstanding balance of the financial arrangement.

Debt percentage of New Zealand group

(3) In the calculation of the debt percentage of a New Zealand group, the reduction applies if the consideration for the financial arrangement is at arm's length, and person A is 1 of the following:

(a) a non-resident who is not carrying on business through a fixed establishment in New Zealand and derives—

(i) income that does not have a source in New Zealand:

(ii) income with a source in New Zealand, all of which is non-resident passive income or has relief from New Zealand tax available under a double tax agreement; or

(b) a person who is not associated with the excess debt entity; or

(c) a person who is associated with the excess debt entity but—

(i) is not a member of the New Zealand group; and

(ii) is a person to whom this subpart may apply under section FE 2.

Debt percentage of worldwide group

(4) In the calculation of the debt percentage of a worldwide group, the reduction applies if person A is not associated with the excess debt entity.

Defined in this Act: amount, associated person, business, double tax agreement, excess debt entity, financial arrangement, fixed establishment, natural person, New Zealand, non-resident, non-resident passive income, source in New Zealand, total group assets, total group debt, trustee

Compare: 2004 No 35 s FG 6

Section FE 13(1): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 109(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 13(2): amended (with effect on 30 June 2009), on 6 October 2009, by section 213(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 13(3)(a): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 56(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 13 list of defined terms **double tax agreement**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 213(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 13 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 56(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 13 list of defined terms **source in New Zealand**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 213(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 13 list of defined terms **trustee**: inserted, on 1 April 2015, by section 109(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Debt percentage of New Zealand group

FE 14 Consolidation of debts and assets

Company calculation

(1) For an excess debt entity that is a company, the debt percentage of a New Zealand group is calculated under generally accepted accounting practice for the consolidation of companies for the purposes of eliminating intra-group balances by consolidating the debts and assets of the members of the entity's New Zealand group.

Natural persons' and trustees' calculation

(2) For a natural person and an excess debt entity that is a trustee, the debt percentage of a New Zealand group is calculated under generally accepted accounting practice for the consolidation of companies for the purposes of eliminating intra-group balances by consolidating the debts and assets for the group.

When member not resident

(3) If a member of a New Zealand group is not resident in New Zealand, the assets and debts of the member are included in a consolidation only to the extent to which the assets and debts are for the group member to—

(a) carry on business in New Zealand through a fixed establishment in New Zealand:

(b) derive income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable.

When entity is part of more than 1 group

(3B) If an entity (the **common member**) is, under sections FE 3 and FE 26 to FE 29, a member or part of a member of different New Zealand groups, the liabilities and assets of the common member are included under this subpart in the total group debt, total group assets, and total group non-debt liabilities of not more than 1 New Zealand group and in no worldwide group other than the worldwide group determined using that New Zealand group.

Determining New Zealand group for common member's debts and assets

(3C) For the purposes of subsection (3B), the debts and assets of the common member referred to in subsection (3B) are included with the debts and assets of the other members of the New Zealand group—

(a) given by section FE 26, in the absence of section FE 26(2)(bb) and (bc), (3)(d), (4D), and (6), for the common member; or

(b) if paragraph (a) does not specify 1 New Zealand group, chosen by the excess debt entity to which the interest apportionment rules are being applied for the common member and the excess debt entity.

Determining worldwide group for common member's debts and assets

(3D) For the purposes of subsection (3B), the debts and assets of the common member referred to in subsection (3B) are included with the debts and assets of the other members of the worldwide group given by sections FE 31 to FE 36B for the common member and the common member's New Zealand group under subsection (3C).

Treatment of specified leases and particular interest expenditure

(4) In this subpart, in the determination of total group debt, total group assets, and total group non-debt liabilities and in the calculation of an amount for which a deduction is denied,—

(a) a specified lease under section FZ 2 (Effect of specified lease on lessor and lessee) is treated as a financial arrangement that provides funds to the issuer; and

(b) expenditure incurred by the lessee under a specified lease for which a deduction is allowed under section BD 2 (Deductions) is treated as an amount of interest to which any of sections DB 6 to DB 8 (which relate to deductions for interest expenditure) applies; and

(c) interest that is allowed as a deduction under either of the following sections is treated as an amount of interest to which any of sections DB 6 to DB 8 applies, if not already allowed under those sections:

(i) section DP 1(1)(b) (Expenditure of forestry business):

(ii) section DV 10(1)(a) or (b) (Building societies).

Defined in this Act: amount, associated person, business, company, deduction, double tax agreement, excess debt entity, financial arrangement, fixed establishment, generally accepted accounting practice, interest, issuer, lessee, New Zealand, non-resident passive income, resident in New Zealand, source in New Zealand, specified lease, tax, total group assets, total group debt, total group non-debt liabilities, trustee

Compare: 2004 No 35 ss FG 4(9), (15), (17), FG 9

Section FE 14(2) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 214(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 14(2): substituted (with effect on 30 June 2009), on 6 October 2009, by section 214(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 14(3) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 214(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 14(3): substituted (with effect on 30 June 2009), on 6 October 2009, by section 214(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 14(3)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 57(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 14(3B) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 110(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 14(3B): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 110(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 14(3B): amended, on 1 July 2018, by section 28(1)(a) (and see section 28(4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 14(3B): amended, on 1 July 2018, by section 28(1)(b) (and see section 28(4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 14(3C) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 110(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 14(3C): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 110(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 14(3D) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 110(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 14(3D): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 110(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 14(4): amended, on 1 July 2018, by section 28(2) (and see section 28(4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 14 list of defined terms **double tax agreement**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 214(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 14 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 57(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 14 list of defined terms **source in New Zealand**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 214(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 14 list of defined terms **tax**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 57(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 14 list of defined terms **total group non-debt liabilities**: inserted, on 1 July 2018, by section 28(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 15 Total group debt

Meaning

(1) In this subpart, for a New Zealand group, **total group debt** means the sum of the outstanding balances of—

(a) financial arrangements entered into by a natural person, or an excess debt entity, or another member of the New Zealand group, if the financial arrangement—

(i) provides funds to the natural person, the entity, or another member of the group; and

(ii) gives rise to an amount for which the natural person, the entity, or another member of the group, would have a deduction; and

(iii) the deduction is not denied under section FH 3 (Payments under financial instruments producing deduction without income) as an unrecognised amount under section FH 3(2) or under section FH 7 or FH 11 (which provide for the matching of deductions and income from multi-jurisdictional arrangements):

(b) fixed-rate foreign equity or fixed-rate shares that are—

(i) issued by the entity or another member of the New Zealand group; and

(ii) held by a person resident in New Zealand:

(c) stapled debt securities—

(i) issued by the entity or another member of the New Zealand group; and

(ii) held by a person resident in New Zealand; and

(iii) stapled to shares other than shares of a company that is a proportional-stapling company.

Exchange rate fluctuations

(2) Subsection (1)(a)(ii) does not include a deduction for an amount that arises only from movement in currency exchange rates.

Section 90A Tax Administration Act 1994

(3) For a determination on whether a financial arrangement provides funds, *see* section 90A of the Tax Administration Act 1994.

Defined in this Act: amount, deduction, excess debt entity, financial arrangement, fixed-rate foreign equity, natural person, New Zealand, proportional-stapling company, resident in New Zealand, stapled, stapled debt security

Compare: 2004 No 35 s FG 4(2)

Section FE 15(1) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 215(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15(1): substituted (with effect on 30 June 2009), on 6 October 2009, by section 215(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15(1)(a)(ii): amended, on 1 July 2018, by section 29(1) (and see section 29(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 15(1)(a)(iii): inserted, on 1 July 2018, by section 29(2) (and see section 29(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 15(2) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 215(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15(2): substituted (with effect on 30 June 2009), on 6 October 2009, by section 215(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15 list of defined terms **fixed-rate foreign equity**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 215(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15 list of defined terms **proportional-stapling company**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 215(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15 list of defined terms **resident in New Zealand**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 215(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15 list of defined terms **stapled**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 215(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 15 list of defined terms **stapled debt security**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 215(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FE 16 Total group assets

Meaning

(1) In this subpart, for a New Zealand group, **total group assets** for an income year means the total assets of a natural person, or an excess debt entity, or another member of the New Zealand group, measured under the following paragraphs, as applicable or as the person or entity chooses:

(a) the value of the assets shown in the financial statements of the entity's New Zealand group; or

(b) the net current value of the assets; or

(c) market value, for trading stock that is valued at market value in calculating the person or entity's income tax liability for the income year, or that of a member of the group; or

(d) adjusted tax value of a personal property lease asset at the start of the income year, in the case of a specified lease or a finance lease that is not recognised as an asset under generally accepted accounting practice; or

(e) if allowed under generally accepted accounting practice, a combination of the financial statement values and net current values.

Determining net current value of asset

(1BAA) For the purpose of subsection (1)(b) and (e), a net current value of an asset must be determined by a valuation of the asset by—

(a) an independent person who is an expert in the valuation of such assets:

(b) an employee, or other person associated with the excess debt entity, with experience in the valuation of assets and using a methodology, assumptions, and data, approved by a person qualified to give a valuation of the asset under paragraph (a).

Investments to which subsection (1B) applies

(1BA) Subsection (1B) applies to an investment—

(a) of a person (the **relevant person**) who is—

(i) the excess debt entity:

(ii) another member of the New Zealand group; and

(b) that is an investment—

(i) in a CFC in which the relevant person has an income interest:

(ii) in a FIF in which the relevant person has an interest meeting the requirements of section EX 35 (Exemption for interest for FIF resident in Australia) or for which the relevant person uses the attributable FIF income method:

(iii) of a trustee or natural person in a CFC through an income interest in the CFC of an associated person, if the associated person would be a member of the New Zealand group but for being an excess

debt outbound company or being included in the New Zealand group of an excess debt outbound company:

(iv) of a trustee or natural person in a FIF, through an income interest of an associated person that meets the requirements of subparagraph (ii) for the FIF and the associated person as a relevant person, if the associated person would be a member of the New Zealand group but for being an excess debt outbound company or being included in the New Zealand group of an excess debt outbound company.

CFC investments excluded

(1B) The value of the total group assets calculated and measured under this section does not include the value of an investment described in subsection (1BA), except—

(a) to the extent to which—

(i) the value of the investment represents the outstanding balances of financial arrangements to which section FE 13 applies:

(ii) the CFC or FIF derives income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable:

(b) that the value of the total group assets is treated as being $1 if the value would otherwise be zero as a result of this subsection.

When member not resident

(1C) If the excess debt entity or another member of a New Zealand group is not resident in New Zealand, the assets of the entity or member are included in the calculation and measurement of total group assets under this section only to the extent to which the assets are for the entity or member to—

(a) carry on business in New Zealand through a fixed establishment in New Zealand:

(b) derive income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable.

Changes in value excluded if arising from transfers between associated persons

(1D) The value of the total group assets calculated and measured under this section does not include a change in the value of assets arising from a transfer of the assets or ownership interests between a member of the group and an associated person in or after the 2015–16 income year.

Exception: change equivalent to revaluation or arising from transaction with non-associate

(1E) A change referred to in subsection (1D) may be included in the value of the total group assets if—

(a) the change would have been permitted under generally accepted accounting practice in the absence of the transfer:

(b) the change—

(i) arises for a company that, with other companies, has its ownership or control acquired by a person (the **purchaser**) who is not an associated person of the former owner and that is restructured on being included in the purchaser's group (the **group**); and

(ii) includes a change in value for the company's assets in New Zealand that is a reasonable proportion of the change in value of the group's total assets.

Generally accepted accounting practice

(2) The amount of total group assets must be calculated under generally accepted accounting practice, with the exception of the values referred to in subsection (1)(c) or (d).

Defined in this Act: adjusted tax value, amount, associated person, attributable FIF income method, CFC, company, double tax agreement, excess debt entity, excess debt outbound company, FIF, finance lease, generally accepted accounting practice, income interest, income tax liability, income year, lease, market value, natural person, New Zealand, non-resident passive income, ownership interest, personal property lease asset, source in New Zealand, specified lease, tax, total group assets, trading stock, trustee

Compare: 2004 No 35 s FG 4(3), (4)

Section FE 16(1BAA) heading: inserted, on 1 July 2018, by section 30(1) (and see section 30(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 16(1BAA): inserted, on 1 July 2018, by section 30(1) (and see section 30(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 16(1BA) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 111(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16(1BA): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 111(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16(1B) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16(1B): inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16(1B): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 111(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16(1B)(a)(ii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 58(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 16(1C) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16(1C): inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16(1C)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 58(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 16(1D) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 111(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16(1D): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 111(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16(1E) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 111(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16(1E): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 111(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16(1E)(b)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 16 list of defined terms **associated person**: inserted, on 1 April 2015, by section 111(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 58(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 16 list of defined terms **CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16 list of defined terms **company**: inserted, on 1 April 2015, by section 111(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16 list of defined terms **double tax agreement**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16 list of defined terms **excess debt outbound company**: inserted, on 1 April 2015, by section 111(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16 list of defined terms **FIF**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 58(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 16 list of defined terms **income interest**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 58(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 16 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 111(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16 list of defined terms **source in New Zealand**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 216(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 16 list of defined terms **tax**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 58(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 16 list of defined terms **total group assets**: inserted, on 1 April 2015, by section 111(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 16 list of defined terms **trustee**: inserted, on 1 April 2015, by section 111(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 16B Total group non-debt liabilities

Meaning for New Zealand group

(1) In this subpart, for a New Zealand group, **total group non-debt liabilities** for an income year means the total of the outstanding balances of liabilities shown in the financial statements of a natural person, or an excess debt entity, or another member of the New Zealand group, reduced by the total of liabilities shown in the financial statements, each of which is—

(a) included in the calculation of total group debt under section FE 15:

(b) under a financial arrangement, other than an agreement for the sale and purchase of property or services, entered into by a company that is a member of the group with a shareholder of a company that is a member of the group, if the financial arrangement provides funds to the company and—

(i) the funding is provided under an arrangement between shareholders and the amount of the funds provided by each shareholder is proportional to the voting interest of each shareholder at the time:

(ii) the shareholder and associated persons hold 10% or more of the voting interests in the company:

(bb) under a financial arrangement, other than an agreement for the sale and purchase of property or services, entered into by a trustee of a trust that is a member of the group with a settlor of the trust, if—

(i) the financial arrangement provides funds to the trust; and

(ii) the settlor has made settlements on the trust totalling 10% or more of the value of total settlements on the trust:

(c) a share in a company that is a member of the group held by a shareholder, if—

(i) the share was issued as part of a share issue to shareholders and the number of shares issued to each shareholder was proportional to the voting interest of each shareholder at the time:

(ii) the shareholder and associated persons hold 10% or more of the voting interests in the company:

(d) a provision for dividends:

(e) a deferred liability for tax that a person chooses to include in a reduction under this section if—

(i) the deferred liability arises from a difference between the value shown in the financial statements of the person for an asset and the amount of depreciation loss remaining available to the person for the asset; and

(ii) the deferred liability is for an amount of tax that would not arise if the asset were sold for the value shown in the financial statements; and

(iii) the value shown in the financial statements for the asset is calculated by reference to the amount that the person is allowed as a deduction or depreciation loss for the asset, or on the basis that the asset is non-depreciable or depreciable at a rate of zero.

Meaning for worldwide group

(2) In this subpart, for a worldwide group, **total group non-debt liabilities** for an income year means the total of the outstanding balances of liabilities shown in the financial statements of the worldwide group, reduced by the total of liabilities that are included in the total group debt and the total of liabilities under financial arrangements that are removed under section FE 18(3B) from the measurement of total group debt.

Equity group treated as single shareholder and provider of funds

(3) If a shareholder is a company,—

(a) for the purposes of subsection (1)(b) and (c), the shareholder's equity group is treated as the shareholder for all the shares held by members of the equity group; and

(b) for the purposes of subsection (1)(b), the shareholder's equity group is treated as the provider of all the funds that are provided by members of the equity group.

Trustee treated as single shareholder and provider of funds

(4) If a shareholder is a trustee of a trust,—

(a) for the purposes of subsection (1)(b) and (c), the trustee is treated as the shareholder for all the shares held by a settlor of the trust and relatives of the settlor, if the settlor and relatives have made at least 90% of the settlements made on the trust; and

(b) for the purposes of subsection (1)(b), the trustee is treated as the provider of all the funds that are provided by a settlor of the trust and relatives of the settlor, if the settlor and relatives have made at least 90% of the settlements made on the trust.

Meaning of equity group

(5) In this section, for a shareholder, **equity group**—

(a) means the members of the wholly-owned group if the shareholder is a member of the wholly-owned group, or the shareholder company itself:

(b) includes—

(i) the group of persons (the **natural group**) who are relatives and that holds 100% of the voting interests in a member of the wholly-owned group or in the shareholder company itself, as the case may be:

(ii) if a member of the natural group is a trustee of a trust, a settlor of the trust and relatives of the settlor if the settlor and relatives have made at least 90% of the settlements made on the trust.

Defined in this Act: adjusted tax value, agreement for the sale and purchase of property or services, associated person, company, deduction, depreciation loss, dividend, equity group, excess debt entity, financial arrangement, financial statements, income year, relative, settlement, settlor, share, shareholder, tax, total group debt, total group non-debt liabilities, trustee, voting interest, wholly-owned group

Section FE 16B: inserted, on 1 July 2018, by section 31(1) (and see section 31(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 16B(1)(b): amended, on 1 April 2025, by section 63(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B(1)(b)(i): amended (with effect on 1 July 2018), on 23 March 2020, by section 120(2) (and see section 120(6) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FE 16B(1)(bb): inserted, on 1 April 2025, by section 63(2) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B(1)(c)(i): amended (with effect on 1 July 2018), on 23 March 2020, by section 120(3) (and see section 120(6) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FE 16B(1)(e): amended (with effect on 1 July 2018), on 18 March 2019, by section 194 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FE 16B(3) heading: replaced, on 1 April 2025, by section 63(3) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B(3): replaced, on 1 April 2025, by section 63(3) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B(4) heading: inserted, on 1 April 2025, by section 63(3) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B(4): inserted, on 1 April 2025, by section 63(3) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B(5) heading: inserted, on 1 April 2025, by section 63(3) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B(5): inserted, on 1 April 2025, by section 63(3) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B list of defined terms **equity group**: inserted, on 1 April 2025, by section 63(4) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B list of defined terms **relative**: inserted, on 1 April 2025, by section 63(4) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B list of defined terms **settlement**: inserted, on 1 April 2025, by section 63(4) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B list of defined terms **settlor**: inserted, on 1 April 2025, by section 63(4) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B list of defined terms **trustee**: inserted, on 1 April 2025, by section 63(4) (and see section 63(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FE 16B list of defined terms **wholly-owned group**: inserted (with effect on 1 July 2018), on 23 March 2020, by section 120(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Debt percentage of worldwide group

FE 17 Consolidation of debts and assets

For an excess debt entity that is a company, the debt percentage of a worldwide group is calculated under generally accepted accounting practice for the consolidation of companies for the purposes of eliminating intra-group balances by consolidating the debts and assets of the members of the entity's worldwide group using—

(a) a financial standard used in the country in which the entity's ultimate non-resident parent company resides, as described in section FE 18(1)(a), if applicable; or

(b) generally accepted accounting practice.

Defined in this Act: company, excess debt entity, generally accepted accounting practice, non-resident company, ultimate parent

Compare: 2004 No 35 s FG 5(2), (10)

FE 18 Measurement of debts and assets of worldwide group

Standards applying

(1) The amount of total group debt, the amount of total group assets, and the amount of total group non-debt liabilities of the worldwide group of an excess debt entity are calculated—

(a) using a standard that is equivalent to generally accepted accounting practice for consistent and non-distorting financial reporting; and

(b) in accordance with the financial reporting standards of the country where the worldwide group's consolidated financial accounts are prepared.

Date of measurement

(2) The amount of total group debt, the amount of total group assets, and the amount of total group non-debt liabilities of the worldwide group of an excess debt entity for an income year are measured using—

(a) the average amount at the end of each day of the income year; or

(b) the average amount at the end of each 3-month period in the income year; or

(c) the amount as at the worldwide group's balance date that immediately precedes the income year.

Measurement of amounts

(3) Despite subsection (1), an excess debt entity must measure the amount of total group debt by applying section FE 15 as if—

(a) section FE 15(1)(a) excluded from the measurement a financial arrangement meeting the requirements of subsection (3B); and

(b) section FE 15(1)(a)(ii) required the financial arrangement to give rise to an amount that would be allowed as a deduction to the natural person or to the entity, or another group member, if the entity or group member were resident in New Zealand.

Financial arrangements removed from measurement of amounts

(3B) A financial arrangement is removed from the measurement of total group debt for an excess debt entity that is not an excess debt outbound company if—

(a) there is a person (the **owner**) who is not a member of the group and—

(i) has an ownership interest in a member of the group:

(ii) is a settlor of a trust having a trustee who is a member of the group; and

(b) the owner, or an associated person other than a member of the group,—

(i) is a party to the financial arrangement:

(ii) guarantees, or provides security for, the performance of obligations under the financial arrangement, if the worldwide group is given by section FE 3(1)(d) or FE 31D:

(iii) provides, or undertakes to provide, funds for the use of a person who agrees to provide funds under the financial arrangement; and

(c) the owner—

(i) has direct ownership interests in a member of the group of 5% or more:

(ii) has made a settlement on a trust, having a trustee who is a member of the group, of 5% or more of the value of total settlements on the trust; and

(d) the financial arrangement is not traded on an exchange that would be a recognised exchange if paragraphs (c) to (e) of the definition of **recognised exchange** referred to financial arrangements as well as to shares and options over shares.

Apportioning residual debt and assets after reduction under section FE 13

(3C) If the amounts of the total group debt and total group assets are reduced under section FE 13 for the New Zealand group and worldwide group of an excess debt entity, the parts of the reduced amounts that relate to financial arrangements with members of the excess debt entity's groups and the parts that relate to financial arrangements with persons outside the excess debt entity's groups are treated as being in the same proportion as the parts of the total group debt and total group assets would be in without the reduction.

Commissioner's estimate

(4) If an excess debt entity is unable to calculate the debt percentage of their worldwide group for an income year, they may apply to the Commissioner to estimate the percentage under this subpart. The estimate is then treated as the percentage applying for the purposes of this subpart.

Default percentage

(5) The debt percentage of the worldwide group of an excess debt entity is treated as,—

(a) 54.5454%, if the excess debt entity is not a trustee and not an excess debt outbound company, or is a trustee who is not described in section FE 2(1)(g), and—

(i) the entity is unable to calculate the percentage and does not ask the Commissioner to make an estimate under subsection (4):

(ii) the Commissioner cannot reasonably estimate the debt percentage under subsection (4):

(iii) all members of the entity's worldwide group, not including the entity, are resident in New Zealand and the entity's worldwide group is not determined under either of sections FE 3(1)(d) and FE 31D; or

(b) 68.1818%, if the excess debt entity is an excess debt outbound company, or is a trustee who is described in section FE 2(1)(g), and—

(i) the entity is unable to calculate the percentage and does not ask the Commissioner to make an estimate under subsection (4):

(ii) the Commissioner cannot reasonably estimate the debt percentage under subsection (4):

(iii) no member of the entity's worldwide group, other than the entity, is not resident in New Zealand.

Defined in this Act: amount, apply, associated person, Commissioner, deduction, excess debt entity, excess debt outbound company, financial arrangement, generally accepted accounting practice, income year, ownership interest, recognised exchange, resident in New Zealand, settlor, total group assets, total group debt, total group non-debt liabilities, trustee

Compare: 2004 No 35 s FG 5(2)–(5), (12), (13)

Section FE 18(1): amended, on 1 July 2018, by section 32(1)(a) (and see section 32(6) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 18(1): amended, on 1 July 2018, by section 32(1)(b) (and see section 32(6) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 18(1): amended (with effect on 30 June 2009), on 6 October 2009, by section 217(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 18(2) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 217(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 18(2): substituted (with effect on 30 June 2009), on 6 October 2009, by section 217(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 18(2): amended, on 1 July 2018, by section 32(2) (and see section 32(6) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 18(3) heading: replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 112(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18(3): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 112(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18(3B) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 112(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18(3B): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 112(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18(3B)(b)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 174(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 18(3B)(c): replaced, on 1 July 2018, by section 32(3) (and see section 32(6) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 18(3C) heading: inserted, on 1 July 2018, by section 32(4) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 18(3C): inserted, on 1 July 2018, by section 32(4) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 18(4): amended, on 2 June 2016, by section 45(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section FE 18(4): amended (with effect on 30 June 2009), on 6 October 2009, by section 217(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 18(5): substituted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 90(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section FE 18(5)(a)(iii): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 112(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18 list of defined terms **apply**: inserted, on 2 June 2016, by section 45(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section FE 18 list of defined terms **associated person**: inserted, on 1 April 2015, by section 112(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18 list of defined terms **excess debt outbound company**: inserted, on 1 April 2015, by section 112(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18 list of defined terms **financial arrangement**: inserted, on 1 April 2015, by section 112(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18 list of defined terms **natural person**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 217(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 18 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 112(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18 list of defined terms **recognised exchange**: inserted, on 1 April 2015, by section 112(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18 list of defined terms **settlor**: inserted, on 1 April 2015, by section 112(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 18 list of defined terms **total group non-debt liabilities**: inserted, on 1 July 2018, by section 32(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 18 list of defined terms **trustee**: inserted, on 1 April 2015, by section 112(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

New Zealand banking group

FE 19 Banking group's equity threshold

Requirement for New Zealand banking group: formula

(1) A reporting bank must calculate the equity threshold of its New Zealand banking group for a tax year using the formula—

$$0.06 \times (\text{risk-weighted exposures} - \text{deductions from equity value}).$$

Definition of items in formula

(2) In the formula,—

(a) **risk-weighted exposures** is the sum of the following values:

(i) for an asset included in a balance sheet, the regulatory value of the asset:

(ii) for an exposure not included in a balance sheet, the regulatory value of the exposure:

(iii) for an amount of goodwill that is not taken into account in adjustment 4: intangible assets in determining the New Zealand net equity of the group under section FE 21, the financial value of the goodwill:

(b) **deductions from equity value** is the total amount of the regulatory values of adjustments 1 to 10 referred to in section FE 21.

Assets of fixed establishments

(3) For the purposes of this section, the assets of a fixed establishment include those treated as assets of the fixed establishment under generally accepted accounting practice.

Defined in this Act: amount, financial value, fixed establishment, generally accepted accounting practice, New Zealand banking group, New Zealand net equity, regulatory value, reporting bank, tax year

Compare: 2004 No 35 s FG 8H

Section FE 19(1) formula: replaced (with effect on 1 April 2012), on 2 November 2012 (applying for measurement dates under section FE 8(3) of the Income Tax Act 2007 for periods beginning on or after 1 April 2012), by section 70(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

FE 20 Financial value and regulatory value

Financial value

(1) In sections FE 19, and FE 21 to FE 23, the **financial value** of an item for a New Zealand banking group at a time is the amount recorded for the item in the group's financial statements that—

(a) relate to the time; and

(b) are prepared for external reporting purposes; and

(c) are consistent with generally accepted accounting practice for the consolidation of a group of companies for the purposes of eliminating intra-group balances.

Regulatory value

(2) In section FE 19, the **regulatory value** of an item for a New Zealand banking group at a time is the total risk-weighted value for the item for the purposes of the Capital Adequacy Framework issued by the Reserve Bank of New Zealand acting in the prudential supervision of registered banks under the Banking (Prudential Supervision) Act 1989.

Defined in this Act: amount, financial value, generally accepted accounting practice, group of companies, issue, New Zealand, New Zealand banking group, registered bank, regulatory value

Compare: 2004 No 35 s FG 8F

Section FE 20(2): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

FE 21 Banking group's New Zealand net equity

Formula

(1) A reporting bank must calculate the New Zealand net equity of its New Zealand banking group for an income year using the formula—

equity value − adjustments 1 to 11.

Definition of items in formula

(2) The items in the formula are defined in subsections (3) to (14).

Equity value

(3) **Equity value** is the total financial value of—

(a) the shareholders' equity for the group; and

(b) the branch equity relating to fixed establishments of the group; and

(c) any shares issued by a member of the group whose value is not included under paragraph (a) or (b); and

(d) any financial arrangement that is a loan or provision of funds—

(i) that is not taken into account in calculating the group's funding debt for the tax year corresponding to the income year; and

(ii) that is made by a non-resident who is not a member of the New Zealand banking group or associated with a member of the group; and

(iii) that is made to a member of the group; and

(iv) that does not give rise to interest expenditure other than as a result of a fluctuation in the value of a currency of a country relative to the value of a currency of another country; and

(v) whose value is not included under paragraph (a) or (b); and

(vi) that does not relate to a supply of goods or services; and

(e) an instrument specified by the Governor-General by Order in Council under section FE 24 as included in equity value, but excluding an instrument specified under that section as not being an item of equity value; and

(f) the same proportion of the financial value of any arrangement not included in paragraphs (a) to (e) as the proportion of the total interest expenditure under the arrangement in the income year that is denied as a deduction in the income year under section FH 3 (Payments under financial instruments producing deduction without income) as an unrecognised amount under section FH 3(2) or under section FH 7 or FH 11 (which provide for the matching of deductions and income from multi-jurisdictional arrangements).

Fixed-rate shares

(4) **Adjustment 1** is the financial value of fixed-rate foreign equities or fixed-rate shares that are—

(a) issued by a member of the group on or after 1 January 2005, or before that date if the measurement period starts on or after 1 January 2010; and

(b) owned by a person resident in New Zealand; and

(c) included in equity value under subsection (3).

Stapled debt securities

(4B) **Adjustment 1A** is the financial value of stapled debt securities that are—

(a) owned by a person resident in New Zealand; and

(b) included in equity value under subsection (3); and

(c) stapled to shares other than shares of a company that is a proportional-stapling company.

Tax debts

(5) **Adjustment 2** is the financial value of a tax debt that is a financial arrangement—

(a) included in equity value under subsection (3)(a) to (c); and

(b) in relation to which a member of the group is allowed a deduction for the corresponding tax year for interest to which any of sections DB 6 to DB 8 (which relate to interest expenditure) applies.

Policyholder liabilities and retained profits

(6) **Adjustment 3** is the financial value of unvested policyholder benefit liabilities and policyholder retained profits included in equity value under subsection (3).

Intangible assets

(7) **Adjustment 4** is the financial value of intangible assets, but does not include the value of—

(a) the goodwill of a business that is not a banking, financing, leasing, or life insurance business—

(i) acquired from a person who, at the time of acquisition, is not associated with a member of the group; or

(ii) relating to an entity that is acquired from a person who is not associated with a member of the group:

(b) a film or film right:

(c) property that is depreciable property or is expected to become depreciable property.

Capital gains

(8) **Adjustment 5** is the total amount of capital gain arising for the 2004–05 income year or a later income year from a transfer of an intangible asset

between a member of the group and a person who is associated with a member of the group.

Asset revaluation reserves

(9) **Adjustment 6** is the financial value of revaluation reserves included in equity value under subsection (3).

Future tax benefits

(10) **Adjustment 7** is the financial value of net future tax benefits included in equity value under subsection (3) that arise from—

(a) a tax loss for the tax year corresponding to the income year referred to in subsection (1):

(b) a loss balance carried forward from an earlier tax year:

(c) a timing or temporary difference to the extent to which the item giving rise to the difference would contribute to the amount of a tax loss for the tax year corresponding to the income year referred to in subsection (1) if allowed as a deduction.

Prudential deductions

(11) **Adjustment 8** is the financial value of a credit enhancement or advance that is, for the purposes of the Capital Adequacy Framework described in section FE 20(2),—

(a) a credit enhancement that a member of the group provides to—

(i) an associated funds management and securitisation scheme of a non-member:

(ii) an affiliated insurance group that is a non-member when the credit has not been expensed:

(b) an advance by a member of the group of a capital nature to a connected person who is a non-member.

Offshore assets

(12) **Adjustment 9** is the financial value of shares in a non-resident company that—

(a) are held by a member or potential member of the group; and

(b) are not interests in a foreign investment fund (FIF) for which the FIF income or FIF loss is calculated using the comparative value method, the deemed rate of return method, the fair dividend rate method, or the cost method; and

(c) are not shares in a grey list company that—

(i) are listed on the official list of a recognised exchange; and

(ii) are revenue account property; and

(iii) would not be a sufficient interest in the company if the class of shares were the only class of share issued by the company.

Cross holdings

(13) **Adjustment 10** is the financial value of—

(a) interests included in equity value under subsection (3) held by a person who—

(i) is not a member of the group because of an exclusion under section FE 35; and

(ii) is resident in New Zealand or holds the interest through a fixed establishment in New Zealand:

(b) shares in or loans (other than on an arm's length basis) to a person who is not a member of the group because of an exclusion under section FE 35.

Notional offshore investments

(14) **Adjustment 11** is the amount of notional offshore investment for the group for the income year under section FE 22.

Components of adjustment items counted once

(15) For the purposes of this section, if a component of an item described in adjustments 1 to 10 is a component of 1 or more other adjustment items, the value of the component is counted once only at its highest value.

Defined in this Act: amount, associated person, business, company, comparative value method, cost method, deduction, deemed rate of return method, depreciable property, direct voting interest, dividend, fair dividend rate method, FIF, FIF income, FIF loss, film, film right, financial arrangement, financial value, fixed establishment, fixed-rate share, grey list company, group funding debt, income year, interest, loan, loss balance, measurement period, New Zealand, New Zealand banking group, New Zealand net equity, non-resident, non-resident company, notional offshore investment amount, pay, proportional-stapling company, recognised exchange, reporting bank, resident in New Zealand, revenue account property, share, shareholder, stapled, stapled debt security, tax, tax loss

Compare: 2004 No 35 s FG 8G(1)–(3)

Section FE 21(3)(d)(ii): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 218(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21(3)(e): amended, on 1 July 2018, by section 33(1) (and see section 33(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 21(3)(f): inserted, on 1 July 2018, by section 33(2) (and see section 33(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 21(4): amended (with effect on 30 June 2009), on 6 October 2009, by section 218(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21(4B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 218(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21(4B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 218(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21(7)(a)(i): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 218(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21(7)(a)(ii): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 218(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21(8): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 218(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21(12)(a): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 59(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 21 list of defined terms **1973 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21 list of defined terms **CTR credit**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 21 list of defined terms **proportional-stapling company**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 218(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21 list of defined terms **stapled**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 218(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 21 list of defined terms **stapled debt security**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 218(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FE 22 Notional offshore investment

When this section applies

(1) This section applies for the purposes of section FE 21(14) to determine an amount of notional offshore investment for a New Zealand banking group for an income year.

Formula

(2) The amount of notional offshore investment is calculated using the formula—

$$(\text{foreign tax credits} - \text{threshold}) \times 12 \div (\text{tax rate} \times \text{interest rate of return} \times \text{months}).$$

Definition of items in formula

(3) In the formula,—

(a) **foreign tax credits** is the total amount of foreign tax credits for the tax year corresponding to the income year claimed as a credit against the income tax liability for the tax year of a member of the group or a person excluded from the group under section FE 35 that does not arise from—

(i) attributed CFC income or from FIF income; or

(ii) income derived before 1 July 2005.

(b) **threshold** is—

(i) the amount set by the Governor-General by Order in Council as the threshold amount for the purposes of this subsection; or

(ii) $416,667 multiplied by the number of months beginning on or after 1 July 2005 in the income year that includes that date, if no threshold is set under subparagraph (i); or:

(iii) $5,000,000 if no threshold amount is set under subparagraph (i) or (ii):

(c) **tax rate** is the rate of tax for companies set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the tax year corresponding to the income year referred to in subsection (1):

(d) **interest rate of return** is—

(i) the percentage amount set by the Governor-General by Order in Council as the interest rate of return for the purposes of this subsection; or

(ii) 7%, if no interest rate of return is set under subparagraph (i):

(e) **months** is the number of months beginning on or after 1 July 2005 in the corresponding income year.

Secondary legislation

(4) An Order in Council under subsection (3)(b)(i) or (d)(i) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, attributed CFC income, corresponding income year, FIF income, income, income tax liability, income year, interest, New Zealand banking group, notional offshore investment amount, tax year

Compare: 2004 No 35 s FG 8G(4)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section FE 22(3)(b)(ii): amended (with effect on 1 April 2008), on 30 March 2021, by section 66 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FE 22(3)(c): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section FE 22(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section FE 22(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

FE 23 Banking group's funding debt

Formula

(1) A reporting bank must calculate the funding debt of its New Zealand banking group for a tax year using the formula—

(total interest + interest deductions − shares − mismatch) ÷ days in quarter.

Definition of items in formula

(2) In the formula,—

(a) **total interest** is the financial value of the total interest-bearing debt for the group, measured on the last day of a quarter in the reporting bank's corresponding income year:

(b) **interest deductions** is the financial value not included in paragraph (a) of a financial arrangement in relation to which the group has a deduction for interest to which any of sections DB 6 to DB 8 (which relate to interest expenditure) applies, other than as a consequence of a fluctuation in the value of a currency of a country relative to the value of a currency of another country:

(c) **shares** is the financial value of shares included in paragraph (a), measured on the last day of a quarter in the reporting bank's corresponding income year:

(cb) **mismatch** is the same proportion of the financial value of a debt or financial arrangement included in paragraph (a) or (b) as the proportion of the total interest expenditure under the debt or financial arrangement in the income year that is denied as a deduction in the income year under section FH 3 (Payments under financial instruments producing deduction without income) as an unrecognised amount under section FH 3(2) or under section FH 7 or FH 11 (which provide for the matching of deductions and income from multi-jurisdictional arrangements):

(d) **days in quarter** is the number of days in a quarter in the reporting bank's corresponding income year.

Defined in this Act: corresponding income year, deduction, financial arrangement, financial value, interest, New Zealand banking group, quarter, reporting bank, share, tax year

Compare: 2004 No 35 s FG 8B(3)

Section FE 23(1) formula: amended, on 1 July 2018, by section 34(1) (and see section 34(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FE 23(2)(cb): inserted, on 1 July 2018, by section 34(2) (and see section 34(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FE 24 Regulations

When this section applies

(1) This section applies for the purposes of sections FE 21 and FE 22.

Specifications

(2) The Governor-General may, from time to time, by Order in Council—

(a) specify a type of instrument that is included in equity value under section FE 21(3):

(b) specify a type of instrument that is not included in equity value under section FE 21(3):

(c) set, replace, or repeal a figure for a threshold amount for a value of an instrument, or aggregate value of a type of instrument, held by a person or group of persons for the purposes of a specification under paragraph (a) or (b):

(d) amend or delete a specification under paragraphs (a) to (c):

(e) set, replace, or repeal a figure for the threshold amount for the purposes of the definition of **threshold** in section FE 22(3)(b)(i):

(f) set, replace, or repeal a figure for the definition of **interest rate of return** in section FE 22(3)(d)(i).

Application or effective date

(3) An Order in Council under subsection (2) may—

(a) come into effect on or after 1 July 2005:

(b) apply for measurement periods and quarters that—

(i) are in the 2005–06 income year or a later income year; and

(ii) commence on or after 1 July 2005.

Secondary legislation

(4) An Order in Council under subsection (2)—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) commences in accordance with subsection (3), even if it is not yet published.

Defined in this Act: amount, group of persons, income year, interest, measurement period, quarter

Compare: 2004 No 35 s FG 8G(5), (6)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section FE 24(4) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section FE 24(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Determining membership of groups

New Zealand group

FE 25 New Zealand group for excess debt entity that is a company or non-resident owning body

Steps to determine membership

(1) The following steps are used to determine the membership of the New Zealand group of an excess debt entity that is a company or non-resident owning body:

(a) identifying the New Zealand parent, *see* section FE 26:

(b) establishing the companies under the parent's control, *see* section FE 27:

(c) identifying the members of the New Zealand group, *see* sections FE 28 and FE 29:

(d) if a non-resident has ownership interests in 2 or more New Zealand groups, establishing whether the groups may be combined into a single New Zealand group, *see* section FE 30.

Entity as company or non-resident owning body

(2) Sections FE 26 to FE 30 apply to an excess debt entity that is a company or a non-resident owning body. However, section FE 30 does not apply to an excess debt outbound company.

Defined in this Act: company, excess debt entity, excess debt outbound company, New Zealand, non-resident, ownership interest

Compare: 2004 No 35 s FG 4(10), (11)

Section FE 25 heading: amended, on 1 April 2015, by section 113(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 25(1): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 113(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 25(2) heading: amended, on 1 April 2015, by section 113(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 25(2): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 113(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 25(2): amended (with effect on 30 June 2009), on 6 October 2009, by section 219(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 25 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 25 list of defined terms **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 219(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 25 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 113(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 26 Identifying New Zealand parent

Identifying resident company

(1) The New Zealand parent of an excess debt entity is the entity identified in whichever is applicable of subsections (2) to (6).

Entity as parent

(2) The excess debt entity is treated as the New Zealand parent if—

(a) the entity is not resident in New Zealand; or

(b) the entity is resident in New Zealand, and—

(i) a non-resident has a direct ownership interest in the entity of 50% or more, as determined under section FE 39; and

(ii) no single non-resident who is carrying on business in New Zealand through a fixed establishment in New Zealand or who derives income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable has an ownership interest in the entity of 50% or more; or

(bb) the entity is resident in New Zealand, and meets the requirements of none of the other paragraphs, and has a non-resident owning body having a direct ownership interest of 50% or more in the entity and not having a member (a **tax-return member**)—

(i) carrying on business in New Zealand through a fixed establishment in New Zealand:

(ii) deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax is unavailable under all relevant double tax agreements; or

(bc) the entity is a non-resident owning body; or

(c) the entity is an excess debt outbound company and no single company resident in New Zealand has an ownership interest in the entity of 50% or more.

Top tier New Zealand resident company if not excess debt outbound company

(3) If subsection (2) does not apply, and the excess debt entity is not an excess debt outbound company, the entity's New Zealand parent is the company (**company A**) that meets all the following requirements:

(a) company A is either—

(i) resident in New Zealand; or

(ii) not resident in New Zealand but carrying on business in New Zealand through a fixed establishment in New Zealand; or

(iii) not resident in New Zealand but deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable; and

(b) company A has an ownership interest in the entity; and

(c) if company A is a non-resident, a non-resident has a direct ownership in company A; and

(d) if company A is resident in New Zealand,—

(i) a non-resident has a direct ownership interest in company A and ownership interests of 50% or more in the entity and company A; or

(ii) the requirements of subparagraph (i) are not met and a group of non-residents is a non-resident owning body for the entity and for company A, and has ownership interests of 50% or more in the entity and company A, and no such non-resident owning body for the entity and for company A has a tax-return member; and

(e) no company that meets the requirements of paragraphs (a) to (d) has a direct ownership interest in company A.

When parent controlled by non-resident

(4) Despite subsection (3), if the interest apportionment rule in section FE 6 applies to the excess debt entity only through the application of section FE 2(1)(c)(ii), the entity's New Zealand parent is the company (**company B**) that meets all the following requirements:

(a) company B is either—

(i) resident in New Zealand; or

(ii) not resident in New Zealand but carrying on business in New Zealand through a fixed establishment in New Zealand; or

(iii) not resident in New Zealand but deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable; and

(b) company B has an ownership interest in the entity; and

(c) if company B is resident in New Zealand, a non-resident, or non-resident owning body, who has control of the entity by any means, has control of company B by any means; and

(d) no company that meets the requirements of paragraphs (a) to (c) has a direct ownership interest in company B.

Top tier New Zealand resident company for excess debt outbound company

(4B) If subsection (2) does not apply, and the excess debt entity is an excess debt outbound company, the entity's New Zealand parent is the company (**company C**) that meets all the following requirements:

(a) company C—

(i) is resident in New Zealand; and

(ii) has an ownership interest of 50% or more in the entity; and

(b) no company that meets the requirements of paragraph (a)(i) and (ii) has a direct ownership interest in company C.

Non-resident owning body

(4C) If subsections (2) to (4B) do not apply and the entity is resident in New Zealand and has a non-resident owning body, the non-resident owning body is the entity's New Zealand parent if the non-resident owning body has—

(a) a direct ownership interest of 50% or more in the entity; and

(b) a tax-return member.

Controlling trustee

(4D) If an excess debt entity meets the requirements of section FE 2(1)(cc) and the New Zealand parent of the entity cannot be determined in the absence of this subsection and subsection (6), the New Zealand parent of the entity is the trustee referred to in section FE 2(1)(cc).

Tie-breaker

(5) If more than 1 company is identified as New Zealand parent under subsection (3) or (4), the New Zealand parent is the company that has the highest value in ownership interests calculated by multiplying—

(a) the total direct ownership interests in company A or company B of non-residents who also have ownership interests in the entity of 50% or more:

(b) the ownership interests of company A or company B in the entity.

Entity as parent

(6) If subsection (2) does not apply, and no company meets the requirements of 1 of subsections (3) to (4D), the excess debt entity is treated as the New Zealand parent.

Determining ownership interests in subsections (3) to (4C)

(7) In subsections (3) to (4C), ownership interests are determined under sections FE 38 to FE 41, but for the purposes of identifying a New Zealand parent,—

(a) the ownership interests of a person associated with another person are not included with the ownership interests of the other person, except if the persons are associated under paragraph (b):

(b) a trustee who acts in concert with another trustee is treated as being associated with the other trustee.

Defined in this Act: associated person, business, company, double tax agreement, excess debt entity, excess debt outbound company, fixed establishment, income, interest, New Zealand, non-resident, non-resident company, non-resident owning body, non-resident passive income, ownership interest, resident in New Zealand, source in New Zealand, tax

Compare: 2004 No 35 s FG 4(10)

Section FE 26(2)(b)(ii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 60(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 26(2)(bb): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(2)(bc): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(2)(c): added (with effect on 30 June 2009), on 6 October 2009, by section 220(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(3) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 220(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(3): amended (with effect on 30 June 2009), on 6 October 2009, by section 220(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(3)(a)(ii): amended (with effect on 30 June 2009), on 6 October 2009, by section 220(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(3)(a)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 60(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 26(3)(c): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(3)(d): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(4)(a)(ii): amended (with effect on 30 June 2009), on 6 October 2009, by section 220(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(4)(a)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 60(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 26(4)(c): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(4B) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 220(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(4B): inserted (with effect on 30 June 2009), on 6 October 2009, by section 220(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(4C) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(4C): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(4D) heading: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(4D): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(6): substituted (with effect on 30 June 2009), on 6 October 2009, by section 220(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26(6): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(7) heading: replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(6) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26(7): replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 114(6) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26 list of defined terms **double tax agreement**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 220(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26 list of defined terms **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 220(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26 list of defined terms **income**: inserted, on 1 April 2015, by section 114(7) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26 list of defined terms **non-resident owning body**: inserted, on 1 April 2015, by section 114(7) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 60(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 26 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 114(7) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 26 list of defined terms **source in New Zealand**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 220(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 26 list of defined terms **tax**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 60(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

FE 27 Establishing companies under parent's control

Choosing threshold

(1) A control threshold that the New Zealand parent of an excess debt entity chooses under this section must apply consistently to all companies that are members of the group.

Percentages

(2) The New Zealand parent of an excess debt entity may choose as the relevant control threshold a percentage that is either—

(a) more than 50%; or

(b) 66% or more.

Threshold over 50%

(3) For a control threshold that is more than 50%, the company or companies treated as controlled by the New Zealand parent are those in which direct ownership interests of more than 50% are held collectively by either or both—

(a) the New Zealand parent; and

(b) any other company included in the New Zealand group.

Threshold of 66% or more

(4) For a control threshold of 66% or more, the companies treated as controlled by the New Zealand parent are those in which direct ownership interests of 66% or more are held collectively by any combination of—

(a) the New Zealand parent; and

(b) a non-resident if—

(i) they have ownership interests of 50% or more in both the entity and the New Zealand parent; and

(ii) a company included in the New Zealand group as a result of the control percentage would have been included in the group under section FE 28 through the application of the control test in subsection (3), had the control percentage in that subsection been chosen; and

(c) any other company or companies that are included in the New Zealand group under section FE 28 through the application of any of these paragraphs.

Default threshold of 66%

(5) If the New Zealand parent does not choose a control threshold under subsection (3) or (4), the control threshold applying to the New Zealand group is 66% or more.

Application to other companies of New Zealand parent

(6) The control threshold applying for an income year in relation to the entity and its New Zealand parent applies to any company of the New Zealand parent.

Defined in this Act: company, excess debt entity, income year, New Zealand, non-resident, ownership interest

Compare: 2004 No 35 s FG 4(12)–(14B)

Section FE 27 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 27 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 28 Identifying members of New Zealand group

New Zealand parent's group

(1) A New Zealand group is made up of an excess debt entity, the entity's New Zealand parent, and a company—

(a) that is—

(i) resident in New Zealand:

(ii) carrying on a business in New Zealand through a fixed establishment in New Zealand:

(iii) deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable; and

(b) that is identified under section FE 27 as being under the control of the New Zealand parent; and

(c) that is not a member of the New Zealand banking group of a registered bank.

Special rule for some entity's group

(2) Despite subsection (1), if the excess debt entity is not an excess debt outbound company and is not a company identified under section FE 27 as being under the control of the New Zealand parent because the threshold is not met, the New Zealand group is made up of the entity and a company—

(a) that is—

(i) resident in New Zealand:

(ii) carrying on a business in New Zealand through a fixed establishment in New Zealand:

(iii) deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable; and

(b) that is a company that is not a member of the New Zealand banking group of a registered bank and—

(i) would be identified under section FE 27 as being under the control of the entity if the entity were treated as the New Zealand parent; or

(ii) if the entity is identified under section FE 27 as being under the control of another company (**company A**), would be identified under section FE 27 as under the control of company A if company A were included in the New Zealand group and treated as the New Zealand parent; or

(iii) would be identified under section FE 27 as under the control of a company (**company B**) included in the entity's New Zealand group under subparagraph (ii), if company B were treated as the New Zealand parent.

(iv) *[Repealed]*

Another special rule for some other entity's group

(3) Despite subsection (1), if the excess debt entity is an excess debt outbound company and is not a company identified under section FE 27 as being under the control of the New Zealand parent because the threshold is not met, the entity is included in the New Zealand group for the New Zealand parent if—

(a) the entity is a company that meets the requirements of subsection (1)(a) and (c); and

(b) a member of the New Zealand group has a 50% or more ownership interest in the entity.

Defined in this Act: business, company, double tax agreement, excess debt entity, excess debt outbound company, fixed establishment, New Zealand, New Zealand banking group, non-resident passive income, ownership interest, registered bank, resident in New Zealand, source in New Zealand, tax

Section FE 28: substituted (with effect on 30 June 2009), on 6 October 2009, by section 221(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 28(1)(a)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 61(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 28(2)(a)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 61(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 28(2)(b): amended (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 24 February 2016, by section 175(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 28(2)(b): amended (with effect on 1 April 2008), on 24 February 2016, by section 175(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 28(2)(b)(iii): amended (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 24 February 2016, by section 175(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 28(2)(b)(iii): amended (with effect on 1 April 2008), on 24 February 2016, by section 175(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 28(2)(b)(iv): repealed (with effect on 30 June 2009 and applying for income years beginning on or after 1 July 2009), on 24 February 2016, by section 175(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 28(2)(b)(iv): repealed (with effect on 1 April 2008), on 24 February 2016, by section 175(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 28 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 28 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 61(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 28 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 28 list of defined terms **tax**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 61(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

FE 29 Combining New Zealand groups owned by natural persons and trustees

When this section applies

(1) This section applies when a natural person or trustee described in section FE 2(1)(g) has—

(a) a 50% or more ownership interest in a member of a New Zealand group (**group 1**) having a member that is an excess debt outbound company; and

(b) a 50% or more ownership interest in a member of a different New Zealand group (**group 2**) having a member that is an excess debt outbound company.

Groups combine

(2) Group 1 and group 2 combine into 1 New Zealand group.

Defined in this Act: excess debt outbound company, New Zealand, ownership interest

Section FE 29: substituted (with effect on 30 June 2009), on 6 October 2009, by section 222(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 29 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 30 Ownership interests in companies outside New Zealand group

When this section applies

(1) This section applies when—

(a) a New Zealand group is in existence; and

(b) a particular excess debt entity (**company A**) that is not an excess debt outbound company is outside the group; and

(c) company A is—

(i) resident in New Zealand:

(ii) carrying on business in New Zealand through a fixed establishment in New Zealand:

(iii) deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable; and

(d) a single non-resident has ownership interests of 50% or more in both—

(i) the New Zealand group; and

(ii) company A.

Consistency in group membership

(2) The New Zealand parent of company A may choose to include the company in the New Zealand group if every company to be included in the enlarged group that is a New Zealand parent in the group makes the same election in relation to all other companies that are not in a New Zealand group with that parent before this section applies.

When company A cannot be part of group

(3) Despite subsection (2), company A cannot be part of the New Zealand group if—

(a) another company (**company B**) that is outside the group has a direct ownership in company A; and

(b) company B is—

(i) resident in New Zealand:

(ii) carrying on business in New Zealand through a fixed establishment in New Zealand:

(iii) deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax under a double tax agreement is unavailable; and

(c) either—

(i) a New Zealand parent in the group, after the application of subsection (2), has control of company B under section FE 27(3); or

(ii) the single non-resident has ownership interests of 50% or more in company B.

Defined in this Act: business, company, double tax agreement, excess debt entity, excess debt outbound company, fixed establishment, New Zealand, non-resident, non-resident passive income, ownership interest, resident in New Zealand, source in New Zealand, tax

Compare: 2004 No 35 s FG 4(14D)

Section FE 30(1)(b): substituted (with effect on 30 June 2009), on 6 October 2009, by section 223(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 30(1)(c): substituted (with effect on 30 June 2009), on 6 October 2009, by section 223(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 30(1)(c)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 62(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 30(3)(b): substituted (with effect on 30 June 2009), on 6 October 2009, by section 223(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 30(3)(b)(iii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 62(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 30 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 30 list of defined terms **double tax agreement**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 223(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 30 list of defined terms **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 223(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 30 list of defined terms **non-resident passive income**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 62(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 30 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FE 30 list of defined terms **source in New Zealand**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 223(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 30 list of defined terms **tax**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 62(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Worldwide group

FE 31 Worldwide group for corporate excess debt entity if not excess debt outbound company

Members of worldwide group

(1) For an income year, for an excess debt entity that is a company and is not an excess debt outbound company, a worldwide group is made up of—

(a) the entity; and

(b) the entity's New Zealand group for the income year; and

(c) the entity's worldwide GAAP group, as described in subsection (2); and

(d) the entity's ultimate non-resident parent, as described in subsection (3); and

(e) the ultimate non-resident parent's worldwide GAAP group, as described in subsection (4); and

(f) any non-resident that—

(i) is not a company; and

(ii) has ownership interests in the entity of 50% or more; and

(g) any person associated with the non-resident referred to in paragraph (f).

Worldwide GAAP group

(2) An excess debt entity's worldwide GAAP group is made up of all non-residents who are required to be included with the entity in the consolidated financial statements under, as the entity chooses,—

(a) generally accepted accounting practice; or

(b) an equivalent standard for consistent and non-distorting financial reporting that is—

(i) set in the country where the ultimate non-resident parent of the parent, as described in subsection (3), resides; or

(ii) applied when preparing the consolidated financial statements of the international group of which the entity is part.

Ultimate non-resident parent

(3) An excess debt entity's ultimate non-resident parent is the company that meets the following requirements:

(a) the company has ownership interests in the entity of 50% or more; and

(b) the company is not excluded from the entity's worldwide group under section FE 32; and

(c) no other company has both—

(i) an ownership interest in the entity of 50% or more:

(ii) an ownership interest in the company referred to in paragraphs (a) and (b).

Ultimate non-resident parent's worldwide GAAP group

(4) The ultimate non-resident parent's worldwide GAAP group is made up of—

(a) the ultimate non-resident parent; and

(b) any non-resident who is required to be included with the ultimate non-resident parent in consolidated group accounts under, as the non-resident parent chooses,—

(i) the standard referred to in subsection (2)(b)(i), if applicable; or

(ii) generally accepted accounting practice.

Measuring ownership interests

(5) In subsection (3), ownership interests are determined under sections FE 38 to FE 41.

Defined in this Act: associated person, company, excess debt entity, excess debt outbound company, generally accepted accounting practice, income year, New Zealand, non-resident, ownership interest, ultimate parent

Compare: 2004 No 35 s FG 5(8)

Section FE 31 heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 224(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 31(1): amended (with effect on 30 June 2009), on 6 October 2009, by section 224(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 31(1)(a): substituted (with effect on 30 June 2009), on 6 October 2009, by section 224(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 31 list of defined terms **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 224(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 31 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 31B Worldwide group for excess debt outbound companies

Members of worldwide group

(1) For an income year, a worldwide group for an excess debt outbound company is made up of—

(a) the company; and

(b) the company's New Zealand group for the income year; and

(c) the company's worldwide GAAP group, as described in subsection (2).

Worldwide GAAP group

(2) An excess debt outbound company's worldwide GAAP group is made up of all non-residents who are required to be included with the company in consolidated financial statements under generally accepted accounting practice.

Defined in this Act: excess debt outbound company, generally accepted accounting practice, income year, non-resident

Section FE 31B: inserted (with effect on 30 June 2009), on 6 October 2009, by section 225(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FE 31C CFCs in worldwide group for natural persons or trustees described in section FE 2(1)(g)

When this section applies

(1) This section applies when a natural person or trustee described in section FE 2(1)(g) has—

(a) a 50% or more ownership interest in an excess debt outbound company that is a member of a worldwide group (**worldwide group A**); and

(b) an interest, in an entity not part of the worldwide group A, that is—

(i) an income interest in a CFC:

(ii) an interest in a FIF that meets the requirements of section EX 35 (Exemption for interest in FIF resident in Australia):

(iii) an interest in a FIF for which the natural person or trustee uses the attributable FIF income method.

Transfer

(2) The CFC is part of the worldwide group A.

Ownership interests

(3) For the purposes of this section, ownership interests are determined under sections FE 38 to FE 41.

Defined in this Act: attributable FIF income method, CFC, excess debt outbound company, FIF, income interest, New Zealand, non-resident, ownership interest

Section FE 31C: inserted (with effect on 30 June 2009), on 6 October 2009, by section 225(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 31C(1)(b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 63(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 31C list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 63(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 31C list of defined terms **FIF**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 63(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 31C list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

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

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

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

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

Defined in this Act: excess debt entity, trustee

Section FE 31D: replaced (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 176(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FE 32 Joint venture parties

What this section applies to

(1) This section applies to a company (the **joint venture company**) in a worldwide group under section FE 31 or FE 31B if—

(a) a person (the **excluded joint venturer**) holds an ownership interest equal to 50% in the joint venture company; and

(b) 1 other person (the **included joint venturer**) in the worldwide group holds an ownership interest equal to 50% in the joint venture company; and

(c) but for the application of this section, the worldwide group includes every person who holds both an ownership interest equal to 50% in the joint venture company and—

(i) who has an ownership interest in the included joint venturer; or

(ii) in whom the included joint venture company has an ownership interest.

Exclusion of excluded joint venturer

(2) The joint venture company may choose to exclude the excluded joint venturer from its worldwide group for an income year, despite sections FE 31 and FE 31B.

Ownership interests

(3) For the purposes of this section, ownership interests are determined under sections FE 38 to FE 41.

Defined in this Act: company, excess debt entity, income year, ownership interest

Section FE 32: substituted (with effect on 30 June 2009), on 6 October 2009, by section 226(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 32 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

New Zealand banking group

FE 33 New Zealand banking group

The following steps are used to determine the membership of a New Zealand banking group:

(a) identifying the ultimate parent of a registered bank, *see* section FE 34:

(b) determining whether a person may be excluded from a banking group, *see* section FE 35:

(c) identifying a person and a fixed establishment as a member of a banking group, *see* section FE 36.

Defined in this Act: fixed establishment, New Zealand banking group, registered bank, ultimate parent

FE 34 Identifying ultimate parent

Identifying company

(1) The ultimate parent is the company identified in subsection (2) or (3), as applicable.

Registered bank's parent

(2) An ultimate parent of a registered bank is a company—

(a) that has an ownership interest in the registered bank of 50% or more; and

(b) in which no other company that has an ownership interest in the registered bank of 50% or more has an ownership interest.

Fixed establishment's parent

(3) The ultimate parent of a registered bank's fixed establishment in New Zealand is the registered bank.

Ownership interests

(4) For the purposes of this section, ownership interests are determined under sections FE 38 to FE 41.

Defined in this Act: company, fixed establishment, New Zealand, ownership interest, registered bank, ultimate parent

Compare: 2004 No 35 s FG 8C(9), (10)

Section FE 34 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 35 Persons who may be excluded from banking groups

Reporting bank's exclusions

(1) A reporting bank may determine the members of its New Zealand banking group by excluding from the group a person or fixed establishment described in subsections (2) to (5).

Life insurance providers

(2) A reporting bank may choose to exclude from its New Zealand banking group a person or a fixed establishment whose main activity is providing life insurance.

Entity owning life insurer or banker

(3) A reporting bank may choose to exclude from its New Zealand banking group a person resident in New Zealand—

(a) who has a voting interest of 100% in a person excluded under subsection (2); and

(b) whose main activity is not banking, financing, or leasing, or the ownership or control of an entity whose main activity is banking, financing, or leasing.

Resident group company with other activities

(4) A reporting bank may choose to exclude from its New Zealand banking group a person resident in New Zealand—

(a) who is required under generally accepted accounting practice to be included in consolidated group accounts with a person or fixed establishment excluded under subsection (2) or (3); and

(b) whose main activity is not banking, financing, or leasing, or the ownership or control of an entity whose main activity is banking, financing, or leasing.

Fixed establishment with other activities

(5) A reporting bank may choose to exclude from its New Zealand banking group a fixed establishment of a non-resident if—

(a) the non-resident has a voting interest of 100% in a person excluded under subsection (2); and

(b) the fixed establishment has a main activity of financing the person excluded under subsection (2); and

(c) the main activity of the fixed establishment is not banking, financing, or leasing, or the ownership or control of an entity whose main activity is banking, financing, or leasing.

Defined in this Act: company, fixed establishment, generally accepted accounting practice, life insurance, New Zealand banking group, non-resident, reporting bank, resident in New Zealand, voting interest

Compare: 2004 No 35 s FG 8C(8)

Section FE 35 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FE 36 Identifying members of New Zealand banking group in usual case

Entities included in group

(1) The New Zealand banking group of a registered bank to which section FE 36B does not apply includes the entities described in subsection (2), and may also include the entities described in subsections (3) to (6) if the conditions set out in those subsections are met.

Registered bank or fixed establishment

(2) The banking group includes—

(a) the registered bank, if resident in New Zealand:

(b) the registered bank's fixed establishment, if the registered bank is not resident in New Zealand.

Resident person in group with registered bank

(3) A resident person is included in the banking group if—

(a) the person is part of the same group of companies as the registered bank:

(b) the following conditions under generally accepted accounting practice are met:

(i) for a resident registered bank with no non-resident ultimate parent, the consolidated group accounts include both the person and the registered bank, or would include both but for relevant materiality thresholds; or

(ii) for a non-resident registered bank with no non-resident ultimate parent, the consolidated group accounts would include the person and the registered bank if the bank were resident in New Zealand and the relevant materiality thresholds were met.

Resident in group with non-resident ultimate parent

(4) A resident is included in the banking group if—

(a) the person is part of the same group of companies as a non-resident ultimate parent:

(b) under generally accepted accounting practice, the consolidated group accounts would include the person and the ultimate parent if the ultimate parent were resident in New Zealand and the relevant materiality thresholds were met.

Fixed establishment in group with registered bank

(5) A fixed establishment in New Zealand of a non-resident is included in the banking group separately from the non-resident if—

(a) the fixed establishment is part of the same group of companies as a non-resident registered bank with no non-resident ultimate parent:

(b) under generally accepted accounting practice, the consolidated group accounts would include the fixed establishment and the registered bank if the registered bank were resident in New Zealand and the relevant materiality thresholds were met.

Fixed establishment in group with non-resident ultimate parent

(6) A fixed establishment in New Zealand of a non-resident is included in the banking group separately from the non-resident if—

(a) the fixed establishment is part of the same group of companies as a non-resident ultimate parent:

(b) under generally accepted accounting practice, the consolidated group accounts would include the fixed establishment and the ultimate parent if the ultimate parent were resident in New Zealand and the relevant materiality thresholds were met.

Defined in this Act: fixed establishment, generally accepted accounting practice, group of companies, New Zealand, New Zealand banking group, non-resident, registered bank, resident in New Zealand, ultimate parent

Compare: 2004 No 35 s FG 8C(1), (2), (4)–(7)

Section FE 36 heading: amended (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 64(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 36(1): amended (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 64(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 36(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 227(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 36(4)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 227(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 36(5)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 227(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 36(6)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 227(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FE 36B Identifying members of New Zealand banking group: Crown-owned, no interest apportionment

Entities included in group

(1) The New Zealand banking group of a registered bank consists of the entities given by this section if—

(a) each voting interest in the registered bank is held by—

(i) the Sovereign in right of New Zealand:

(ii) a public authority; and

(b) in the absence of this paragraph and sections EX 15, FE 2(5), FE 38(b) and (d), and FE 41(1), none of the entities that would be part of the banking group under this section would be a person to whom the interest apportionment rules might apply under section FE 2.

Registered bank and person with direct voting interest of 100%

(2) The banking group includes—

(a) the registered bank:

(b) a person with a direct voting interest of 100% in the registered bank.

Resident member of financial reporting group under Financial Reporting Act 2013

(3) A resident person is included in the banking group if the person,—

(a) under the Financial Reporting Act 2013, or under section 55 of that Act and the Financial Reporting Act 1993, is a member of the group for which the registered bank is the reporting entity:

(b) would be a member of the group referred to in paragraph (a) but for the relevant materiality thresholds.

Defined in this Act: direct voting interest, New Zealand, New Zealand banking group, public authority, registered bank, resident in New Zealand, voting interest

Section FE 36B: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 65(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FE 36B(1)(a): replaced (with effect on 1 July 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 104(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 36B(3) heading: amended, on 1 April 2014, by section 96(1) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section FE 36B(3)(a): replaced, on 1 April 2014, by section 96(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section FE 36B(3)(b): replaced, on 1 April 2014, by section 96(2) of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section FE 36B list of defined terms **public authority**: inserted (with effect on 1 July 2016), on 30 March 2017, by section 104(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FE 36B list of defined terms **resident**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 36B list of defined terms **resident in New Zealand**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FE 36B list of defined terms **voting interest**: inserted (with effect on 1 July 2016), on 30 March 2017, by section 104(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FE 37 Reporting bank for New Zealand banking group

When subsection (2) applies

(1) Subsection (2) applies on a day when a New Zealand banking group has either—

(a) a single registered bank, or

(b) no registered bank but a fixed establishment of a single registered bank.

Registered bank

(2) The reporting bank for the day is the registered bank.

When subsection (4) applies

(3) Subsection (4) applies on a day when a New Zealand banking group has either—

(a) more than 1 registered bank; or

(b) no registered bank but fixed establishments of more than 1 registered bank.

Notice or Commissioner's appointment

(4) The reporting bank is—

(a) the registered bank that first notifies the Commissioner of an election to be the reporting bank, if the Commissioner receives the notice within 6 months after the end of the income year in which the day occurs; or

(b) if paragraph (a) does not apply, the registered bank chosen by the Commissioner.

Defined in this Act: Commissioner, fixed establishment, income year, New Zealand banking group, notice, notify, registered bank, reporting bank

Compare: 2004 No 35 s FG 8D

Section FE 37 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Measuring ownership interests in companies

FE 38 Measuring ownership interests in companies

For the purposes of this subpart, a person's ownership interest in a company is the total of the following percentages:

(a) any direct ownership interests they hold in the company; and

(b) any direct ownership interests held in the company by an associated person; and

(c) any indirect ownership interests they hold in the company; and

(d) any indirect ownership interests held in the company by an associated person.

Defined in this Act: associated person, company, ownership interest

Compare: 2004 No 35 s FG 2(2)

Section FE 38 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 39 Direct ownership interests

A person's direct ownership interest in a company referred to in section FE 38 is equal to the highest percentage of shares or rights the person holds in the categories listed in section EX 5(1) (Direct control interests), applying the subsection as if the company were a foreign company.

Defined in this Act: company, foreign company, ownership interest, share

Compare: 2004 No 35 s FG 2(3)

Section FE 39 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FE 39 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 40 Tiered ownership interests

When this section applies

(1) This section applies when a person has a direct ownership interest in a company (**company A**), and that company has an ownership interest in another company (**company B**).

When ownership interest less than 50%

(2) If the person's direct ownership interest in company A is less than 50%, they are treated as holding an indirect ownership interest in company B. The interest is calculated by multiplying the percentage that is the person's direct ownership interest in company A by the percentage that is company A's ownership in company B.

When ownership interest more than 50%

(3) If the person's direct ownership interest in company A is equal to or more than 50%, they are treated as holding an indirect ownership interest in company B that is equal to company A's ownership interest in company B.

Defined in this Act: company, ownership interest

Compare: 2004 No 35 s FG 2(4)

Section FE 40 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FE 41 Treatment of associated persons' interests

Aggregating ownership interests

(1) For the purposes of section FE 40, a person's direct ownership interests include the direct ownership interests of a person associated with them. But if an aggregation of ownership interests results in the same percentage shares or rights in a company being counted more than once, the person's ownership interest in the company must be adjusted to the extent necessary to avoid multiple counting.

Relative resident in New Zealand

(2) For the purposes of section FE 38 or FE 40, as applicable, a non-resident who does not have a direct or an indirect ownership interest in a company and a relative resident in New Zealand are not associated persons in relation to the company.

Defined in this Act: associated person, company, New Zealand, non-resident, ownership interest, relative, resident in New Zealand, share

Compare: 2004 No 35 s FG 2(4)–(6)

Section FE 41(1): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 71(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FE 41(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 71(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FE 41 list of defined terms **ownership interest**: inserted, on 1 April 2015, by section 116(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Subpart FF—Interest apportionment for conduit investment

[Repealed]

Subpart FF: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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Introductory provisions

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 1 What this subpart does

[Repealed]

Section FF 1: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 2 When interest apportionment rule applies

[Repealed]

Section FF 2: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 3 Steps required to determine treatment of excessive interest expenditure

[Repealed]

Section FF 3: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Interest apportionment rule

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 4 Threshold for application of interest apportionment rule

[Repealed]

Section FF 4: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FF 4(1)(a) (as it read immediately before repeal on 6 October 2009 and applying for the 2008–09 and later income years): amended (with effect on 1 April 2008), on 21 December 2010, by section 65(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

FF 5 Determination of excess amount of interest expenditure of group

[Repealed]

Compare: 2004 No 35 s FH 5

Section FF 5: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 6 Conduit tax relief

[Repealed]

Section FF 6: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 7 Surplus to foreign dividends

[Repealed]

Section FF 7: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Membership and debt percentages of foreign groups

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 8 Identifying members of foreign groups

[Repealed]

Section FF 8: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 9 Calculating debt percentage of New Zealand foreign groups

[Repealed]

Section FF 9: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 10 Calculating debt percentage of consolidated foreign groups

[Repealed]

Section FF 10: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FF 11 Changes in foreign group membership

[Repealed]

Section FF 11: repealed (with effect on 30 June 2009), on 6 October 2009, by section 228(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart FG—Treatment of notional loans to New Zealand branches of foreign banks

Subpart FG: inserted, on 30 March 2017, by section 105(1) (and see section 105(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

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FG 1 When this subpart applies

When this subpart applies

(1) This subpart applies, for the purposes of the NRWT rules and the Stamp and Cheque Duties Act 1971, when—

(a) an amount is made available by a foreign bank (the **bank**) to a business carried on in New Zealand through a fixed establishment of the bank in New Zealand (the **branch**); and

(b) the transaction is recorded as a loan in the accounting records of the branch for an income year; and

(c) in calculating its income tax liability for the income year, the branch is allowed a deduction in relation to the amount made available to it, treating—

(i) the amount made available as an interest-bearing loan; and

(ii) the amount allowed as a deduction as interest on the loan.

Meaning of foreign bank

(2) In this subpart, **foreign bank** means a non-resident that is—

(a) a registered bank; and

(b) engaged in business in New Zealand through a fixed establishment in New Zealand.

Defined in this Act: amount, business, deduction, fixed establishment, foreign bank, income tax liability, income year, interest, New Zealand, NRWT rules, registered bank

Section FG 1: inserted, on 30 March 2017, by section 105(1) (and see section 105(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FG 2 Notional loans

Money lent

(1) The amount that the bank makes available to the branch is a notional loan and, for the purposes of the NRWT rules and the Stamp and Cheque Duties Act 1971, is treated as money lent to the branch by the bank.

Amounts excluded

(2) The amount of the notional loan does not include an amount provided as funding to the bank under a financial arrangement if NRWT or approved issuer levy is paid, in the absence of this subpart, in relation to interest that—

(a) is derived under the arrangement; and

(b) has a source in New Zealand.

Money repaid

(3) If the branch makes an amount available to the bank as a notional repayment of the amount referred to in subsection (1), recording the transaction in their accounting records for an income year, the amount is treated as a repayment of some or all of the amount of the notional loan.

Defined in this Act: amount, approved issuer, financial arrangement, income year, interest, money lent, NRWT, NRWT rules, pay, source in New Zealand

Section FG 2: inserted, on 30 March 2017, by section 105(1) (and see section 105(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FG 2 list of defined terms **approved issuer**: inserted, on 29 March 2018 (with effect on 30 March 2017), by section 99 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FG 2 list of defined terms **approved issuer levy**: repealed, on 29 March 2018 (with effect on 30 March 2017), by section 99 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

FG 3 Notional interest

An amount recorded as an expense in relation to the notional loan in an income year is treated as interest that is non-resident passive income—

(a) paid by the branch to the bank on the last day of the third month that follows the balance date of the branch; and

(b) derived in the income year by the bank in relation to the notional loan.

Examples

Foreign Bank Ltd borrows AU$10b outside New Zealand from a variety of lenders and incurs an interest expense of AU$400m. The New Zealand branch of Foreign Bank Ltd is allocated NZ$1b of funding from this pool. An interest expense of NZ$42m is calculated using transfer pricing principles and is recorded in the branch's financial statements and deducted against the branch's taxable income from lending to New Zealand residents. The branch does not claim a deduction for any portion of the $AU400m paid by the non-New Zealand part of Foreign Bank. However, Foreign Bank Ltd is treated as making a loan to the branch on which it receives an interest payment of NZ$42m.

Defined in this Act: amount, balance date, deduction, income year, interest, non-resident passive income, pay

Section FG 3: inserted, on 30 March 2017, by section 105(1)(and see section 105(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart FH—Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements

Subpart FH: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

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FH 1 Subpart implements OECD recommendations for domestic law

Background, scheme, and effect of subpart

(1) This section and section FH 2 are intended to be a guide to the background and general scheme and effect of this subpart.

OECD recommendations

(2) This subpart implements recommendations, for the domestic law of countries and territories, that are made by the OECD in the hybrid mismatch report and the branch mismatch report (the **reports**) and are intended to be implemented as rules neutralising certain mismatches—

(a) arising from arrangements called hybrid mismatch arrangements and branch mismatch arrangements in the reports; and

(b) between income assessed and deductions against income or equivalent tax relief allowed for parties to international transactions; and

(c) resulting from differences, between the taxation laws of different countries and territories having rights to tax the parties, in the classification of financial arrangements or the tax treatment of entities or branches.

Recommendations for primary and defensive rules

(3) If 2 rules are recommended by a report for a situation, the recommended rules are called primary and defensive by the report, which states that the defensive

rule should not apply to the situation except if the country or territory in the position to apply the recommended primary rule has not implemented the recommendation.

Implementation of individual recommendations

(4) In this subpart,—

(a) section FH 3 implements the primary version of the rule for recommendation 1 of the hybrid mismatch report, called the hybrid financial instrument rule in the report:

(b) section FH 4 implements the defensive version of the rule for recommendation 1 of the hybrid mismatch report:

(c) section FH 5 implements the primary version of the rule for recommendation 3 of the hybrid mismatch report, called the disregarded hybrid payments rule in the report, and the rule for recommendation 3 of the branch mismatch report:

(cb) section FH 5B gives the requirements for an exception to section FH 5:

(d) section FH 6 implements the defensive version of the rule for recommendation 3 of the hybrid mismatch report, and a defensive version of the rule for recommendation 3 of the branch mismatch report:

(e) section FH 7 implements recommendation 4 of the hybrid mismatch report, called the reverse hybrid rule in the report, and recommendation 2 of the branch mismatch report:

(f) section FH 8 implements the primary version of the rule for recommendation 6 of the hybrid mismatch report, called the deductible hybrid payments rule in the report, and the rule for recommendation 4 of the branch mismatch report:

(g) section FH 9 implements the defensive version of the rule for recommendation 6 of the hybrid mismatch report, and a defensive version of the rule for recommendation 4 of the branch mismatch report:

(h) section FH 10 implements recommendation 7 of the hybrid mismatch report, called the dual-resident payer rule in the report:

(i) section FH 11 implements recommendation 8 of the hybrid mismatch report, called the imported mismatch rule in the report, and recommendation 5 of the branch mismatch report.

Additional rules

(5) In addition to the recommended rules,—

(a) section FH 12 provides for the setting off, against amounts called surplus assessable income, of amounts called mismatch amounts that arise under several of the sections and, until set off, represent deductions denied or assessable income derived:

(b) section FH 13 provides for an election, by a borrower under a financial arrangement to which the section applies, that the financial arrangement be treated as a share issued by the borrower to the lender:

(c) section FH 14 provides for an irrevocable election, by an owner of a hybrid entity, that the hybrid entity be treated as a company.

Definitions

(6) Section FH 15 contains definitions for the purpose of the Act of some terms used in the reports and of terms used in the Act that differ from terms used in the reports, including—

(a) "deducting branch", which refers to the activities to which the recommendations of the branch mismatch report are intended to apply:

(b) "mismatch amount", which is the amount of a hybrid mismatch or branch mismatch:

(c) "mismatch situation", which is the situation giving rise to a hybrid mismatch or branch mismatch:

(d) "surplus assessable income", which performs the same function as "dual inclusion income" but is defined in a different way.

Variations of recommendations

(7) Variations of the implementing provisions from details of the recommendations in the report are intended to assist in the implementation and application of the recommendations.

Defined in this Act: arrangement, assessable income, deducting branch, deduction, financial arrangement, hybrid entity, hybrid mismatch report, income, mismatch amount, mismatch situation, share, surplus assessable income

Section FH 1: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 1(4)(cb): inserted (with effect on 1 July 2018), on 23 March 2020, by section 121(1) (and see section 121(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

FH 2 Order of application of provisions

Order of application for sections disallowing deductions

(1) If more than 1 provision in this subpart may deny an amount of expenditure or loss as a deduction or identify the amount as a mismatch amount in a situation, the provisions are applied in the order given by the sections, which is—

(a) section FH 3:

(b) section FH 5:

(c) section FH 7:

(d) section FH 11:

(e) section FH 8:

(f) section FH 9:

(g) section FH 10.

Order of application for sections treating receipts as assessable income

(2) If more than 1 provision in this subpart may identify an amount received as a mismatch amount in a situation, the provisions are applied in the order given by the sections, which is—

(a) section FH 4:

(b) section FH 6.

Defined in this Act: amount, loss

Section FH 2: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FH 3 Payments under financial instruments producing deduction without income

When this section applies

(1) This section applies when a person (the **payer**) is a party to a financial instrument (the **payment instrument**) under which the person makes a payment and—

(a) the person incurs in an income year an amount that relates to the payment instrument and does not arise from a fluctuation in the value of a currency; and

(b) the amount of expenditure incurred in the income year (the **incurred amount**) relating to the payment instrument is allowed as a deduction for the payer in the absence of this section and sections FH 5 and FH 7 to FH 11; and

(c) the taxation law of a country or territory outside New Zealand (the **payee jurisdiction**) treats the payment, when made, as being received by a person or other entity (the **payee**) in the payee jurisdiction; and

(d) the payment instrument is or is part of a structured arrangement or the payer is related to the payee when the expenditure is incurred; and

(e) the tax treatment by the payee jurisdiction of the payment meets the requirements of subsection (2) or (3).

Amount not recognised

(2) The tax treatment of a payment under the payment instrument meets the requirements of this subsection if—

(a) no country or territory recognises an amount of the payment (the **unrecognised amount**) as giving rise to ordinary income of the payee under subsection (9); and

(b) the unrecognised amount would be recognised by the taxation law of the payee jurisdiction as giving rise to ordinary income of the payee under subsection (9) if the classification of the payment or payment instrument

were varied and the payee had the usual tax status for a person or entity of the payee's class.

Delayed recognition of amount

(3) The tax treatment of a payment under the payment instrument meets the requirements of this subsection if—

(a) an amount of the payment is recognised as giving rise to ordinary income of the payee under subsection (9); and

(b) the amount is recognised with a timing that does not meet the requirements of subsection (6); and

(c) the duration of the financial instrument, including extensions contemplated by the financial instrument, may be more than 3 years.

Amount of deduction denied

(4) The payer is denied a deduction for expenditure incurred under the financial instrument equal to the greater of zero and the amount calculated using the formula—

$$\text{incurred amount} \times (1 - \text{payee tax} \div \text{ordinary tax}).$$

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **incurred amount** is the amount of the expenditure incurred by the payer relating to the payment instrument and the payee:

(b) **payee tax** is the total of amounts—

(i) calculated by multiplying the amount of the payment that is recognised by the payee jurisdiction as ordinary income arising from the payment received by the payee with a timing that meets the requirements of subsection (6) by the rate of tax imposed by the taxation law of the payee jurisdiction on the class of income that the payee is recognised as receiving:

(ii) of income tax imposed by a country or territory outside New Zealand on a person (the **CFC payee**) other than the payee, on an amount of income corresponding to attributed CFC income relating to the payment and attributed to the CFC payee with a timing that meets the requirements of subsection (6) plus the amount of any credit for withholding tax on the payment taken into account in determining the amount of income tax imposed:

(c) **ordinary tax** is the amount calculated by multiplying the amount of the income arising from the payment received by the payee by the rate of tax imposed by the taxation law of the payee jurisdiction on ordinary income under subsection (9) received by the payee.

Timing of recognised income

(6) The timing of the recognition by a tax jurisdiction of an amount meets the requirements of this subsection if the amount is, or is reasonably expected to be, recognised as being derived—

(a) over a period of time during which the amount can reasonably be treated as accruing:

(b) in an accounting period beginning within 24 months of the end of the income year to which a deduction of the payer for the incurred expenditure would be attributed.

Effect of delayed recognition

(7) If an amount of the payment for which a deduction has been denied under subsection (4) is recognised as income of the payee derived at a time not meeting the requirements of subsection (6), the payer is allowed a deduction, when the amount is recognised, equal to the denied deduction.

Payer deriving income from financial instrument: excluded income

(8) If a payer that derives income (the **affected income**) in an income year from a financial instrument would, as a consequence of unrecognised amounts under subsection (2) of payments, be denied by subsection (4) a deduction for a fraction (the **affected fraction**) of expenditure incurred by the payer in the income year under the financial instrument, an amount of the payer's affected income, calculated by multiplying the affected income by the affected fraction, is excluded income of the payer.

Ordinary income

(9) An amount of income is ordinary income under this subsection for a country or territory and a person or entity if the income is—

(a) taxed by the country or territory at the full marginal rate of the person or other entity for the income from financial instruments; and

(b) not eligible for an exemption, exclusion, credit, or tax relief, under the laws of the country or territory, other than a credit or tax relief for a withholding tax or similar tax imposed on the amount of the income by the laws of another country or territory.

Defined in this Act: accounting period, amount, CFC, deduction, excluded income, financial instrument, income, income tax, income year, New Zealand, pay, related, structured arrangement, tax

Section FH 3: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) and (3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 3(2)(a): amended (with effect on 1 July 2018), on 30 March 2021, by section 67(1) (and see section 67(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 3(2)(b): amended (with effect on 1 July 2018), on 30 March 2021, by section 67(2) (and see section 67(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 3(5)(b)(i): amended (with effect on 1 July 2018), on 18 March 2019, by section 195(1) (and see section 195(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

FH 4 Receipts under financial instruments producing deduction without income

When this section applies

(1) This section applies when a person (the **payee**) receives a payment under a financial instrument (the **payment instrument**) of an amount and—

(a) the payment would not give rise to assessable income of the payee in the absence of this section and section FH 6 or gives rise to assessable income of the payee that would not be allocated to a period meeting the requirements of subsection (7); and

(b) the taxation law of a country or territory outside New Zealand (the **payer jurisdiction**) treats the payment as being made under the payment instrument by a person or other entity (the **payer**); and

(c) the payer jurisdiction allows the payer or other person or entity to deduct the amount from income or allows an equivalent tax relief for the payment; and

(d) the payer jurisdiction does not have hybrid mismatch legislation corresponding to section FH 3 and applying to the payment; and

(e) the payment instrument is or is part of a structured arrangement or the payer is related to the payee when the expenditure is incurred; and

(f) the payment meets the requirements of subsection (2) or (3).

Amount not recognised

(2) A payment received by the payee meets the requirements of this subsection if—

(a) an amount of the payment does not give rise to assessable income of the payee; and

(b) the amount would give rise to assessable income of the payee if the classification of the payment or payment instrument were varied.

Delayed recognition of amount

(3) A payment received by the payee under a financial instrument meets the requirements of this subsection if—

(a) the payment gives rise to assessable income of the payee that, in the absence of this section, would be allocated to a period that does not meet the requirements of subsection (7); and

(b) the duration of the financial instrument, including extensions contemplated by the financial instrument, may be more than 3 years.

Assessable income

(4) The payee derives assessable income from the payment—

(a) equal to the amount that would be assessable income of the payee if the classification of the payment or payment instrument were varied, for a payment meeting the requirements of subsection (2):

(b) allocated under subsection (6).

Imputation credit not included and not available

(5) If the payment received by the payee is a replacement payment under a returning share transfer, the amount of an imputation credit attached to the replacement payment is not included in the assessable income under subsection (4) and is not available as a tax credit under section LE 1 (Tax credits for imputation credits).

Timing of derivation under subsection (4)

(6) The assessable income under subsection (4) is allocated to the income year in which—

(a) income from the payment would be derived if the classification of the payment or payment instrument were varied, for a payment meeting the requirements of subsection (2):

(b) the deduction or tax relief referred to in subsection (1)(c) is allowed, for a payment meeting the requirements of subsection (3).

Timing of recognised income

(7) The period to which an amount of income is allocated meets the requirements of this subsection if the income is, or is reasonably expected to be, derived in an accounting period beginning within 24 months of the end of the accounting period to which a deduction or tax credit of the payer for the incurred expenditure is attributed.

Defined in this Act: accounting period, amount, assessable income, financial instrument, hybrid mismatch legislation, imputation credit, income, income year, pay, related, replacement payment, returning share transfer, structured arrangement, tax credit

Section FH 4: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) and (3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 4(6)(b): amended (with effect on 1 July 2018), on 18 March 2019, by section 196(1) (and see section 196(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

FH 5 Payments by New Zealand resident or New Zealand deducting branch producing deduction without income

When this section applies

(1) This section applies when a person or entity (the **payer**) incurs an amount of expenditure in an income year relating to a payment to another person and meeting the requirements of subsection (2), or incurs in an income year a charge meeting the requirements of subsection (3), and—

(a) *[Repealed]*

(b) the amount or charge would be allowed as a deduction in the income year for the payer in the absence of this section and sections FH 7 to FH 11; and

(c) the taxation law of a country or territory outside New Zealand (the **payee jurisdiction**)—

(i) treats the payment or charge as not being received by a person or entity in the payee jurisdiction, because of the tax status of the payer; and

(ii) would treat the payment or charge as being received by a person or other entity (the **payee**) in the payee jurisdiction, if the tax status of the payer were different; and

(d) no country or territory outside New Zealand and the payee jurisdiction imposes tax on the payment or charge under taxation law that includes rules corresponding to the CFC rules and recognises the payment as the equivalent of attributed CFC income of a person in the same control group as the payee.

Expenditure relating to payment made under structured arrangement or to member of payer's control group

(2) Expenditure relating to a payment by a payer that is a New Zealand resident, or a New Zealand deducting branch of a non-resident, to a payee meets the requirement of this subsection if—

(a) the payee is a non-resident who receives the payment other than through a New Zealand deducting branch of the payee; and

(b) the payment is made under a structured arrangement or, when the expenditure is incurred, the payer is in a control group with the payee or is the same person as the payee; and

(c) the expenditure is not an amount that is—

(i) consideration for a supply of goods or services by the payee to the payer meeting the requirements of section FH 5B(1); and

(ii) excluded from being a mismatch amount by section FH 5B(2).

Charge by non-resident to New Zealand deducting branch

(3) A charge of an amount meets the requirements of this subsection if the amount—

(a) is charged by a non-resident to a New Zealand deducting branch of the non-resident; and

(b) represents amounts, relating to the activities outside New Zealand of the non-resident, allocated to the deducting branch; and

(c) is not determined by reference to the amount of a payment by the non-resident, or a member of the same control group as the non-resident,

to a person other than the non-resident and the members of the control group; and

(d) exceeds expenditure or loss, incurred by the non-resident or a member of the same control group as the non-resident, that—

(i) belongs to a category of expenditure or loss equivalent to the category to which the charge belongs; and

(ii) is the reference by which the amount of the charge is determined.

Mismatch amount

(4) The payer is denied a deduction for the expenditure or for the amount of the charge that exceeds the expenditure or loss referred to in subsection (3)(d).

Deductions denied for mismatch amounts until offset

(5) The expenditure or loss for which a deduction is denied under subsection (4) is a mismatch amount from a mismatch situation until the mismatch amount is set off under section FH 12 against surplus assessable income under that section from the mismatch situation.

Defined in this Act: amount, attributed CFC income, CFC, control group, deducting branch, deduction, financial instrument, loss, mismatch amount, New Zealand, New Zealand resident, non-resident, pay, structured arrangement

Section FH 5: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 5(1)(a): repealed (with effect on 1 July 2018), on 18 March 2019, by section 197(1) (and see section 197(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FH 5(2)(a): replaced (with effect on 1 July 2018), on 18 March 2019, by section 197(2) (and see section 197(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FH 5(2)(b): amended (with effect on 1 July 2018), on 23 March 2020, by section 122(1) (and see section 122(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FH 5(2)(c): inserted (with effect on 1 July 2018), on 23 March 2020, by section 122(2) (and see section 122(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

FH 5B Exception: when payee group not allowed deductions for supplies as prerequisites for payer supplies

When this section applies

(1) This section applies when expenditure meets the requirements of section FH 5(2)(a) and (b).

Supply to payer depending on supply to payee or group

(2) For the purposes of section FH 5(2)(c), a supply of goods or services by the person who is the payee for the purposes of that section (the **payee**) to the person who is the payer for the purposes of that section (the **payer**) meets the requirements of this subsection if—

(a) a prerequisite for the supply is a supply of goods or services (the **prerequisite group supply**) received and paid for by the payee or by a person who is a member of the payee's control group and is resident in the payee jurisdiction; and

(b) the prerequisite group supply is made by a person who, at the time of the supply, is in no control group that includes the payee or the payer; and

(c) the taxation law of the payee jurisdiction allows no deduction from income, and no equivalent tax relief, for an amount (the **non-deductible amount**) of the payment for the prerequisite group supply because income of the payer is not taxable in the payee jurisdiction; and

(d) no country or territory outside the payee jurisdiction allows a deduction from income for the non-deductible amount or allows equivalent tax relief for the non-deductible amount.

Expenditure excluded from being mismatch amount

(3) The amount of the consideration for a supply that meets the requirements of subsection (2) (the **payer supply**) that is an amount excluded from being a mismatch amount (the **excluded amount**) and is linked for the purposes of paragraph (a) or subsection (4) to a prerequisite group supply is,—

(a) if the payer supply is the sole payer supply to the payer by the payee, or by a member of the payee's control group, that occurs in or before the income year in which the payer supply is made, and the prerequisite group supply is the sole prerequisite group supply for the payer supply, the amount that is the lesser of—

(i) the amount of the consideration for the payer supply:

(ii) the non-deductible amount for the prerequisite group supply; or

(b) if paragraph (a) does not apply, the amount that meets the requirements of subsection (4) for the payer supply and the prerequisite group supply.

More than 1 payer supply and more than 1 prerequisite group supply

(4) If the requirements of subsection (3)(a) are not met for a payer supply and a prerequisite group supply, the excluded amount for the payer supply, together with excluded amounts for other payer supplies, must meet the following requirements:

(a) for a payer supply, the total of the excluded amounts linked to prerequisite group supplies must not exceed the consideration for the payer supply; and

(b) for a prerequisite group supply, the total of the excluded amounts linked to the prerequisite group supply must not exceed the non-deductible amount for the prerequisite group supply; and

(c) for each payer supply, the excluded amount that is linked to a prerequisite group supply is the maximum amount that, together with other

excluded amounts already linked to the prerequisite group supply, meets the requirements of paragraphs (a) and (b), when—

(i) the excluded amounts for each payer supply are determined for payer supplies in the order in which the payer supplies are made or, for payer supplies made at the same time, in the order chosen by the payer; and

(ii) the excluded amounts for a payer supply that are linked to prerequisite group supplies are determined in the order in which the prerequisite group supplies are made or, for prerequisite group supplies made at the same time, in the order chosen by the payer.

Defined in this Act: control group, income year, services

Section FH 5B: inserted (with effect on 1 July 2018), on 23 March 2020, by section 123(1) (and see section 123(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

FH 6 Receipts from non-resident or foreign deducting branch producing deduction without income

When this section applies

(1) This section applies when a non-resident, or foreign deducting branch of a New Zealand resident, (the **payer**) is treated by the taxation law of a country or territory outside New Zealand (the **payer jurisdiction**) as making a payment in an income year to a person or other entity (the **payee**) in New Zealand and meeting the requirements of subsection (2), or incurring a charge in the income year meeting the requirements of subsection (3), and—

(a) the payment or charge would not give rise to assessable income of the payee in the income year in the absence of this section; and

(b) the payer jurisdiction allows the payer or other person or entity to deduct an amount of the payment or charge against income or allows an equivalent tax relief for the payment; and

(c) the payer jurisdiction does not have hybrid mismatch legislation corresponding to section FH 5 that applies to the payment or charge and to the payer at any time in the income year; and

(d) the payment or charge would give rise to assessable income of the payee in the income year if the payer and payee were persons and separate or if the tax status of the payer were different.

Expenditure relating to payment made under structured arrangement or to member of payer's control group

(2) Expenditure relating to a payment by a payer that is not a New Zealand resident, or is a foreign deducting branch of a New Zealand resident, to a payee meets the requirement of this subsection if—

(a) the payee is a New Zealand resident; and

(b) the payment is made under a structured arrangement or, when the expenditure is incurred, the payer is in a control group with the payee or is the same person as the payee.

Charge by New Zealand resident to a foreign deducting branch

(3) For the purposes of subsection (1), the amount of a charge treated by the payer jurisdiction as being required by a New Zealand resident from a foreign deducting branch of the New Zealand resident is equal to the amount that—

(a) represents amounts, relating to the activities of the New Zealand resident in New Zealand, allocated to the deducting branch; and

(b) is not determined by reference to the amount of a payment by the New Zealand resident, or a member of the same control group as the New Zealand resident, to a person other than the New Zealand resident and the members of the control group; and

(c) exceeds expenditure or loss incurred by the New Zealand resident, or a member of the same control group as the New Zealand resident, that—

(i) belongs to a category of expenditure or loss equivalent to the category to which the charge belongs; and

(ii) is the reference by which the amount of the charge is determined.

Assessable income

(4) The payee derives assessable income from the payment or charge equal to the greater of zero and the amount that would be assessable income of the payee, if the payer and payee were persons and separate or if the tax status of the payer were different.

Timing of derivation under subsection (4)

(5) The assessable income under subsection (4) is allocated to the income year in which the payment would be derived if the payer and payee were persons and separate or if the tax status of the payer were different.

Mismatch amounts

(6) An amount that is treated as assessable income under subsection (4) for a payee and a tax year is a mismatch amount of the payee for the tax year and the mismatch situation until the mismatch amount is set off under section FH 12 against surplus assessable income under that section from the mismatch situation.

New Zealand resident becoming affected

(7) A mismatch amount under subsection (6) is not available to be carried forward beyond a time (the **transition time**) if the payer jurisdiction introduces from the transition time hybrid mismatch legislation corresponding to section FH 5

and applying to expenditure of the hybrid entity or foreign resident to which this section applies.

Defined in this Act: amount, arrangement, assessable income, company, control group, deducting branch, deduction, hybrid mismatch legislation, income, mismatch amount, New Zealand, New Zealand resident, non-resident, structured arrangement

Section FH 6: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FH 7 Payments to person outside New Zealand producing deduction without income

When this section applies

(1) This section applies when a person (the **payer**) incurs an amount of expenditure (the **incurred amount**) in an income year relating to an amount of a payment to a person (the **payee**) that exists under the law of a country or territory outside New Zealand (the **payee jurisdiction**) and—

(a) the incurred amount would be allowed as a deduction for the payer in the absence of this section and sections FH 8 to FH 11; and

(b) under the taxation law of the payee jurisdiction, the amount is treated as being—

(i) received by the payee in a country or territory outside the payee jurisdiction:

(ii) income of a person who is not the payee; and

(bb) if the amount does not meet the requirements of paragraph (b)(i) and meets the requirements of paragraph (b)(ii) by being treated as the income of a person who is not the payee, the person is in the same control group as the payer or the amount is a payment under a structured arrangement; and

(c) the payment is made under a structured arrangement or the payer is in the same control group as the payee when the expenditure is incurred; and

(d) under the taxation law of New Zealand and of the countries and territories outside New Zealand, the amount received by the payee is not subject to taxation as income and is not recognised as CFC attributed income, or the equivalent of attributed CFC income, of a person in the same control group as the payee; and

(e) if the amount meets the requirements of paragraph (b)(i), an equivalent payment by the payer would have been subject to taxation as income of the payee under the taxation law of the payee jurisdiction if the equivalent payment were treated as being received by the payee in the payee jurisdiction; and

(f) if the amount meets the requirements of paragraphs (b)(ii) and (bb), an equivalent payment by the payer would have been subject to taxation as

income of the person who is treated as deriving the income under the taxation law of the payee jurisdiction if the equivalent payment were treated as being received by the person in the country or territory where that person is resident.

Amount of deduction denied

(2) The payer is denied a deduction for the incurred amount and, if the payment is made under a financial instrument denominated in the currency of a country or territory other than New Zealand, for amounts arising from a fluctuation in the value of the currency in relation to New Zealand currency.

Defined in this Act: amount, CFC, control group, deduction, financial instrument, income, New Zealand, pay, structured arrangement

Section FH 7: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 7(1)(b): replaced (with effect on 1 July 2018), on 30 March 2021, by section 68(1) (and see section 68(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 7(1)(bb): inserted (with effect on 1 July 2018), on 30 March 2021, by section 68(1) (and see section 68(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 7(1)(d): amended (with effect on 1 July 2018), on 23 March 2020, by section 124(1) (and see section 124(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FH 7(1)(e): replaced (with effect on 1 July 2018), on 30 March 2021, by section 68(2) (and see section 68(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 7(1)(f): inserted (with effect on 1 July 2018), on 30 March 2021, by section 68(2) (and see section 68(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

FH 8 Expenditure or loss through hybrid entity or foreign deducting branch producing double deduction without double income

When this section applies

(1) This section applies for a New Zealand resident and an income year when the New Zealand resident is related to a hybrid entity existing under the law of a country or territory outside New Zealand, or has a deducting branch in such a country or territory, and—

(a) the taxation law of the country or territory allows expenditure or loss of the hybrid entity, or of the New Zealand resident attributed to the deducting branch, in the income year to be set off against income of another person or entity; and

(b) the income of the other person or entity, other than from a source in New Zealand, is not assessable income.

Deduction denied for expenditure or loss

(2) The New Zealand resident is denied a deduction for the amount of expenditure or loss incurred for the income year that—

(a) is attributed to the hybrid entity or deducting branch; and

(b) would, in the absence of this section and sections FH 9 and FH 10, be allowed as a deduction in the income year corresponding to the tax year.

Mismatch amounts

(3) A deduction denied under subsection (2) is a mismatch amount from a mismatch situation until the mismatch amount is set off under section FH 12 against surplus assessable income under that section from the mismatch situation.

New Zealand resident becoming affected

(4) Subsection (5) applies to a person who is a New Zealand resident and becomes liable to be denied deductions under subsection (1) at a time (the **transition time**) when—

(a) in a period ending with the transition time (the **unaffected period**), the person is related to a hybrid entity, or has a deducting branch, that exists under the law of a country or territory outside New Zealand but the person is not liable to be denied deductions under subsections (1) and (2); and

(b) the taxation law of the country or territory allows expenditure or loss of the hybrid entity, or of the New Zealand resident attributed to the deducting branch, during the unaffected period to be set off against income that is not assessable income and arises at or after the transition time.

Assessable income

(5) The person derives, at the transition time, assessable income equal to the amount of net loss, calculated for the person and the hybrid entity or deducting branch and the unaffected period as if the person's income from the hybrid entity or deducting branch were schedular income.

Mismatch amounts

(6) An amount that is treated as assessable income under subsection (5) for a person and a tax year is a mismatch amount of the person for the tax year and the mismatch situation until the mismatch amount is set off under section FH 12 against surplus assessable income under that section from the mismatch situation.

Defined in this Act: amount, assessable income, deducting branch, deduction, hybrid entity, income, income year, loss, mismatch amount, mismatch situation, New Zealand, New Zealand resident, ring-fenced tax loss, source in New Zealand, surplus assessable income, tax year

Section FH 8: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FH 9 Expenditure or loss of hybrid entity, or non-resident through deducting branch, producing double deduction without double income

When this section applies

(1) This section applies when a resident (the **foreign resident**) in a country or territory outside New Zealand (the **foreign jurisdiction**) is in the same control group as a hybrid entity resident in New Zealand, or has a deducting branch in New Zealand, if—

(a) expenditure or loss of the hybrid entity, or of the foreign resident attributed to the deducting branch, would be allowed as a deduction in an income year in the absence of this section and section FH 10; and

(b) the taxation law of a country or territory outside New Zealand allows expenditure of the hybrid entity or attributed to the deducting branch to be deducted in the income year against income of the foreign resident; and

(c) the foreign jurisdiction does not have hybrid mismatch legislation corresponding to section FH 8 and applying at any time in the income year to expenditure of the hybrid entity or foreign resident referred to in paragraph (b).

Deductions denied

(2) The hybrid entity or foreign resident is denied a deduction for the amount of expenditure or loss that—

(a) is incurred by the hybrid entity or attributed to the deducting branch in the income year corresponding to the tax year; and

(b) would, in the absence of this section, be allowed as a deduction.

Mismatch amounts

(3) The amount of a deduction denied under subsection (2) is a mismatch amount for the hybrid entity or foreign resident until the mismatch amount is set off under section FH 12 against surplus assessable income under that section for the hybrid entity or foreign resident.

New Zealand resident becoming affected

(4) A mismatch amount under subsection (3) is not available to be carried forward beyond a time (the **transition time**) if the foreign jurisdiction introduces from the transition time hybrid mismatch legislation corresponding to section FH 8 and applying to expenditure of the hybrid entity or foreign resident to which this section applies.

Defined in this Act: amount, control group, deducting branch, deduction, hybrid entity, income, income year, hybrid mismatch legislation, loss, mismatch amount, New Zealand, resident in New Zealand, surplus assessable income, tax year

Section FH 9: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FH 10 Expenditure or loss of dual resident company producing double deduction without double income

When this section applies

(1) This section applies for a company that is a New Zealand resident (the **dual resident**) and under the taxation law of another country or territory outside New Zealand (the **dual tax jurisdiction**) is liable to income tax in the dual tax jurisdiction through domicile, residence, or place of incorporation.

Deduction denied for expenditure

(2) The dual resident is denied a deduction for an amount equal to the amount of expenditure that would, in the absence of this section, be allowed as a deduction in the income year reduced by the amount of the expenditure for which the dual tax jurisdiction does not allow a deduction against income or equivalent tax relief because the expenditure is not connected with income that is subject to tax under the taxation law of the jurisdiction.

Mismatch amount

(3) A deduction that is denied under subsection (2) is a mismatch amount from a mismatch situation until the mismatch amount is set off under section FH 12 against surplus assessable income under that section from the mismatch situation.

Defined in this Act: amount, assessable income, company, deduction, hybrid entity, income, income tax, income year, New Zealand, New Zealand resident, ring-fenced tax loss, tax year

Section FH 10: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 10(2): amended (with effect on 1 July 2018), on 18 March 2019, by section 198(1)(a) (and see section 198(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FH 10(2): amended (with effect on 1 July 2018), on 18 March 2019, by section 198(1)(b) (and see section 198(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

FH 11 Residents, or non-residents with deducting branches, having expenditure funding overseas hybrid mismatches

When this section applies

(1) This section applies for a person (the **funder**) and an income year when the funder is—

(a) a New Zealand resident who makes a payment (the **original payment**) to a person in a country or territory outside New Zealand that does not have hybrid mismatch legislation and the original payment meets the requirements of subsection (1B); or

(b) a deducting branch in New Zealand of a non-resident, who is resident in a country or territory outside New Zealand that does not have legislation having the same effect as this subpart, and who makes a charge to the deducting branch that meets the requirements of subsection (1B).

Requirements for denial of deduction for original payment or charge

(1B) An original payment or a charge by a funder meets the requirements of this subsection if—

(a) the original payment or charge provides funds for a payment (the **funded payment**) from a person or other entity (the **payer**) in a country or territory outside New Zealand (the **payer jurisdiction**) to a person or other entity (the **payee**), in the same or another country or territory outside New Zealand (the **payee jurisdiction**); and

(b) the funds are provided to the payer directly, or indirectly through a series of further transactions (the **intermediate transaction chain**) that are each governed by the tax laws of countries or territories outside New Zealand; and

(c) for each transaction in an intermediate transaction chain, each country or territory with tax laws that govern the transaction does not have legislation having the same effect as this subpart; and

(d) a deduction for the original payment, or the charge, would be allowed for the funder in the absence of this section and sections FH 8 to FH 10; and

(e) the original payment, or the charge, is made under a structured arrangement giving rise to the hybrid mismatch referred to in paragraph (f) or the funder and the payer, when the original payment is incurred or the charge is made, are members of a control group; and

(f) the funded payment gives rise to a hybrid mismatch; and

(g) the payee jurisdiction does not have hybrid mismatch legislation.

Deduction denied for expenditure funding hybrid mismatch

(2) Subject to subsections (5) and (6), the funder is denied a deduction in a tax year for an amount that is given by—

(a) subsection (3), if the payment is made under a structured arrangement giving rise to the hybrid mismatch; or

(b) subsection (4), if paragraph (a) does not apply.

Amount denied for payment under structured arrangement

(3) Under this subsection, the amount of the denial is the lesser of—

(a) the amount of the deduction that would be allowed for the payment in the absence of this section and sections FH 8 to FH 10:

(b) the amount of the funded payment that, if hybrid mismatch legislation were applied by the payer jurisdiction, would be disallowed as a deduction against income or equivalent tax relief.

Amount denied for other payment

(4) Under this subsection, the amount of the denial is the amount of the payment by the funder that can fairly and reasonably be treated as providing, directly or indirectly, funds for an amount of the funded payment that, if hybrid mismatch legislation were applied by the payer jurisdiction, would be disallowed as a deduction against income or equivalent tax relief.

Tracing funding for funded payment, quantifying amount of deduction denied

(5) Whether a payment or charge by a funder provides funds for a funded payment under subsection (1B)(a) and, if so, the amount under subsection (4) that the funder is denied as a deduction, are determined consistently with the approaches described in chapter 8 of the hybrid mismatch report and chapter 5 of the branch mismatch report.

Deduction allowed in later income year

(6) A deduction (the **denied deduction**) that is for a payment or charge that provides funds for a funded payment, and is denied under subsection (2) in the income year in which the payment or charge is incurred, is allowed in a later income year to the extent to which—

(a) the payer jurisdiction would allow a deduction in the later income year for the funded payment if hybrid mismatch legislation were applied by the payer jurisdiction; and

(b) the denied deduction meets the requirements of section FH 12(8) to be carried forward to the later income year as a mismatch amount.

Defined in this Act: amount, control group, deducting branch, deduction, hybrid mismatch, hybrid mismatch legislation, hybrid mismatch report, New Zealand, New Zealand resident, non-resident, pay, structured arrangement, tax year

Section FH 11: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) and (4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 11(1) heading: replaced (with effect on 1 July 2018), on 30 March 2022, by section 105(1) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(1): replaced (with effect on 1 July 2018), on 30 March 2022, by section 105(1) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(1B) heading: inserted (with effect on 1 July 2018), on 30 March 2022, by section 105(1) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(1B): inserted (with effect on 1 July 2018), on 30 March 2022, by section 105(1) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(2): amended (with effect on 1 July 2018), on 30 March 2022, by section 105(2) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(4): replaced (with effect on 1 July 2018), on 30 March 2022, by section 105(3) (and see section 105(7) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(5) heading: replaced (with effect on 1 July 2018), on 30 March 2022, by section 105(4) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(5): replaced (with effect on 1 July 2018), on 30 March 2022, by section 105(4) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(6) heading: inserted (with effect on 1 July 2018), on 30 March 2022, by section 105(5) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 11(6): inserted (with effect on 1 July 2018), on 30 March 2022, by section 105(5) (and see section 105(6) and (8) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

FH 12 Offset of mismatch amounts against surplus assessable income

When this section applies

(1) This section applies when a person has a mismatch amount under sections FH 5, FH 6, and FH 8 to FH 10 from a mismatch situation for an income year.

Offset against surplus assessable income

(2) The total of mismatch amounts from the mismatch situation for the income year are set off against the person's total surplus assessable income from the mismatch situation under subsection (3).

Surplus assessable income

(3) The person has an amount of surplus assessable income, for the mismatch situation and the income year, equal to the greater of zero and the amount calculated using the formula—

$$\text{earlier} + \text{assessable} + \text{deductionless} - \text{unrecognised} - \text{protected} - \text{deductions} + \text{status}.$$

Definition of items in formula

(4) In the formula,—

(a) **earlier** is the amount of surplus assessable income for the person from the mismatch situation carried forward to the tax year corresponding to the income year from earlier tax years:

(b) **assessable** is the amount of assessable income derived from the mismatch situation by the person in the income year:

(c) **deductionless** is zero, except for a person that is a hybrid entity resident in New Zealand and owned by a non-resident, for which it is the amount of income of the hybrid entity that—

(i) is exempt income under section CW 10 (Dividend within New Zealand wholly-owned group) or excluded income under section CX 60 (Intra-group transactions); and

(ii) for an owner of the hybrid entity, is income subject to tax under the taxation law of another country or territory without a credit

for tax, other than a withholding tax on the dividend, paid by the person paying the dividend:

(d) **unrecognised** is the amount of the assessable income of the person from the mismatch situation for the income year that is not subject to tax under the taxation law of the foreign jurisdiction because of the residence of another person, who is not another owner, or because of the source of the income or the tax status of the payer:

(e) **protected** is the amount of taxable income for which the income tax liability of the person would equal foreign tax credits under subpart LJ (Tax credits for foreign income tax) allowed for the assessable income from the mismatch situation for the income year:

(f) **deductions** is the amount of deductions allowed for expenditure incurred by the person in the income year in deriving assessable income from the mismatch situation, not including expenditure giving rise to mismatch amounts:

(g) **status** is the amount of expenditure on a payment by the person to a payee in New Zealand that is a mismatch amount under section FH 9 and that is not allowed to be deducted against income by the tax law of a country or territory outside New Zealand because of the tax status of the person and the payee.

Mismatch receipt set off against surplus assessable income from later tax year

(5) If a mismatch amount from a mismatch situation for a person is set off under subsection (2) or (10) in the tax year corresponding to an income year against an amount of surplus assessable income of the person from the mismatch situation, the person has a deduction for the income year equal to the amount of the offset.

Mismatch amounts carried forward

(6) If a mismatch amount from a mismatch situation is not an offset in the tax year corresponding to an income year, the remaining amount is carried forward to the next tax year if it meets the requirements of subsection (8) for that tax year.

Surplus assessable income carried forward

(7) If an amount of surplus assessable income from a mismatch situation is not an offset under subsection (2) or (10) in an income year,—

(a) the amount is reduced by the amount of corresponding income, that is recognised and taxed as income arising from the mismatch situation by the taxation law of a foreign country or territory, for which the income tax liability of the person would equal credits, equivalent to foreign tax credits under subpart LJ, allowed by the foreign country or territory for the income from the mismatch situation for the income year; and

(b) the amount remaining is carried forward to the next income year if it meets the requirements of subsection (8) for that income year.

Continuity requirement for carrying forward amounts

(8) A mismatch amount, or surplus assessable income, from a mismatch situation may be carried forward to a tax year corresponding to an income year (the **carry year**) if, for the tax year in which the amount arises (the **initial year**) and the carry year, a tax loss of the person could be carried forward under Part I (Treatment of tax losses) from the initial year to the carry year in the absence of offsets.

Mismatch amounts under section FH 8(3)

(9) A mismatch amount under section FH 8(3) that is available to be carried forward from a tax year corresponding to an income year is included as a tax loss component of the New Zealand resident for the next tax year (the **release year**) if—

(a) the hybrid entity, or the New Zealand resident with the deducting branch to which the mismatch amount is attributed, ceases to exist before the end of the income year corresponding to the release year; and

(b) expenditure or loss of the hybrid entity, or of the New Zealand resident attributed to the deducting branch, has not been set off under the taxation law of a country or territory outside New Zealand against income, for the income year in which the mismatch amount arose or for a later income year, that is not assessable income of a person or entity.

Offset of mismatch amount against surplus assessable income of group company

(10) A company (the **offset company**) may set off in an income year a mismatch amount from a mismatch situation against surplus assessable income of another company (the **group company**) from another mismatch situation (the **income situation**) if—

(a) the companies are in the same wholly-owned group when the mismatch amount and the surplus assessable income arise; and

(b) the mismatch amount and the surplus assessable income are available after each of the companies has all offsets permitted for the income year of amounts arising from the mismatch situation in which the company is involved; and

(c) the offset would be permitted if the offset company were substituted for the group company in the income situation.

Defined in this Act: amount, assessable income, deducting branch, deductions, exempt income, foreign tax, hybrid entity, income year, loss, mismatch amount, mismatch situation, New Zealand resident, non-resident, resident in New Zealand, surplus assessable income, tax, tax loss, tax loss component, tax year, taxable income

Section FH 12: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 12(3) formula: amended (with effect on 1 July 2018), on 30 March 2021, by section 69(1) (and see section 69(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 12(4)(c): amended (with effect on 1 July 2018), on 30 March 2021, by section 69(2) (and see section 69(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 12(4)(c)(i): amended (with effect on 1 July 2018), on 30 March 2021, by section 69(3) (and see section 69(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FH 12(4)(d): amended (with effect on 1 July 2018), on 18 March 2019, by section 199(1) (and see section 199(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FH 12(10): amended (with effect on 1 July 2018), on 30 March 2021, by section 69(4) (and see section 69(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

FH 13 Election by borrower under financial arrangement

Who may make election

(1) A person who is a borrower under a financial arrangement may make an election under this section if a payment by the person to the lender under the financial arrangement would be an unrecognised amount under section FH 3(2) and denied as a deduction under section FH 3.

Treatment of financial arrangement after election

(2) The result of an election by the person is that, while the person is eligible to make an election, the financial arrangement is, for all purposes of the Act, a share held by the lender in the person.

Notification of election

(3) The person must notify the Commissioner of the election, specifying the date on which the election is effective, which must be on or after the date of the notice.

Transitional treatment of financial arrangement

(4) On the date on which the election is effective, the person is treated as—

(a) paying the lender under the financial arrangement the amount owing under the loan (the **repayment amount**); and

(b) receiving the repayment amount, reduced by any withholding tax, from the lender as the subscription for a non-participating redeemable share.

Expiry of election

(5) When the person ceases to be eligible to make an election for the financial arrangement because a deduction would not be denied under section FH 3 for a payment of interest under the financial arrangement, the person is treated as—

(a) paying to the lender the amount owing under the loan as a payment for cancellation of a non-participating redeemable share; and

(b) receiving, as a loan under the financial arrangement, from the lender the amount referred to in paragraph (a), reduced by any withholding tax.

NRWT rules

(6) The NRWT rules apply to the amount of the payment under subsections (4)(a) and (5)(a).

Defined in this Act: amount, deduction, financial arrangement, loan, non-participating redeemable share, notify, NRWT rules, pay, share

Section FH 13: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FH 14 Irrevocable election by owner of hybrid entity

Who may make election

(1) A New Zealand resident (the **owner**) who has, or is a member of a wholly-owned group that has, all the ownership interests in a hybrid entity may make an election under this section if the hybrid entity—

(a) is treated by the taxation law of a country or territory outside New Zealand (the **foreign jurisdiction**) as being resident in the foreign jurisdiction; and

(b) is wholly owned by the owner or the owner's wholly-owned group on the date on which the Taxation (Neutralising Base Erosion and Profit Shifting) Bill is introduced.

Treatment of hybrid entity after election

(2) The result of an election by the owner is that the hybrid entity is, for all purposes of the Act for the owner, a company immediately after the sale referred to in subsection (5)(a)(i) and sections FH 3 to FH 11 do not apply to expenditure incurred, or income derived, by the hybrid entity from the deemed sale.

Notification of election

(3) The owner must notify the Commissioner of the election before the due date for the return of income for the first income year in which the hybrid mismatch legislation applies to the owner.

When election effective

(4) The election is effective for the period consisting of the first income year in which the hybrid mismatch legislation applies to an owner and later income years.

Transitional treatment of hybrid entity

(5) For the period for which the election is effective, the hybrid entity is treated as—

(a) at the beginning of the period,—

(i) selling the undertaking of the hybrid entity, as a hybrid entity, at market value; and

(ii) buying the undertaking as a company (the **new subsidiary**), in which the owner has ownership interests, that is resident in the foreign jurisdiction; and

(b) during the period, making as a company each distribution to the owner.

Total available subscribed capital

(6) The total available subscribed capital of the new subsidiary is the amount by which the market value of the assets acquired by the new subsidiary exceeds the market value of the liabilities assumed by the new subsidiary.

Election irrevocable

(7) An election under this section for a hybrid entity is irrevocable.

Defined in this Act: available subscribed capital, company, hybrid entity, hybrid mismatch legislation, income year, market value, New Zealand, New Zealand resident, notify, return of income, wholly-owned group

Section FH 14: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 14(2): amended (with effect on 1 July 2018), on 23 March 2020, by section 125(1) (and see section 125(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FH 14(5)(a)(i): amended (with effect on 1 July 2018), on 23 March 2020, by section 125(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

FH 15 Definitions

Definitions

(1) In this Act,—

act together, for 2 persons (the **holders**) that each have rights or interests (the **rights and interests**) in a person or other entity and for the ownership or control of the rights and interests, means—

(a) the holders are associated under section YB 4 (Two relatives):

(b) a holder typically acts in the way preferred by the other holder, because of the other holder's preference:

(c) the holders have entered into an arrangement that has an effect on the value or control of the rights or interests that is more than incidental and does not arise from a restriction on the sale of the rights or interests:

(d) the actions of the holders relating to the interests are legally controlled, are typically controlled, or are expected to be controlled, by a third person or group of persons (the **co-ordinator**) that does not meet the requirements of subsection (2):

(e) the holders and a co-ordinator that does not meet the requirements of subsection (2) enter an arrangement affecting the ownership or control of the rights and interests and having an effect on the value or control of the rights and interests that is more than incidental:

(f) the holders agree with a co-ordinator that does not meet the requirements of subsection (2) that the co-ordinator can act on behalf of the holders in relation to the rights and interests

branch mismatch report means the report OECD (2017), *Neutralising the Effects of Branch Mismatch Arrangements, Action 2: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris

control group means a group of persons in which, for each member and each other member,—

(a) the members are—

(i) consolidated, or required to be consolidated, for accounting purposes:

(ii) members of a group of companies for which an applicable financial reporting standard requires the preparation of group financial statements for an accounting period:

(b) the members are companies, or limited partnerships that are treated as companies under section YB 16B (Limited partnerships treated as companies), or a combination of them that are associated under section YB 2 (Two companies):

(c) 1 of the members is a company and the other person has, or is a member of a group of persons acting together that has,—

(i) a voting interest in the company of 50% or more, applying the general aggregation rule in section YB 3(3):

(ii) if a market value circumstance exists for the company, a market value interest in the company of 50% or more, applying the general aggregation rule in section YB 3(3):

(d) the members are associated under section YB 4 (Two relatives):

(e) the members are associated under sections YB 5 to YB 11 (which relate to a trustee or settlor of a trust):

(f) 1 of the members is a partnership, or is a limited partnership, and the other member,—

(i) if the partnership is a limited partnership, is a general partner or is a limited partner that has a partnership share of more than 50% in a right, obligation, or other property, status, or thing of the limited partnership, applying the general aggregation rule in section YB 12(3) (Partnership and partner):

(ii) if the partnership is not a limited partnership, is a partner that has a partnership share of more than 50% in a right, obligation, or other property, status, or thing of the partnership, applying the general aggregation rule in section YB 12(3):

(g) 1 of the members, or a group consisting of 1 of the members and persons that are related to or act together with that member, effectively controls the other member:

(h) a person or group of persons, together with persons who are related to or act together with the person or a person in the group, effectively controls each of the 2 members

deducting branch, for a person, means a branch, permanent establishment, or other activity, of the person in a country or territory, such that expenditure or loss attributed by the person to the branch, permanent establishment, or activity is recognised by the tax law of the country or territory as giving rise to a deduction against income of the person or other tax relief

entity means a person, or a relationship that is treated as a person by the tax law of a country or territory outside New Zealand

financial instrument means—

(a) a financial arrangement:

(b) a share:

(c) an annuity:

(d) a farm-out arrangement:

(e) a share-lending arrangement:

(f) a loan in New Zealand currency described in section EW 5(10) (What is an excepted financial arrangement?)

hybrid entity, for 2 countries or territories, means a person or other entity that is—

(a) recognised in 1 of the countries or territories (the **resident jurisdiction**) as being a resident of the resident jurisdiction and subject to taxation under the taxation law of the resident jurisdiction; and

(b) not recognised in the other country or territory (the **overseas jurisdiction**) as being a person, or other entity, subject to taxation under the taxation law of the overseas jurisdiction in relation to income with a source in the overseas jurisdiction

hybrid mismatch, for a payment in a tax year by a payer in a country or territory (the **payer jurisdiction**) means an amount of a deduction for the payment that would be denied by the payer jurisdiction if the payer jurisdiction had legislation having an effect corresponding to that of subpart FH

hybrid mismatch legislation means—

(a) this subpart:

(b) legislation of a country or territory outside New Zealand having an intended effect corresponding to the effect of this subpart or a provision in this subpart

hybrid mismatch report means the publication OECD (2015), *Neutralising the Effects of Hybrid Mismatch Arrangements, Action 2 – 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris

mismatch amount means an amount, arising from a mismatch situation under a provision of this subpart, for which a deduction is denied or assessable income is increased under section FH 5, FH 6, FH 8, FH 9, or FH 10

mismatch situation means a situation in which differences between the taxation law of New Zealand and the taxation law of another country or territory in the tax treatment of entities or deducting branches may give rise to adjustments to deductions or income under sections FH 5, FH 6, FH 8, FH 9, or FH 10

related, for 2 persons, means a relationship under which—

(a) the 2 persons are companies, or limited partnerships that are treated as companies under section YB 16B, or a combination of them—

(i) that are associated under section YB 2 (Two companies):

(ii) for which a group of persons exists whose total voting interests in each company, determined under section YB 2, are 25% or more:

(iii) if a market value circumstance exists for either company, for which a group of persons exists whose total market value interests in each company, determined under section YB 2, are 25% or more:

(b) 1 of the persons is a company and the other person is not a company and the 2 persons are associated under section YB 3 (Company and person other than company):

(c) the 2 persons are associated under section YB 4 (Two relatives):

(d) the 2 persons are associated under sections YB 5 to YB 11 (which relate to a trustee or settlor of a trust):

(e) 1 of the persons is a limited partnership and the other person is a general partner, or is a limited partner and the 2 persons are associated under section YB 12 (Partnership and partner):

(f) 1 of the persons is a partnership and the other person is a partner and the 2 persons would be associated under section YB 12(2) if the partnership were a limited partnership and the partner were a limited partner:

(g) 1 of the persons, or a group consisting of the person and persons who act together with the person, controls the other person:

(h) a person or group of persons, together with persons who are related to or act together with the person or a person in the group, controls each of the persons

structured arrangement, for a person, means an arrangement to which the person or a member of the person's control group is a party—

(a) for which—

(i) a transaction under or involving the arrangement has a price that assumes the existence of a hybrid mismatch:

(ii) the facts or circumstances indicate that the arrangement is intended to rely on or produce a hybrid mismatch; and

(b) under which the person, or a member of the person's control group, can reasonably be expected to be aware of—

(i) a tax benefit for the person that arises from the hybrid mismatch:

(ii) the existence of the hybrid mismatch

surplus assessable income means an amount, arising from a mismatch situation and determined under section FH 12, against which a mismatch amount from the mismatch situation may be set off under section FH 12.

Exception to test for acting together

(2) A co-ordinator meets the requirements of this subsection for rights or interests in a person or entity held separately by 2 holders if—

(a) the co-ordinator manages an investment fund through which 1 of the holders has the holder's rights or interests in the person or entity; and

(b) the co-ordinator manages another investment fund through which the other holder has the holder's rights or interests in the person or entity; and

(c) the 2 funds do not act together in relation to the rights and interests of the holders.

Defined in this Act: accounting period, act together, arrangement, associated, branch mismatch report, company, control group, deducting branch, financial instrument, general partner, group of companies, hybrid entity, hybrid mismatch, hybrid mismatch legislation, hybrid mismatch report, limited partner, limited partnership, market value circumstance, market value interest, mismatch amount, mismatch situation, partner, partnership, related, relative, structured arrangement, surplus assessable income, voting interest

Section FH 15: inserted, on 1 July 2018, by section 35(1) (and see section 35(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section FH 15(1) **control group** paragraph (b): amended (with effect on 26 August 2024), on 29 March 2025, by section 64(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section FH 15(1) **hybrid mismatch**: replaced (with effect on 1 July 2018), on 30 March 2022, by section 106(1) (and see section 106(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 15(1) **hybrid mismatch legislation** paragraph (b): amended (with effect on 1 July 2018), on 30 March 2022, by section 106(2) (and see section 106(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FH 15(1) **mismatch amount**: amended (with effect on 1 July 2018), on 18 March 2019, by section 200(1) (and see section 200(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FH 15(1) **mismatch situation**: amended (with effect on 1 July 2018), on 18 March 2019, by section 200(2) (and see section 200(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FH 15(1) **related** paragraph (a): amended (with effect on 26 August 2024), on 29 March 2025, by section 64(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Subpart FL—Emigration of resident companies

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FL 1 What this subpart does

When this subpart applies

(1) This subpart applies when a company that is a New Zealand resident (the **emigrating company**)—

(a) stops being a New Zealand resident; or

(b) starts being treated under a double tax agreement as not being a New Zealand resident.

Tax effects

(2) For tax purposes, the effects on an emigrating company and its shareholders, when an emigrating company becomes non-resident, or if a specified event occurs after an emigrating company starts being treated under a double tax agreement as not being a New Zealand resident, reflect the effects that would have resulted if,—

(a) immediately before the time of emigration,—

(i) the emigrating company disposed of its property at market value; and

(ii) the emigrating company went into liquidation; and

(iii) the amount available for distribution on liquidation were distributed as dividends to shareholders of the emigrating company to the extent to which the amount is more than the available subscribed capital and any capital gain of the company; and

(b) at the time of emigration, the emigrating company were reformed as a foreign company with—

(i) the same ownership and business activities as those of the emigrating company immediately before the time of emigration; and

(ii) the property of the emigrating company immediately before the time of emigration, acquired at its market value at that time.

Defined in this Act: amount, available subscribed capital, business, company, dividend, double tax agreement, emigrating company, foreign company, liquidation, market value, New Zealand resident, non-resident, shareholder, tax, time of emigration

Compare: 2004 No 35 s FCB 1

Section FL 1(1): replaced (with effect on 30 August 2022), on 31 March 2023, by section 67(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FL 1(2): amended (with effect on 30 August 2022), on 31 March 2023, by section 67(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FL 1 list of defined terms **double tax agreement**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 67(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

FL 2 Treatment of companies that become non-resident and their shareholders

When this section applies

(1) This section applies in relation to a New Zealand resident company that—

(a) either—

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

(ii) has been treated under a double tax agreement as not being a New Zealand resident since before 30 August 2022; and

(b) stops being a New Zealand resident.

Treatment of company

(2) Immediately before the company stops being a New Zealand resident, the company is treated as—

(a) disposing of its property to a person, and reacquiring the property from the person, for consideration equal to the market value of the property at the time; and

(b) making a distribution in money as a dividend to its shareholders of an amount that would be available for distribution at the time if the company were treated as going into liquidation.

Treatment of shareholders

(3) Immediately before the company stops being a New Zealand resident, each shareholder of the company is treated as being paid a distribution in money as a dividend of the amount the shareholder would be entitled to at the time if the company were treated as going into liquidation.

Defined in this Act: amount, company, dividend, double tax agreement, liquidation, market value, New Zealand resident, pay, shareholder

Section FL 2: replaced (with effect on 30 August 2022), on 31 March 2023, by section 68 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

FL 3 Treatment of companies that start being treated as non-resident and their shareholders

When this section applies

(1) This section applies in relation to a New Zealand resident company that, on or after 30 August 2022, starts being treated under a double tax agreement (the **DTA**) as not being a New Zealand resident if, after the company starts being treated under the DTA as not being a New Zealand resident, 1 or more of the following events occur:

(a) the company takes a tax position in a return of income that is consistent with relief from New Zealand tax being available under the DTA for an amount of income derived by the company on the basis that the company is treated under the DTA as not being a New Zealand resident:

(b) the company becomes a non-resident:

(c) the company has been treated under the DTA as not being a New Zealand resident for a continuous period of 2 years starting on the day on which it receives a competent authority determination that it is treated under the DTA as not being a New Zealand resident.

Treatment of company

(2) Immediately before the company starts being treated under the DTA as not being a New Zealand resident, the company is treated as—

(a) disposing of its property to a person, and reacquiring the property from the person, for consideration equal to the market value of the property at the time; and

(b) making a distribution in money as a dividend to its shareholders at the time of an amount that would be available for distribution at the time if the company were treated as going into liquidation.

Treatment of shareholders

(3) Immediately before the company starts being treated under the DTA as not being a New Zealand resident, each shareholder of the company at the time is treated as being paid a distribution in money as a dividend of the amount the shareholder would be entitled to at the time if the company were treated as going into liquidation.

Timing of income: company

(4) An amount of income derived by the company from a deemed disposal under subsection (2) is allocated to the income year of the company in which the earliest of the events described in subsection (1)(a) to (c) occurs.

Timing of income: shareholders

(5) A dividend that a shareholder of the company at the time referred to in subsection (3) is treated as being paid under that subsection is allocated to the income year of the shareholder in which the earliest of the events described in subsection (1)(a) to (c) occurs.

Relationship with section CD 1

(6) This section overrides section CD 1(2) (Dividend).

Defined in this Act: amount, company, competent authority, dividend, double tax agreement, income, income year, liquidation, market value, New Zealand resident, New Zealand tax, non-resident, pay, return of income, shareholder, tax position

Section FL 3: inserted (with effect on 30 August 2022), on 31 March 2023, by section 69 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Subpart FM—Consolidated groups of companies

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Introductory provisions

FM 1 What this subpart applies to

This subpart applies to eligible companies that are part of a wholly-owned group of companies that choose to form a consolidated group of companies.

Defined in this Act: company, consolidated group, wholly-owned group

Compare: 2004 No 35 s FD 1

FM 2 Consolidation rules

Purpose

(1) The consolidation rules are intended to ensure that, unless a provision of this Act expressly provides otherwise or the context requires another result, this Act applies to companies that are part of a consolidated group as if they were a single company, including its treatment for the following purposes:

(a) to determine whether a tax credit may be used to satisfy the income tax liability of a consolidated group for a tax year:

(b) when a provision sets a limit or provides a threshold, and its application depends on whether or not something is more or less than the limit or threshold.

Meaning

(2) The **consolidation rules** means the following:

(a) this subpart:

(b) section GB 38 (When sections GB 35 to GB 37 apply to consolidated groups):

(c) subpart ID (Use of tax losses by consolidated groups):

(d) sections LK 8 to LK 11 (which relate to tax credits of consolidated group companies):

(e) subpart OP (Memorandum accounts of consolidated groups):

(f) section RC 28 (Provisional tax rules and consolidated groups):

(g) section 74 of the Tax Administration Act 1994.

Defined in this Act: company, consolidated group, consolidation rules, income tax liability, tax credit, tax year

Compare: 2004 No 35 ss FD 1, OB 1 “consolidation rules”

Section FM 2(2)(g): substituted (with effect on 30 June 2009), on 6 October 2009, by section 229(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FM 3 Liability of consolidated groups and group companies

Taxable income of consolidated group

(1) For the purposes of calculating the income tax liability for a tax year of a consolidated group under subpart BC (Calculating and satisfying income tax

liabilities), the taxable income of a consolidated group for a tax year is the sum of the amounts calculated under subsection (2) for each company in the consolidated group for all or part of the corresponding income year.

Calculation for each company in consolidated group

(2) Each company that is part of a consolidated group for all or part of an income year must calculate the amount that would be its taxable income under subpart BC, as modified by this section and sections FM 4 to FM 13, for all or part of the income year in which the company is part of the consolidated group.

Returns and assessment by consolidated group

(3) The nominated company of a consolidated group must—

(a) provide a single return of income for a tax year for the companies in the consolidated group in the corresponding income year under section 33 of the Tax Administration Act 1994; and

(b) make an assessment under section 92 of the Tax Administration Act 1994 of the amount of income tax payable by the consolidated group.

No separate returns or assessment (with exception)

(4) A group company cannot make a separate assessment or return for the tax year unless it is, for part of the corresponding income year, not part of the consolidated group.

Joint and several liability

(5) Each company that is part of a consolidated group is jointly and severally liable for the amount of income tax assessed for the consolidated group in relation to its taxable income.

Individual liability

(6) The joint and several liability of each company that is part of a consolidated group is substituted for their individual income tax liability, but only to the extent—

(a) of the income tax liability of the consolidated group for the period of the income year in which the company is in the consolidated group; and

(b) to which section FM 37 does not apply.

Withholding and payment obligations of companies

(7) Each company that is part of a consolidated group is liable to comply with its obligations under the PAYE rules, the FBT rules, the ESCT rules, the RWT rules, and the NRWT rules.

Defined in this Act: amount, assessment, company, consolidated group, corresponding income year, ESCT rules, FBT rules, income tax, income tax liability, income year, nominated company, NRWT rules, pay, PAYE rules, return of income, RWT rules, tax year, taxable income

Compare: 2004 No 35 ss HB 1(1), HB 2(1), NB 1

FM 4 Limiting joint and several liability of group companies

When this section applies

(1) This section applies before the nominated company of a consolidated group makes an assessment for the consolidated group for a tax year.

Named companies bearing liability

(2) Despite section FM 3(5), the nominated company may apply to the Commissioner for approval for 1 or more named companies in the consolidated group to bear the consolidated group's income tax liability for the tax year.

Approval by Commissioner

(3) The Commissioner must approve an application under subsection (2) unless limiting the liability to the named companies will significantly prejudice the recovery, or likely recovery, of the income tax liability of the consolidated group for the tax year.

Liability limited to named companies

(4) For a tax year to which an approval referred to in subsection (3) relates,—

(a) only a named company is liable for the income tax liability of the consolidated group, and if more than 1 company is named, the liability is joint and several:

(b) section RC 28 (Provisional tax rules and consolidated groups) does not apply to impose on a company other than a named company joint and several liability for provisional tax payable by the consolidated group.

When named companies do not meet obligations

(5) Despite subsection (4), the joint and several liability of a group company other than a named company is not extinguished to the extent to which—

(a) a named company does not meet their income tax liability under this section; and

(b) the Commissioner determines that the income tax liability of the consolidated group that is attributable to the taxable income of a company other than a named company is to be recovered from the other company.

Defined in this Act: apply, assessment, Commissioner, company, consolidated group, income tax liability, nominated company, pay, provisional tax, tax year, taxable income

Compare: 2004 No 35 s HB 1(3)–(5)

Section FM 4(2): amended, on 2 June 2016, by section 46(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section FM 4(3): amended, on 2 June 2016, by section 46(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section FM 4 list of defined terms **apply**: inserted, on 2 June 2016, by section 46(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

FM 5 Liability when company leaves consolidated group

Company leaving consolidated group

(1) If a company leaves a consolidated group, the company's liability under section FM 3(5) is removed if all the following paragraphs apply:

(a) if the assessment is made after the later of—

(i) the date on which the company is treated as leaving the consolidated group; or

(ii) the date of the event that caused the company to be treated as leaving the consolidated group; and

(b) the amount assessed is more than an earlier assessment of the consolidated group for the income year; and

(c) the Commissioner considers that the removal of the liability will not significantly prejudice the recovery, or likely recovery, of the amount of income tax assessed for the income year.

Notifying company and consolidated group

(2) For the purposes of subsection (1)(c), the Commissioner must notify the company and the consolidated group if the discretion has been exercised.

When subsection (4) applies

(3) Subsection (4) applies when—

(a) a company in a consolidated group is treated as deriving an amount of income under section CG 2C or CG 2D (which relate to the treatment of remitted amounts when certain companies are liquidated or leave groups of companies); and

(b) the company—

(i) for the purposes of section CG 2C, is company A and is liquidated while still part of the consolidated group:

(ii) for the purposes of section CG 2D, is either company C or company D, and leaves the consolidated group.

Income of consolidated group

(4) The amount of income that the company is treated as deriving under section CG 2C or CG 2D, as applicable, is treated as derived by the consolidated group.

Treatment of unpaid liabilities

(5) In the application of subsection (4), to the extent to which an unpaid liability was previously taken into account in determining whether an amount is income

under section CG 2C or CG 2D, the amount is not included in determining income under subsection (2).

Defined in this Act: amount, assessment, Commissioner, company, consolidated group, income, income tax, income year, notify, pay

Compare: 2004 No 35 s HB 1(2)

Section FM 5(1): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 117(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5(3) heading: inserted (with effect on 22 November 2013), on 30 June 2014, by section 117(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5(3): inserted (with effect on 22 November 2013), on 30 June 2014, by section 117(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5(4) heading: inserted (with effect on 22 November 2013), on 30 June 2014, by section 117(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5(4): inserted (with effect on 22 November 2013), on 30 June 2014, by section 117(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5(5) heading: inserted (with effect on 22 November 2013), on 30 June 2014, by section 117(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5(5): inserted (with effect on 22 November 2013), on 30 June 2014, by section 117(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5 list of defined terms **income**: inserted, on 30 June 2014, by section 117(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FM 5 list of defined terms **pay**: inserted, on 30 June 2014, by section 117(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

FM 6 Some general rules for treatment of consolidated groups

References to income, tax losses, tax payable, and credits

(1) For the purposes of the consolidation rules, the following amounts are determined on the basis of a single assessment:

(a) income, assessable income, net income, or taxable income of a consolidated group:

(b) a tax loss component, a tax loss, a loss balance, an attributed CFC net loss, or a FIF net loss of a consolidated group:

(c) tax payable by a consolidated group:

(d) a tax credit available to a consolidated group.

Shares

(2) For the purposes of applying the consolidation rules to particular provisions in this Act, the shares or options over shares of a consolidated group are treated as comprising all the shares or options over shares of the companies in the consolidated group at the relevant time.

Dividends

(3) A dividend that 1 company that is part of a consolidated group pays to another group company continues to be taken into account for the purposes of—

(a) the imputation rules:

(b) *[Repealed]*

(c) sections FM 8(3)(c), GB 38, and OP 3 to OP 50 (which relate to dividends and consolidated groups):

(d) *[Repealed]*

(e) section 74 of the Tax Administration Act 1994.

International tax rules

(4) The international tax rules apply, modified as necessary, as if the consolidated group were a single company.

Balance of imputation credit account

(5) Sections OA 3 (General rules for maintaining memorandum accounts) and YA 2(7) (Meaning of income tax varied) apply for the purposes of section GB 38, subpart OP, and section 74 of the Tax Administration Act 1994 as if the references to the imputation rules were references to sections OP 3 to OP 50.

Defined in this Act: amount, assessable income, assessment, attributed CFC net loss, company, consolidated group, consolidation rules, dividend, FIF net loss, imputation credit account, imputation rules, income, income tax, international tax rules, loss balance, net income, pay, share, tax, tax credit, tax loss, tax loss component, taxable income

Compare: 2004 No 35 ss FD 2, FD 11

Section FM 6(3)(b): repealed (with effect on 30 June 2009), on 6 October 2009, by section 230(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 6(3)(c): substituted (with effect on 30 June 2009), on 6 October 2009, by section 230(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 6(3)(c): amended, on 1 April 2017, by section 106 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 6(3)(c): amended (with effect on 1 July 2012), on 2 November 2012 (applying for income years beginning on or after 1 July 2012), by section 71(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section FM 6(3)(d): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 66(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FM 6(3)(e): substituted (with effect on 30 June 2009), on 6 October 2009, by section 230(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 6(5) heading: substituted (with effect on 30 June 2009), on 6 October 2009, by section 230(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 6(5): substituted (with effect on 30 June 2009), on 6 October 2009, by section 230(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 6 list of defined terms **FDP account**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 230(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 6 list of defined terms **FDP rules**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 230(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Calculating taxable income for consolidated group returns

Accounting generally

FM 7 Treatment of amounts derived or expenditure incurred

Sections FM 8 to FM 23 set out the treatment of certain amounts derived or expenditure incurred while a company is part of a consolidated group. The treatment applies to the part of a company's income year when the company is in the consolidated group.

Defined in this Act: amount, company, consolidated group, income year

Compare: 2004 No 35 s HB 2(1)

Section FM 7: amended, on 1 April 2017, by section 107 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FM 8 Transactions between group companies: income

When this section applies

(1) This section applies when a company that is part of a consolidated group derives an amount of income from a transaction or arrangement with another company in the same consolidated group, and the amount would not be income if the consolidated group were 1 company.

Excluded income

(2) The amount is excluded income of the company under section CX 60 (Intra-group transactions).

Exclusion of certain amounts

(3) Despite subsection (2), this section does not apply to—

- (a) an amount arising from the disposal of the company's trading stock; or
- (b) an amount arising under section EW 31 (Base price adjustment formula) from—
  - (i) the disposal of a financial arrangement to which the financial arrangements rules apply; or
  - (ii) the remission of a financial arrangement to which the financial arrangements rules apply, if the parties were not consolidated group companies for the whole term of the arrangement; or
- (c) a dividend under section CD 4(1) (Transfers of company value generally) between group companies arising from the release of an obligation

to repay money lent before the companies are treated under section FM 35 as part of the consolidated group; or

(d) the amount of a dividend derived by a local authority.

Defined in this Act: amount, arrangement, company, consolidated group, dividend, excluded income, financial arrangement, financial arrangements rules, income, money lent, pay, trading stock

Compare: 2004 No 35 s HB 2(1)(a)

Section FM 8(3)(b)(ii): amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years, except for a tax position that is inconsistent with subsection (1) and is taken in a tax return filed before 14 September 2011), by section 72(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section FM 8(3)(c): amended, on 23 March 2020, by section 126 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FM 8(3)(c): amended, on 1 April 2019, by section 100(1) (and see section 100(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FM 8(3)(d): replaced, on 1 April 2022, by section 107(1) (and see section 107(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

FM 9 Amounts that are company's income

When this section applies

(1) This section applies when a company that is part of a consolidated group derives an amount that would not be income of the company in the absence of this section, but would be income of the consolidated group if it were 1 company either—

(a) because of a purpose for which an item of property was acquired; or

(b) because a connection exists between the amount and the carrying on of a business by another consolidated group company; or

(c) for some other reason.

Income

(2) The amount is income of the company under section CV 2 (Consolidated groups: income of company in group).

Relationship with sections CB 15C and CB 15D

(3) This section is overridden by sections CB 15C(2) and CB 15D(2) (which apply to bodies linked or associated with a local authority or companies in the same wholly-owned group as Kāinga Ora–Homes and Communities).

Defined in this Act: amount, business, company, consolidated group, income

Compare: 2004 No 35 s HB 2(1)(e)

Section FM 9(3) heading: replaced (with effect on 1 July 2017), on 18 March 2019, by section 201 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FM 9(3): replaced (with effect on 1 July 2017), on 18 March 2019, by section 201 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FM 9(3): amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

FM 10 Expenditure: intra-group transactions

When this section applies

(1) This section applies when—

(a) a company incurs expenditure or loss, or has an amount of depreciation loss, in a tax year or part of a tax year in which it is part of a consolidated group; and

(b) the company incurs the expenditure or loss through a payment or disposal to, or a transaction or arrangement with, another consolidated group company.

No deduction (with exception)

(2) If a deduction would not be allowed for the expenditure or loss if the consolidated group were 1 company, the company is denied a deduction under section DV 16 (Consolidated groups: intra-group transactions) unless the exceptions in section DV 16(2)(a) or (b) apply.

Defined in this Act: amount, arrangement, company, consolidated group, deduction, depreciation loss, loss, tax year

Compare: 2004 No 35 s HB 2(1)(b)

FM 11 Expenditure: nexus with income derivation

When this section applies

(1) This section applies when a company incurs expenditure or loss or has an amount of depreciation loss in a tax year or part of a tax year in which it is part of a consolidated group that—

(a) is not expenditure or loss to which section FM 10 applies; and

(b) would not be allowed as a deduction to the company in the absence of this section.

Deduction

(2) The company is allowed a deduction for the amount under section DV 17 (Consolidated groups: expenditure or loss incurred by group companies) if the consolidated group would be allowed a deduction for the amount, treating the group as if it were 1 company, because of a connection between—

(a) the incurring of the expenditure or loss or amount of depreciation loss; and

(b) the deriving of assessable or excluded income, or the carrying on of a business by another company in the consolidated group.

Defined in this Act: amount, assessable income, business, company, consolidated group, deduction, depreciation loss, excluded income, loss, tax year

Compare: 2004 No 35 s HB 2(1)(c)

Section FM 11 list of defined terms **excluded income**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FM 11 list of defined terms **excluded income loss**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FM 11 list of defined terms **loss**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FM 12 Expenditure when deduction would be denied to consolidated group

When this section applies

(1) This section applies when a company incurs expenditure or loss or an amount of depreciation loss in a tax year or part of a tax year in which it is part of a consolidated group that—

(a) is not expenditure or loss to which section FM 10 applies; and

(b) would be allowed as a deduction to that company in the absence of this section.

No deduction (with exception)

(2) The company is denied a deduction for an amount under section DV 17 (Consolidated groups: expenditure or loss incurred by group companies) if the deduction would be denied to the consolidated group, treating the group as if it were 1 company, except to the extent to which the expenditure or loss or amount of depreciation loss is interest on money that the company has borrowed from a person that is not part of the consolidated group, and the company—

(a) is allowed a deduction under section DB 7 (Interest: most companies need no nexus with income) or DB 8 (Interest: money borrowed to acquire shares in group companies):

(b) would be allowed a deduction under section DB 7 or DB 8 because the company is treated as having used the money borrowed, to the extent of the actual acquisition cost, to acquire certain shares when, through interposed intra-group borrowings, the money borrowed was in fact used by another group company in acquiring the shares.

Defined in this Act: amount, company, consolidated group, deduction, depreciation loss, interest, loss, share, tax year

Compare: 2004 No 35 s HB 2(1)(d)

Section FM 12(2): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 52(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

FM 13 Capital expenditure

When this section applies

(1) This section applies when a company that is part of a consolidated group incurs expenditure or loss that would, treating the consolidated group as if it were 1 company, be taken into account in determining the cost of property but would not otherwise be taken into account in the absence of this section.

Amount taken into account

(2) The expenditure or loss is taken into account in determining the cost of property of companies in the consolidated group.

Defined in this Act: company, consolidated group, loss

Compare: 2004 No 35 s HB 2(2)

FM 14 Part-year financial statements

When this section applies

(1) This section applies in an income year when—

(a) a company joins or leaves a consolidated group during the income year; or

(b) a consolidated group is formed or ends its existence during the income year.

Who must provide statements

(2) The following returns of income for the tax year must include part-year financial statements under sections FM 38(5) and FM 40(4):

(a) by the company when the financial statements relate to a period in which the company is not in the consolidated group:

(b) by the consolidated group when the financial statements relate to a period in which the company is in the consolidated group:

(c) by another consolidated group when the financial statements relate to a period in which the company is in another consolidated group.

Detailed statements

(3) The part-year financial statements must determine, as applicable, the annual gross income, annual total deductions, income tax liability, or tax loss of the company in a fair and reasonable way. For this purpose the relevant part of the income year is treated as a complete income year.

Defined in this Act: annual gross income, annual total deduction, company, consolidated group, income tax liability, income year, return of income, tax loss, tax year

Compare: 2004 No 35 s FD 9

Accounting for particular property

FM 15 Amortising property and revenue account property

When this section applies

(1) This section applies—

(a) when property is transferred from a company (**company A**) to another company (**company B**) and both companies are in the same consolidated group at the time the transfer takes place, and the property transferred is—

(i) amortising property; or

(ii) revenue account property, but not trading stock or a financial arrangement to which the financial arrangements rules apply; and

(b) to determine the income and deductions on a later disposal of property, or in relation to the depreciation or amortisation of the acquisition cost of the property under this Act.

Acquisition by company B

(2) Company B is treated as acquiring the property on the date it was acquired by company A for the amount set out in subsections (3) to (5).

Acquisition by company B

(2B) For the purposes of section CB 6A (Disposal within 2 years: bright-line test for residential land), in relation to property that is land, company B is treated as having the same bright-line start date as company A for that land.

Whole pool

(3) When the property forms the whole of a pool of property that is depreciated by company A under sections EE 20 to EE 24 (which relate to depreciation loss calculated under the pool method), the amount in subsection (2) is the adjusted tax value of the pool immediately before the property is transferred to company B.

Part pool

(4) When the property forms only part of a pool of property that is depreciated by company A under sections EE 20 to EE 24, the amount in subsection (2) is the lesser of—

(a) the market value of the property transferred to company B; and

(b) the adjusted tax value of the whole of the pool immediately before the property is transferred to company B.

Not pool property

(5) If subsections (3) and (4) do not apply, the amount in subsection (2) is the sum of the following amounts of expenditure incurred by company A before the property is transferred to company B for which no deduction has been allowed

other than by the depreciation or amortisation of the acquisition cost of the property under section EE 1, EZ 7, or EZ 8 (which relate to depreciation), or another amortisation provision of this Act:

(a) the original acquisition cost of the property:

(b) expenditure incurred—

(i) in acquiring or improving the property; or

(ii) in securing or improving company A's legal rights to the property.

When subsection (7) applies

(6) Subsection (7) applies—

(a) for the purposes of sections EE 46 to EE 52 (which relate to disposals and depreciation recovery income); and

(b) to property referred to in subsection (1)(b) other than pooled property; and

(c) in relation to an amount of depreciation loss or amortisation of acquisition cost up to the time the property is transferred from company A to company B.

Pre-transfer deductions for depreciation loss and amortisation

(7) Company B is treated as allowed the pre-transfer deductions that company A is allowed for amounts of depreciation loss under section EZ 7 or EZ 8, or for an amount of expenditure or loss under another amortisation provision of this Act.

Exception for Kāinga Ora–Homes and Communities and consolidated group

(8) Subsections (1) to (7) do not apply to Kāinga Ora–Homes and Communities or a company in the same consolidated group as Kāinga Ora–Homes and Communities.

Defined in this Act: acquire, adjusted tax value, amortising property, amount, bright-line start date, company, consolidated group, deduction, depreciation loss, financial arrangement, financial arrangements rules, income, Kāinga Ora–Homes and Communities, land, market value, other amortisation provision, pool, revenue account property, trading stock

Compare: 2004 No 35 s FD 10(1), (2)

Section FM 15(2B) heading: inserted (with effect on 1 April 2019), on 30 March 2022, by section 108(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section FM 15(2B): replaced, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FM 15(5)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FM 15(5)(b)(i): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FM 15(8) heading: inserted (with effect on 1 July 2017), on 18 March 2019, by section 202 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FM 15(8) heading: amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FM 15(8): inserted (with effect on 1 July 2017), on 18 March 2019, by section 202 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FM 15(8): amended (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FM 15 list of defined terms **bright-line acquisition date**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FM 15 list of defined terms **bright-line start date**: inserted, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FM 15 list of defined terms **Kāinga Ora–Homes and Communities**: inserted (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section FM 15 list of defined terms **land**: inserted (with effect on 1 April 2019), on 30 March 2022, by section 108(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

FM 16 Land or business: certain farming or forestry expenditure

When this section applies

(1) This section applies in an income year when 2 companies (**company A** and **company B**) are in the same consolidated group for the whole of the income year, and—

(a) company A transfers land to company B, and company B holds the land for the remainder of the income year; or

(b) company A stops carrying on a business, and company B carries on the business for the remainder of the income year.

Deductions for certain farming and forestry expenditure

(2) Company A is allowed a deduction under sections DO 4 to DO 6, and DO 12 (which relate to farming and aquaculture expenditure), or DP 3 (Improvements to forestry land) after the transfer or cessation of the business as if the transfer or cessation did not occur.

Defined in this Act: business, company, consolidated group, deduction, income year, land

Compare: 2004 No 35 s FD 10(3)

FM 17 Trading stock

When this section applies

(1) This section applies in an income year in which a company (**company A**) transfers identifiable trading stock to another company (**company B**) when—

(a) company A and company B are in the same consolidated group at the time of the transfer; and

(b) company A and company B choose to value the trading stock under subpart EB (Valuation of trading stock (including dealer's livestock)) or at the cost to company A, as applicable; and

(c) the nominated company of the consolidated group notifies the Commissioner within the time for providing the consolidated group's return of income, or a later time if the Commissioner agrees.

Trading stock held at start of income year

(2) If company A held the trading stock at the start of the income year, the consideration for the transfer is the value of the trading stock at the start of the income year determined under subpart EB.

Trading stock acquired

(3) If subsection (2) does not apply, the consideration for the transfer is the cost of the trading stock to company A.

Defined in this Act: Commissioner, company, consolidated group, income year, nominated company, notify, return of income, trading stock

Compare: 2004 No 35 s FD 10(5)

FM 18 Financial arrangements: transfer from company A to company B

When this section applies

(1) This section applies in an income year in which a company (**company A**) transfers a financial arrangement to which the financial arrangements rules apply to another company (**company B**) when—

(a) company A and company B are in the same consolidated group for the whole of the income year; and

(b) the method of calculating income and expenditure from the financial arrangement does not change after the transfer, and the consolidated group's return of income is made on that basis; and

(c) neither company A nor company B is entitled to use under sections IA 4, IA 5, and IB 3 (which relate to the use of loss balances by companies) a loss balance carried forward unless subpart ID (Use of tax losses by consolidated groups) applies.

Treatment of companies

(2) In the year of transfer and in later income years,—

(a) company A is treated as if it had never been a party to the financial arrangement, and section EW 31 (Base price adjustment formula) does not apply:

(b) company B is treated as if it had taken all the actions that company A undertook before the transfer in entering into the financial arrangement, incurring expenditure and deriving income, and providing its return of income in relation to the financial arrangement.

Relationship with sections EW 38 and GB 21

(3) This section overrides sections EW 38 (Consideration when disposal for no, or inadequate, consideration) and GB 21 (Dealing that defeats intention of financial arrangements rules).

Defined in this Act: company, consolidated group, financial arrangement, financial arrangements rules, income, income year, loss balance, return of income

Compare: 2004 No 35 s FD 10(4), (4A)

Section FM 18(1)(c): amended (with effect on 1 April 2020), on 30 March 2021, by section 70(1) (and see section 70(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

FM 19 Financial arrangements: transfer for fair and reasonable consideration

When this section applies

(1) This section applies in an income year in which a company (**company A**) transfers a financial arrangement to another company (**company B**) when—

(a) company A and company B are in the same consolidated group at the time of the transfer; and

(b) section FM 18 does not apply to the transfer; and

(c) the method of calculating income and expenditure from the financial arrangement does not change after the transfer, and the consolidated group's return is made on this basis.

Consideration for transfer

(2) In calculating the base price adjustment, company A's consideration for the transfer is a fair and reasonable amount of the income that would have been derived, or the expenditure that would have been incurred, by company A in the year of transfer if the transfer had not taken place.

Relationship with sections EW 38 and GB 21

(3) This section overrides sections EW 38 (Consideration when disposal for no, or inadequate, consideration) and GB 21 (Dealing that defeats intention of financial arrangements rules).

Defined in this Act: amount, company, consolidated group, financial arrangement, income, income year, return of income

Compare: 2004 No 35 s FD 10(4), (4B)

FM 20 Financial arrangements: transfer at market value

When this section applies

(1) This section applies in an income year in which a company (**company A**) transfers a financial arrangement to another company (**company B**) when—

(a) company A and company B are in the same consolidated group at the time of the transfer; and

(b) neither section FM 18 nor FM 19 applies to the transfer.

Consideration for transfer

(2) The consideration for the transfer is the market value of the financial arrangement on the date of the transfer.

Relationship with sections EW 38 and GB 21

(3) This section overrides sections EW 38 (Consideration when disposal for no, or inadequate, consideration) and GB 21 (Dealing that defeats intention of financial arrangements rules).

Defined in this Act: company, consolidated group, financial arrangement, income year

Compare: 2004 No 35 s FD 10(4), (4C)

FM 21 Property transfers when companies leave consolidated groups

When this section applies

(1) This section applies to the extent to which a transfer of property has not previously been taken into account in the calculation of a consolidated group's taxable income under sections FM 8 to FM 13, or FM 15 to FM 20 and FM 23 when—

(a) a company leaves a consolidated group, but not through liquidation; and

(b) the company holds property that has at any time been transferred between companies in the same consolidated group; and

(c) sections FM 15, or FM 17 to FM 20 applied to the transfer of the property.

Disposal and acquisition at market value

(2) The company is treated as disposing of the property immediately before it leaves the consolidated group to a person not associated with it, and reacquiring it at that time at its market value.

Market value at time of transfer

(3) If the item of property is part of or is absorbed into some other property, or its market value cannot be separately identified, the company is treated as disposing of and reacquiring the property at its market value at the time of the transfer under the relevant provision referred to in subsection (1)(c). If the property is transferred more than once, the time of disposal and reacquisition is the date of the latest transfer at which its market value can be determined.

Defined in this Act: associated person, company, consolidated group, liquidation, market value, taxable income

Compare: 2004 No 35 s FD 10(6), (7)

FM 22 Arrangements to avoid consolidation rules

When this section applies

(1) This section applies when—

(a) a company joins a consolidated group and at the time holds property that it later transfers to another group company; and

(b) sections FM 15 or FM 17 to FM 20 would otherwise apply to the transfer of the property; and

(c) after the transfer the company leaves the consolidated group, whether by liquidation or otherwise.

Arrangement to defeat consolidation rules

(2) If, in undertaking the activities, it could reasonably be concluded that the company was involved in an arrangement that had a purpose or effect of defeating the intent and application of the consolidation rules, the relevant provision does not apply to the transfer.

Defined in this Act: arrangement, company, consolidated group, consolidation rules, liquidation

Compare: 2004 No 35 s FD 10(9)

FM 23 Arrangements for disposal of shares

When this section applies

(1) This section applies when—

(a) 2 companies (**company A** and **company B**) are in the same consolidated group; and

(b) the value of company A's net assets have been reduced as a result of a dividend, distribution, payment, arrangement, or transaction between company A and company B at the time the dividend is paid or the distribution, payment, arrangement, or transaction is made; and

(c) another company (**company C**) disposes of shares in company A for consideration that is less than the amount that would have been received in an arm's length transaction had the reduction in the value of company A's net assets not occurred; and

(d) if the disposal were by way of sale, the consideration from the sale would be included in company C's income, other than income taken into account under section FM 3.

Arm's length transaction on disposal of shares

(2) The disposal is treated as if it were a sale at arm's length.

Income

(3) The amount that would have been received in an arm's length transaction is income of company C under section CV 3 (Consolidated groups: arrangement for disposal of shares).

Timing

(4) The time at which the consideration for the sale at arm's length is determined is before the reduction in the value of company A's net assets.

Relationship with sections FM 8 and FM 11

(5) Subsection (2) does not apply to an amount of income taken into account under section FM 8 or FM 11.

Defined in this Act: amount, arrangement, company, consolidated group, dividend, income, pay, share

Compare: 2004 No 35 s FD 10(8)

Treatment of foreign dividends

[Repealed]

Heading: repealed (with effect on 1 April 2009), on 6 October 2009, pursuant to section 231(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FM 24 General treatment of foreign dividends

[Repealed]

Section FM 24: repealed (with effect on 1 April 2009), on 6 October 2009, by section 231(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FM 25 Reduction in payments for foreign dividends

[Repealed]

Section FM 25: repealed (with effect on 1 April 2009), on 6 October 2009, by section 231(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FM 26 Using tax losses to pay FDP

[Repealed]

Section FM 26: repealed (with effect on 1 April 2009), on 6 October 2009, by section 231(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FM 27 Refunds of FDP

[Repealed]

Section FM 27: repealed, on 1 April 2017, by section 109 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FM 28 Refund when consolidated group has loss

[Repealed]

Section FM 28: repealed, on 1 April 2017, by section 110 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FM 29 Treatment of credit balance in consolidated group's FDP account

[Repealed]

Section FM 29: repealed, on 1 April 2017, by section 111 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FM 30 Application of certain provisions to consolidated groups

When subsections (2) and (3) apply

[Repealed]

(1) *[Repealed]*

Credit and debit balances

[Repealed]

(2) *[Repealed]*

Section OC 20: life insurance credit balance

[Repealed]

(3) *[Repealed]*

Section OC 27: FDP credits

[Repealed]

(4) *[Repealed]*

Sections OC 30 to OC 32, and others: liability for payments and penalties

[Repealed]

(5) *[Repealed]*

Section RA 19: amalgamations

(6) Section RA 19 (Refunds of excess amounts or when amounts mistakenly paid) applies, modified as necessary, from the time of amalgamation when a consolidated group ends its existence on a resident's restricted amalgamation that involves all companies in the consolidated group, whether or not with a company outside the consolidated group, in relation to tax paid by the consolidated group as if it and the amalgamated company were a single company.

Sections 30 and 68 of Tax Administration Act 1994: FDP accounts

[Repealed]

(7) *[Repealed]*

Defined in this Act: amalgamated company, amalgamation, company, consolidated group, pay, resident's restricted amalgamation, tax

Compare: 2004 No 35 ss NH 4(9), NH 6(1), (2), (5), (7)

Section FM 30(1) heading: repealed, on 30 March 2017, pursuant to section 112(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(1): repealed, on 30 March 2017, by section 112(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(2) heading: repealed, on 30 March 2017, pursuant to section 112(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(2): repealed, on 30 March 2017, by section 112(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(3) heading: repealed, on 30 March 2017, pursuant to section 112(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(3): repealed, on 30 March 2017, by section 112(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(4) heading: repealed, on 1 April 2017, pursuant to section 113(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(4): repealed, on 1 April 2017, by section 113(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(5) heading: repealed, on 1 April 2017, pursuant to section 113(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(5): repealed, on 1 April 2017, by section 113(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(7) heading: repealed, on 1 April 2017, pursuant to section 113(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30(7): repealed, on 1 April 2017, by section 113(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 113(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30 list of defined terms **FDP penalty tax**: repealed, on 1 April 2017, by section 113(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30 list of defined terms **FDPA company**: repealed, on 1 April 2017, by section 113(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30 list of defined terms **foreign dividend**: repealed, on 1 April 2017, by section 113(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30 list of defined terms **further FDP**: repealed, on 1 April 2017, by section 113(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FM 30 list of defined terms **nominated company**: repealed, on 29 March 2018 (with effect on 30 March 2017), by section 101 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FM 30 list of defined terms **policyholder credit account**: repealed, on 30 March 2017, by section 112(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Membership of consolidated groups

Eligibility and restrictions

FM 31 Eligibility rules

When company eligible

(1) A company is eligible to form, join, and continue as part of a consolidated group at a particular time if, at the time,—

(a) it is resident in New Zealand; and

(b) *[Repealed]*

(c) it is not a company that derives only exempt income, except exempt income under sections CW 9 and CW 10 (which relate to income from equity); and

(d) it is incorporated in New Zealand or carrying on a business in New Zealand through a fixed establishment; and

(e) *[Repealed]*

(eb) it is a member of the same wholly-owned group of companies as the other members of the consolidated group; and

(f) when subsection (2) or (4) applies, it meets the relevant conditions; and

(g) subsection (6) does not apply to it.

Restriction when company of certain type

(2) Despite subsection (1), if a company that is part of a consolidated group is 1 of the following types of company, all companies in the consolidated group at the time must be the same type as that company:

(a) a qualifying company:

(b) a mineral miner that is a company.

Grandparented consolidated companies

(3) The requirements of subsection (1)(d) and (e) do not apply to determine whether a grandparented consolidated company—

(a) is eligible to form or join a consolidated group:

(b) continues as part of the consolidated group.

Non-standard balance date

(4) Despite subsection (1), if a company that is part of a consolidated group has a non-standard balance date, all companies in the consolidated group at the time must have the same non-standard balance date.

LAQCs

[Repealed]

(5) *[Repealed]*

Anti-avoidance measure

(6) A company is not eligible to be part of a consolidated group if, for a purpose of enabling a company to be part of a consolidated group so as to defeat the intent and application of the consolidation rules, the company's shares—

(a) are subject to an arrangement, or to a series of related or connected arrangements; or

(b) have rights attaching to them extinguished or altered directly or indirectly by any means.

Defined in this Act: arrangement, business, company, consolidated group, consolidation rules, exempt income, fixed establishment, grandparented consolidated company, income, mineral miner, New Zealand, non-standard balance date, qualifying company, resident in New Zealand, share, wholly-owned group of companies

Compare: 2004 No 35 ss FD 3(b)–(e), OB 1 "eligible company"

Section FM 31(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 232(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 31(1)(b): repealed (with effect on 15 March 2017), on 31 March 2023, by section 70(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FM 31(1)(c): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 67(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FM 31(1)(e): repealed (with effect on 15 March 2017), on 31 March 2023, by section 70(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FM 31(1)(eb): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 72(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FM 31(1)(g): amended, on 17 July 2013, by section 56 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FM 31(2)(b): replaced, on 1 April 2014, by section 72(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FM 31(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 232(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FM 31(5) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FM 31(5): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FM 31 list of defined terms **foreign company**: repealed (with effect on 15 March 2017), on 31 March 2023, by section 70(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FM 31 list of defined terms **income tax**: repealed (with effect on 15 March 2017), on 31 March 2023, by section 70(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FM 31 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FM 31 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 72(3)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FM 31 list of defined terms **mining company**: repealed, on 1 April 2014, by section 72(3)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FM 31 list of defined terms **wholly-owned group of companies**: inserted (with effect on 1 April 2008), on 27 February 2014, by section 72(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

FM 32 Restriction on membership of consolidated groups

A company is not eligible to be in more than 1 consolidated group at a particular time. If circumstances arise in which a company would, apart from this section, be treated at a particular time as in more than 1 consolidated group, then—

(a) the company is treated as in the consolidated group of which it was first part; or

(b) if the company is in 2 or more consolidated groups simultaneously, the Commissioner may specify its consolidated group, having regard to all the circumstances of the case.

Defined in this Act: Commissioner, company, consolidated group

Compare: 2004 No 35 s FD 5

FM 33 When membership is reduced

A consolidated group continues to exist if the number of group companies is reduced to 1 company, but if the consolidated group has no company at any time, the consolidated group no longer exists.

Defined in this Act: company, consolidated group

Compare: 2004 No 35 s FD 8(9)

Nominated companies

FM 34 Nominated companies

Group company at the time

(1) The nominated company of a consolidated group at any time must be in the consolidated group at the time.

Agent

(2) For the purposes of this Act and the Tax Administration Act 1994, a nominated company of a consolidated group is, at a time, the agent of the consolidated group and of each company that is in the consolidated group at the time.

Changing nominated company

(3) A nominated company may notify the Commissioner that it is, at a particular date, no longer to continue as the agent for the consolidated group, and that another company is to become the nominated company for the consolidated group.

When notice takes effect

(4) A notice referred to in subsection (3) takes effect—

(a) on the date the Commissioner receives the notice; or

(b) on a later date set out in the notice.

Replacing nominated company

(5) If the nominated company of a consolidated group is liquidated, the other companies in the consolidated group may choose a replacement. The replacement company—

(a) becomes the nominated company of the consolidated group from the date of liquidation; and

(b) must notify the Commissioner of its selection as nominated company within 20 working days after the date of liquidation, or a longer period if the Commissioner agrees.

Defined in this Act: agent, Commissioner, company, consolidated group, liquidation, nominated company, notice, notify, working day

Compare: 2004 No 35 ss FD 6, FD 8(5) proviso

Forming, joining, or leaving consolidated groups

FM 35 Forming consolidated group

Election

(1) Two or more companies may choose to form a consolidated group of companies if the companies are, at the time,—

(a) a wholly-owned group of companies; and

(b) eligible under section FM 31.

Notifying Commissioner

(2) The Commissioner must be notified of an election under subsection (1). For the purposes of section FM 3(5), the notice must state that each company that is part of the consolidated group acknowledges their joint and several liability for the amount of income tax assessed for the consolidated group.

Nominated company

(3) A notice under subsection (2) must nominate 1 of the companies in the consolidated group as its agent. The company is called the **nominated company**.

Defined in this Act: agent, amount, assessment, Commissioner, company, consolidated group, income tax, nominated company, notice, notify, wholly-owned group

Compare: 2004 No 35 ss FD 3(a), FD 4(1), (2)

FM 36 Joining existing consolidated group

When this section applies

(1) This section applies when 2 or more companies have formed a consolidated group and the consolidated group has not ended its existence.

Eligible for and entitled to membership

(2) If a company is eligible under section FM 31, it may choose to join the consolidated group by notifying the Commissioner.

Joint and several liability

(3) The company providing the notification referred to in subsection (2) must agree in the notice to be jointly and severally liable under section FM 3(5) for income tax payable by the consolidated group.

Defined in this Act: Commissioner, company, consolidated group, income tax, notice, notify, pay

Compare: 2004 No 35 s FD 7(1), (2)

Section FM 36(2): amended, on 29 March 2018 (with effect on 1 April 2008), by section 102 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

FM 37 Leaving consolidated group

A company leaves a consolidated group if—

(a) it chooses to leave the consolidated group and notifies the Commissioner of its election, *see* section FM 39; or

(b) it no longer meets the eligibility criteria set out in section FM 31, *see* section FM 40; or

(c) when it is not a nominated company, it is not eligible to continue as part of the same consolidated group as the nominated company, *see* section FM 40; or

(d) it is part of a consolidated group that no longer has a nominated company, *see* section FM 41.

Defined in this Act: Commissioner, company, consolidated group, nominated company, notify

Compare: 2004 No 35 s FD 8(1)

Section FM 37(c): amended, on 29 March 2018 (with effect on 1 April 2008), by section 103 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

When membership starts and stops

FM 38 Notice requirements on forming or joining consolidated group

When this section applies

(1) This section applies when—

(a) 2 or more companies choose to form a consolidated group under section FM 35; or

(b) a company chooses to join an existing consolidated group under section FM 36.

Condition

(2) Despite subsection (1), this section applies only if a company forming or joining a consolidated group remains eligible to be in the consolidated group either at the start of the relevant income year or for the notice period, as applicable.

Setting out income year in notice

(3) For a notice given to the Commissioner within the notice period in an income year, the company may provide that the election applies for the income year. The company is treated as in the consolidated group from the start of the income year.

When notice does not specify income year

(4) If the notice referred to in subsection (3) does not specify an income year, the company is treated as in the consolidated group from the start of the income year following that in which the Commissioner receives the notice.

Setting out entitlement date in notice

(5) Despite subsections (3) and (4), if a company becomes eligible to join a consolidated group during an income year, and the notice is given to the Commissioner within the notice period, the company may provide that the election applies from the date they first became entitled to make an election. The company is treated as in the consolidated group from that date, and part-year financial statements under section FM 14 are required.

Notice period

(6) In this section, **notice period** means 1 of the following:

(a) 63 working days after the start of an income year; or

(b) if the company joining, or the companies forming, the consolidated group in the income year are incorporated or formed in the same income year, 63 working days after the latest incorporation or formation; or

(c) if the company or companies become entitled to make an election during an income year, 63 working days from the date they first became entitled; or

(d) an extended period if the Commissioner agrees that the notice could not reasonably have been provided within the 63-day period.

Anti-avoidance measure

(7) Subsection (5) does not apply if it would be reasonable to conclude that an arrangement has been entered into for a purpose of enabling the company to

meet the requirements of the subsection so as to defeat the intent and application of the consolidation rules.

Defined in this Act: arrangement, Commissioner, company, consolidated group, consolidation rules, income year, notice, notice period, working day

Compare: 2004 No 35 ss FD 4(3)–(8), FD 7(3)–(8)

Section FM 38(2): amended, on 29 March 2018 (with effect on 1 April 2008), by section 104 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

FM 39 Choosing to leave consolidated group

When this section applies

(1) This section applies when a company chooses to leave a consolidated group and notifies the Commissioner of its election.

Deferring leaving date

(2) When the company notifies the Commissioner of its election, it may defer the date on which it leaves the consolidated group to the first day of the next income year. However, unless subsections (3) and (4) apply, if the company does not defer the leaving date, it is treated as no longer in the consolidated group from the start of the income year in which the Commissioner receives the notice.

First income year: deferral

(3) Despite subsection (2), if a company leaves a consolidated group in the same income year in which it joins the group, and defers the leaving date in the notice, it is treated as leaving the consolidated group from the start of the income year after the income year in which the Commissioner receives the notice. Sections FM 40 and FM 41 override this subsection.

First income year: no deferral

(4) Despite subsection (2), if a company leaves a consolidated group in the same income year in which it joins the consolidated group, and does not defer the leaving date in the notice, it is treated as leaving the consolidated group on the date it joined the group.

Defined in this Act: Commissioner, company, consolidated group, income year, notice, notify

Compare: 2004 No 35 s FD 8(2)

Section FM 39(3): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

FM 40 Losing eligibility to be part of consolidated group

When this section applies

(1) This section applies when a company is no longer eligible to be part of a consolidated group or, if it is not the nominated company, when it is not eligible to continue as part of the same consolidated group as the nominated company.

Effective date

(2) Unless subsections (3) or (4) apply, the company is treated as leaving the consolidated group from the start of the income year in which the relevant event occurs, making it no longer—

(a) eligible to be part of the consolidated group; or

(b) if it is not the nominated company, eligible to continue as part of the same consolidated group as the nominated company.

First income year

(3) Despite subsection (2), if a company becomes no longer eligible to be in the consolidated group in the same income year in which it joined the group, the company is treated as leaving the consolidated group on the day it joined the group.

Notifying date

(4) Despite subsections (2) and (3), the company may notify the Commissioner that it is leaving the consolidated group from the date on which its eligibility ended. For the notice to be effective, the company must—

(a) provide the notice within 20 working days after the date on which the company's eligibility ended, although the Commissioner may agree to extend this period if it is reasonable to do so in the circumstances; and

(b) provide part-year financial statements under section FM 14.

Anti-avoidance measure

(5) A notice under this section is not valid if it is made in connection with an arrangement entered into for a purpose of enabling the company to leave a consolidated group so as to defeat the intent and application of the consolidation rules. When this subsection applies, the company is treated as leaving the consolidated group at the beginning of the tax year in which its eligibility or entitlement ended.

Defined in this Act: arrangement, Commissioner, company, consolidated group, consolidation rules, income year, nominated company, notice, notify, tax year, working day

Compare: 2004 No 35 s FD 8(3), (4), (6), (7)

Section FM 40 heading: amended, on 29 March 2018 (with effect on 1 April 2008), by section 105(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FM 40(1): amended, on 29 March 2018 (with effect on 1 April 2008), by section 105(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FM 40(2)(b): amended, on 29 March 2018 (with effect on 1 April 2008), by section 105(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FM 40(3): amended, on 29 March 2018 (with effect on 1 April 2008), by section 105(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FM 40(4): amended (with effect on 1 April 2008), on 18 March 2019, by section 203 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section FM 40(4)(a): amended, on 29 March 2018 (with effect on 1 April 2008), by section 105(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FM 40(5): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 74(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FM 40 list of defined terms **tax year**: inserted (with effect on 1 April 2008), on 27 February 2014, by section 74(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

FM 41 No nominated company

If, during an income year, no nominated company exists for a consolidated group and no company that is part of the consolidated group is notified as a replacement under section FM 34(3), all companies in the consolidated group are treated as having left the consolidated group with effect from the start of the income year. Section FM 34(5) overrides this section.

Defined in this Act: company, consolidated group, income year, nominated company, notify

Compare: 2004 No 35 s FD 8(5)

FM 42 When company liquidated

If a company is no longer part of a consolidated group because it has been liquidated,—

(a) the company is not treated as leaving the consolidated group from the start of the income year of the liquidation under sections FM 39 and FM 40:

(b) part-year financial statements are not required under section FM 40(4)(b).

Defined in this Act: company, consolidated group, income year, liquidation

Compare: 2004 No 35 s FD 8(8)

Subpart FN—Imputation groups of companies

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FN 1 When this subpart applies

This subpart applies when 2 or more companies that are part of a wholly-owned group of companies form an imputation group to enable a company in the imputation group to pay an imputed dividend when another company in the imputation group has a credit for New Zealand tax paid.

Defined in this Act: company, dividend, imputation group, New Zealand tax, pay, wholly-owned group of companies

FN 2 Imputation rules

The **imputation rules** means the following:

(a) this subpart:

(b) section CD 15 (Tax credits linked to dividends):

(c) sections GB 34 to GB 37 (which relate to tax avoidance and imputation):

(d) subparts LE and LF, and sections LO 1 to LO 3 (which relate to tax credits):

(e) subpart OB (Imputation credit accounts (ICA)):

(f) sections OP 1 to OP 50 (which relate to imputation credits and consolidated groups):

(g) subpart OZ (Terminating provisions):

(h) sections RM 13 to RM 17, RM 32, and RZ 6 (which relate to limits on refunds):

(i) section YA 2(7)(b) (Meaning of income tax varied):

(j) sections 29, 64, 67, 69, 70, 78D, 97, 101, 139B, 140B, 140D(1) and (2), and 180 of the Tax Administration Act 1994.

Defined in this Act: imputation rules

Compare: 2004 No 35 s OB 1 “imputation rules”

Section FN 2(i): amended (with effect on 1 April 2008), on 6 October 2009, by section 233 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FN 3 Liabilities of companies in imputation group

A company that is part of an imputation group is jointly and severally liable for further income tax, civil penalties, and interest under Part 7 of the Tax

Administration Act 1994 arising from the operation of the imputation credit account of the imputation group.

Defined in this Act: company, further income tax, imputation credit account, imputation group

Compare: 2004 No 35 s FDA 4

FN 4 Eligibility rules

When company eligible

(1) A company is eligible to be part of an imputation group at a particular time if, at the time,—

(a) it is resident in New Zealand or resident in Australia; and

(b) it is part of the same wholly-owned group of companies; and

(c) it is not treated under a double tax agreement as resident in a country other than New Zealand or Australia, as applicable, for the purposes of taxation in the relevant country; and

(d) it is required to maintain an imputation credit account (*see* sections OB 1 and OB 2); and

(e) if it is a company that is part of a consolidated group, it meets the criteria set out in subsection (2); and

(f) if it is a qualifying company or a mining company, it meets the condition set out in subsection (3); and

(g) subsection (5) does not apply to it.

Consolidated group companies

(2) A company that is part of a consolidated group is eligible to be part of an imputation group at a particular time if, at the time,—

(a) all companies in the consolidated group meet the criteria set out in subsection (1) and are part of or would be part of the imputation group; and

(b) for an imputation group that includes or will include companies from more than 1 consolidated group, the companies in the consolidated groups are part of a single wholly-owned group of companies from the earliest date on which a credit arose and remains uncancelled in the imputation credit account of a consolidated group or an imputation group, all of whose members are, or would be, in the imputation group.

Restriction when company of certain type

(3) Despite subsections (1) and (2), if a company that is part of an imputation group is 1 of the following types of company, all companies in the imputation group at the time must be the same type as that company:

(a) a qualifying company; or

(b) a mineral miner that is a company.

LAQCs

[Repealed]

(4) *[Repealed]*

Anti-avoidance measure

(5) A company is not eligible to be part of an imputation group if, for a purpose of enabling a company to be part of an imputation group so as to defeat the intent and application of the imputation rules, the company's shares—

(a) are subject to an arrangement or to a series of related or connected arrangements; or

(b) have rights attaching to them extinguished or altered, either directly or indirectly, by any means.

Defined in this Act: arrangement, company, consolidated group, double tax agreement, imputation credit account, imputation group, imputation rules, mineral miner, New Zealand, qualifying company, resident in Australia, resident in New Zealand, wholly-owned group

Compare: 2004 No 35 s FDA 1

Section FN 4(1)(d): replaced (with effect on 15 March 2017), on 31 March 2023, by section 71 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section FN 4(1)(g): amended, on 17 July 2013, by section 57 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FN 4(2)(a): amended, on 29 March 2018 (with effect on 1 April 2008), by section 106 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section FN 4(3)(b): replaced, on 1 April 2014, by section 73(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FN 4(4) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FN 4(4): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FN 4 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FN 4 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 73(3)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FN 4 list of defined terms **mining company**: repealed, on 1 April 2014, by section 73(3)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

FN 5 Imputation groups with reduced numbers

An imputation group continues to exist if the number of group companies is reduced to 1 company, but if an imputation group has no company at any time, the imputation group no longer exists.

Defined in this Act: company, imputation group

Compare: 2004 No 35 s FDA 3(2), (4)

FN 6 Nominated companies

Group company at the time

(1) The nominated company of an imputation group at any time must be part of the imputation group at the time.

Trans-Tasman imputation groups

(2) For a trans-Tasman imputation group, the nominated company—

(a) must not be an Australian imputation credit account (ICA) company:

(b) is the nominated company for the resident imputation subgroup associated with the trans-Tasman imputation group.

Agent

(3) For the purposes of the imputation rules, a nominated company is, at a time, the agent of the imputation group and of each company that is part of the imputation group at the time.

Changing nominated company

(4) A nominated company may notify the Commissioner that it is, at a particular date, no longer to continue as the agent for the imputation group, and that another company is to become the nominated company.

When notice takes effect

(5) A notice under subsection (4) has effect 30 days after the date on which the Commissioner receives it.

Replacing nominated company

(6) If a nominated company of an imputation group is liquidated, the other companies in the imputation group may choose a replacement. The replacement company—

(a) becomes the nominated company from the date of the liquidation, on complying with paragraph (b); and

(b) must notify the Commissioner of its selection as nominated company within 30 days after the date of the liquidation, or by a later date if the Commissioner agrees.

Defined in this Act: agent, Australian ICA company, Commissioner, company, imputation group, liquidation, nominated company, notice, notify, resident imputation subgroup, trans-Tasman imputation group

Compare: 2004 No 35 ss FDA 5, FDA 6(6)

FN 7 Forming imputation groups

Election

(1) Two or more companies may choose to form an imputation group of companies if the companies are, at the time,—

(a) a wholly-owned group of companies; and

(b) eligible under section FN 4.

Notifying Commissioner

(2) The Commissioner must be notified of an election under subsection (1).

Nominated company

(3) A notice under subsection (2) must nominate 1 of the companies in the imputation group as its agent for the purposes of the imputation rules. In this subpart, the company is called the **nominated company**.

Consolidated group companies

(4) A nominated company of a consolidated group may notify the Commissioner that, having met the eligibility criteria in section FN 4, all the group companies have chosen—

(a) to form an imputation group with eligible companies that are not part of the consolidated group; or

(b) to join an existing imputation group.

Effective date

(5) A notice under subsection (1) or (4) has effect from the start of the tax year in which the Commissioner receives the notice.

Defined in this Act: agent, Commissioner, company, consolidated group, imputation group, imputation rules, nominated company, notice, notify, tax year, wholly-owned group

Compare: 2004 No 35 s FDA 2

FN 8 Trans-Tasman imputation groups and resident imputation subgroups

Trans-Tasman imputation group

(1) If at least 1 company in an imputation group is an Australian ICA company, and at least 1 company in the imputation group is not an Australian ICA company, the imputation group is a trans-Tasman imputation group.

Resident imputation subgroup

(2) A company in a trans-Tasman imputation group that is not an Australian ICA company is treated as a resident imputation subgroup of the trans-Tasman imputation group and is associated with that group.

Single company

(3) A resident imputation subgroup continues while a company in the trans-Tasman imputation group that is not an Australian ICA company remains in existence.

Defined in this Act: Australian ICA company, Commissioner, company, imputation group, notify, resident imputation subgroup, trans-Tasman imputation group

Compare: 2004 No 35 ss FDA 3(1), (3), OB 1 “resident imputation subgroup”, “trans-Tasman imputation group”

Section FN 8(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 234(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FN 8(3) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 234(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FN 8(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 234(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FN 9 Joining existing imputation group

Generally

(1) A company that is eligible under section FN 4(1) may join an imputation group by notifying the Commissioner.

Consolidated groups

(2) If the companies that are part of a consolidated group are eligible under section FN 4(2), the nominated company of the consolidated group may notify the Commissioner that all the companies in the consolidated group are to join an imputation group.

Joint and several liability

(3) The companies referred to in subsections (1) and (2) must agree in the notice to be jointly and severally liable under section FN 3 for any further income tax, civil penalties, and interest under Part 7 of the Tax Administration Act 1994 arising from the operation of the imputation credit account of the imputation group.

Effective date

(4) A notice under subsection (1) has effect from the start of the tax year in which the Commissioner receives the notice.

Defined in this Act: Commissioner, company, consolidated group, further income tax, imputation credit account, imputation group, nominated company, notice, notify, tax year

Compare: 2004 No 35 ss FDA 2(1)–(3), (5), FDA 4

Section FN 9(2): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

FN 10 When membership of imputation group ends

A company stops being part of an imputation group if—

(a) the company chooses to leave the imputation group and notifies the Commissioner, *see* section FN 11; or

(b) the company no longer meets the eligibility criteria set out in section FN 4, *see* section FN 12; or

(c) the company is not a nominated company and is no longer entitled to be part of the same imputation group as the nominated company, *see* section FN 12; or

(d) the company is in an imputation group that no longer has a nominated company, *see* section FN 13.

Defined in this Act: Commissioner, company, imputation group, nominated company, notify

Compare: 2004 No 35 s FDA 6(1)

FN 11 Company choosing to leave imputation group

When this section applies

(1) This section applies when a company chooses to leave an imputation group and notifies the Commissioner of its election.

Effective date

(2) When the company notifies the Commissioner of its election, it may set out in the notice a date from which it is no longer to be treated as part of the imputation group. However, unless subsection (3) applies, if the company does not set out a date in the notice, it is treated as no longer part of the imputation group from the start of the tax year in which the Commissioner receives the notice.

First tax year

(3) Despite subsection (2), if a company leaves an imputation group in the same tax year in which it joined the imputation group, it is treated as leaving the imputation group on the date when it became part of the imputation group, and not from the start of the tax year.

Defined in this Act: Commissioner, company, imputation group, notice, notify, tax year

Compare: 2004 No 35 s FDA 6(2)

FN 12 Company no longer eligible or entitled to membership

When this section applies

(1) This section applies when a company is no longer eligible to be part of an imputation group or, if it is not the nominated company, when it is no longer entitled to be part of the same imputation group as the nominated company.

Effective date

(2) Unless subsections (3) or (4) apply, the company is treated as no longer part of the imputation group from the start of the tax year in which the relevant event occurs, making it no longer—

(a) eligible to be part of the imputation group; or

(b) if it is not the nominated company, entitled to be part of the same imputation group as the nominated company.

Notifying date

(3) Despite subsection (2), the company may notify the Commissioner that it is no longer to be treated as part of the imputation group from the date on which its eligibility or its entitlement ended. The company must provide the notice within 30 days after the date on which the company's eligibility or entitlement

ended, although the Commissioner may agree to extend this period if it is reasonable to do so in the circumstances.

First tax year

(4) Despite subsections (2) and (3), if a company leaves an imputation group in the same tax year in which it became part of the imputation group, the company is treated as leaving the group on the date when it became part of the imputation group, and not at the start of the tax year.

Anti-avoidance measure

(5) A notice under this section is not valid if it is made in connection with an arrangement entered into for a purpose of enabling the company to leave an imputation group so as to defeat the intent and application of the imputation rules. When this subsection applies, the company is treated as leaving the imputation group at the beginning of the tax year in which its eligibility or entitlement ended.

Defined in this Act: arrangement, Commissioner, company, imputation group, imputation rules, nominated company, notice, notify, tax year

Compare: 2004 No 35 s FDA 6(3), (4), (7), (8)

Section FN 12(5): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 75(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

FN 13 Imputation group with no nominated company

If, during a tax year, no nominated company exists for an imputation group and no replacement is made under section FN 6(6), all companies in the imputation group are treated as having left the imputation group with effect from the start of the tax year.

Defined in this Act: company, imputation group, nominated company, tax year

Compare: 2004 No 35 s FDA 6(5)

FN 14 Effect of liquidation of company

If a company is no longer part of an imputation group because it is liquidated, sections FN 11 and FN 12 do not apply to treat the company as leaving the imputation group from the start of the income year in which the liquidation occurred.

Defined in this Act: company, imputation group, income year, liquidation

Compare: 2004 No 35 s FDA 6(9)

Subpart FO—Amalgamation of companies

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Introductory provisions

FO 1 What this subpart does

This subpart sets out the rules that provide for some tax consequences when companies amalgamate. In general, the rules provide roll-over relief when a resident's restricted amalgamation occurs.

Defined in this Act: amalgamation, company, resident's restricted amalgamation, tax

Compare: 2004 No 35 s FE 1(1)(a), (b)

FO 2 Amalgamation rules

The **amalgamation rules** means the following:

(a) this subpart:

(b) sections CD 35, CD 43(24) and (25), and CD 44(8) (which relate to the treatment of dividends):

(c) sections DB 8(3) to (5), DV 14 and DV 15 (which relate to the treatment of deductions when an amalgamating company ends its existence on a resident's restricted amalgamation):

(d) sections IA 9, IE 2 to IE 5, and IQ 1 (which relate to tax losses):

(e) sections LK 12 to LK 15 (which relate to tax credits):

(f) sections OA 9, OB 24, OB 53 (which relate to memorandum accounts):

(g) sections RA 20, RC 33, RD 46, and RD 49 (which relate to tax payments):

(h) sections 75 and 76 of the Tax Administration Act 1994.

Defined in this Act: amalgamation rules

Compare: 2004 No 35 s FE 1(2)

Section FO 2(b): amended (with effect on 1 April 2008), on 30 March 2022, by section 109 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

FO 3 Resident's restricted amalgamations

What is a resident's restricted amalgamation?

(1) In the amalgamation rules, an amalgamation is a **resident's restricted amalgamation** if, at the time of the amalgamation, each of the amalgamating companies and the amalgamated company—

(a) is resident in New Zealand; and

(b) is not treated under, and for the purposes of, a double tax agreement as resident in another country; and

(c) is not a company that derives only exempt income, except income exempt under sections CW 9 and CW 10 (which relate to income from equity); and

(d) if the amalgamated company is a qualifying company, it meets the condition in subsection (2); and

(e) *[Repealed]*

Qualifying companies

(2) If the amalgamated company is a qualifying company immediately after the amalgamation, each of the amalgamating companies must be a qualifying company at the time of the amalgamation.

LAQCs

[Repealed]

(3) *[Repealed]*

Companies deriving exempt income

(4) For the purposes of subsection (1)(c), a company that derives only exempt income includes a local authority that is not a council-controlled organisation.

Companies opting out

(5) Even if they meet the requirements of subsection (1), the companies may choose that the amalgamation will not be treated as a resident's restricted amalgamation by notifying the Commissioner in the way set out in section 75 of the Tax Administration Act 1994.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amalgamation rules, Commissioner, company, council-controlled organisation, double tax agreement, exempt income, local authority, New Zealand, notify, qualifying company, resident in New Zealand, resident's restricted amalgamation

Compare: 2004 No 35 s OB 1 "qualifying amalgamation"

Section FO 3(1)(c): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 68(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section FO 3(1)(e): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FO 3(3) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FO 3(3): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section FO 3 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

FO 4 Rights and obligations of amalgamated companies

When this section applies

(1) This section applies when an amalgamating company ends its existence on amalgamation.

Amalgamated company assuming rights, obligations, and liabilities

(2) For the tax year corresponding to the income year of amalgamation and all earlier tax years, the amalgamated company, under section 225 of the Companies Act 1993, or under this section in the case of an amalgamation of building societies,—

(a) must comply with the obligations of the amalgamating company under the Inland Revenue Acts; and

(b) must meet the liabilities of the amalgamating company under the Inland Revenue Acts; and

(c) is entitled to the rights, powers, and privileges of the amalgamating company under the Inland Revenue Acts.

Relationship with Companies Act 1993

(3) The amalgamation rules apply despite anything to the contrary in section 225(d) of the Companies Act 1993.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amalgamation rules, income year, Inland Revenue Acts, tax year

Compare: 2004 No 35 ss FE 1(1)(c), FE 8

Section FO 4(2): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section FO 4(2): amended (with effect on 30 September 2010), on 29 August 2011, by section 47 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

FO 5 Amalgamations and remitted liabilities

Treatment of liabilities generally

(1) Sections CG 2, CG 2C (which relate to remitted amounts) and DB 47 (Payments for remitted amounts) do not apply merely because an amalgamated company succeeds to a liability of an amalgamating company on an amalgamation.

Treatment of liabilities on liquidation

(2) Despite subsection (1), when an amalgamating company to which section CG 2C applies has liabilities that are required to be assumed under section FO 4(2)(b), section CG 2C applies—

(a) to the amalgamated company as if it were company A; and

(b) in the same way to the amalgamated company that is an amalgamating company in a subsequent amalgamation; and

(c) from the date of the amalgamation or a subsequent amalgamation to the date on which the liabilities are met.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount

Compare: 2004 No 35 s FE 9

Section FO 5(1) heading: inserted (with effect on 22 November 2013), on 30 June 2014, by section 118(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FO 5(1): amended (with effect on 22 November 2013), on 30 June 2014, by section 118(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FO 5(2) heading: inserted (with effect on 22 November 2014), on 30 June 2014, by section 118(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section FO 5(2): inserted (with effect on 22 November 2014), on 30 June 2014, by section 118(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Treatment of shares, income, expenditure, and bad debts

FO 6 Cancellation of shares

If an amalgamating company (**company A**) holds shares in another amalgamating company (**company B**), and the shares are cancelled on the amalgamation, company A is treated as having disposed of the shares in company B immediately before the amalgamation for an amount equal to the cost of the shares to company A.

Defined in this Act: amalgamating company, amalgamation, cancellation, share

Compare: 2004 No 35 s FE 2

FO 7 Income derived after amalgamation

When this section applies

(1) This section applies when an amalgamating company ends its existence on amalgamation, and an amount is derived by the amalgamated company after the amalgamation as a result of something that the amalgamating company did or did not do.

Income of amalgamated company

(2) The amount is income of the amalgamated company under section CV 4 (Amalgamated companies: amount derived after amalgamation) if it would have been income of the amalgamating company but for the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, income

Compare: 2004 No 35 s FE 4(b)

FO 8 Bad debts and expenditure or loss on resident's restricted amalgamation

When this section applies

(1) This section applies when an amalgamating company ends its existence on a resident's restricted amalgamation, and the amalgamated company at any time—

(a) writes off as bad the amount of a debt that it acquires from the amalgamating company at the time of the amalgamation; or

(b) incurs an amount of expenditure or loss, including an amount of depreciation loss, as a result of something that the amalgamating company did or did not do.

Deduction of amalgamated company

(2) The amalgamated company is allowed a deduction under section DV 15(2) (Amalgamated companies: property passing on resident's restricted amalgamation) for the amount if—

(a) the amalgamating company would have been allowed the deduction but for the amalgamation; and

(b) the amalgamated company is not otherwise allowed the deduction.

Defined in this Act: amalgamated company, amalgamating company, amount, deduction, depreciation loss, loss, resident's restricted amalgamation

Compare: 2004 No 35 s FE 3

FO 9 Unexpired portion of prepaid expenditure

If an amalgamating company ends its existence on amalgamation, the unexpired portion under section EA 3 (Prepayments) of an amount of expenditure of the amalgamating company for the income year of amalgamation is treated as the amalgamated company's unexpired amount of the expenditure.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, income year, prepaid expenditure

Compare: 2004 No 35 s FE 4(a)

Property passing to amalgamated company on amalgamation

FO 10 When property passes on resident's restricted amalgamation

When this section applies

(1) This section applies when property belonging to an amalgamating company becomes the property of the amalgamated company on a resident's restricted amalgamation.

What this section does not apply to

(2) Despite subsection (1), this section—

(a) does not apply to property that is a financial arrangement, *see* sections FO 12 to FO 15:

(b) is subject to the rules for—

(i) amortising property in section FO 16:

(ii) land in section FO 17.

Property passing

(3) The amalgamating company is treated as having disposed of the property immediately before the amalgamation. The passing of ownership is treated as a disposal of the property by the amalgamating company and an acquisition of the property by the amalgamated company.

Timing and consideration

(4) Unless subsections (5) or (6) apply, the amalgamated company is treated as having acquired the property on the date on which the amalgamating company acquired it for an amount that is the sum of—

(a) the price paid for the property; and

(b) any expenditure incurred in acquiring or improving the property; and

(c) any expenditure incurred in securing or improving the amalgamating company's legal rights to the property.

Trading stock

(5) If the property is trading stock for both the amalgamating company and the amalgamated company, the consideration for the disposal and acquisition is taken as the value of the trading stock to the amalgamating company determined under subpart EB (Valuation of trading stock (including dealer's livestock)) at the time of the amalgamation.

Revenue account property

(6) If the property is revenue account property of the amalgamating company but not revenue account property of the amalgamated company, the consideration for the disposal and acquisition is taken as the market value of the property at the time of the amalgamation. But this subsection does not apply to land that is revenue account property merely because of the 2-year bright-line test in section CB 6A or the 10-year rule in any of sections CB 9 to CB 11, and CB 14 (which relate to the disposal of land), in which case section FO 17(3) may apply.

Depreciation loss

(7) An amalgamating company is allowed a deduction under section DV 15(3) (Amalgamated companies: property passing on resident's restricted amalgamation) for an amount of depreciation loss for property transferred to the amalgamated company for the period beginning on the first day of the income year of amalgamation and ending on the day before the date of the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amortising property, amount, deduction, financial arrangement, income year, land, market value, resident's restricted amalgamation, revenue account property, trading stock

Compare: 2004 No 35 ss FE 6(1)–(3B), FE 6A

Section FO 10(4)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 10(6): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FO 10(6): amended (with effect on 1 October 2015 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after that date), on 16 November 2015, by section 16(1) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

FO 11 When property passes on amalgamation other than resident's restricted amalgamation

Disposal and acquisition

(1) If property belonging to an amalgamating company becomes the property of the amalgamated company on an amalgamation that is not a resident's restricted amalgamation,—

(a) the amalgamating company is treated as having disposed of the property for an amount equal to the market value of the property at the time of the amalgamation; and

(b) the amalgamated company is treated as having acquired the property at that market value.

Relationship with section EE 41

(2) Section EE 41 (Transfer of depreciable property on certain amalgamations on or after 14 May 2002) overrides this section for the purposes of determining the cost of an item to an amalgamated company, unless the context requires otherwise.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, market value, resident's restricted amalgamation

Compare: 2004 No 35 s FE 5

FO 12 Financial arrangements: resident's restricted amalgamation, companies in wholly-owned group

When this section applies

(1) This section applies, despite sections EW 42 and GB 21 (which relate to non-market transfers of financial arrangements) in an income year in which the obligations that an amalgamating company has under a financial arrangement pass to the amalgamated company on a resident's restricted amalgamation when,—

(a) the financial arrangements rules apply to the financial arrangement; and

(b) for the whole of the income year before the amalgamation, the amalgamating company and the amalgamated company were part of the same wholly-owned group of companies; and

(c) the method of calculating income and expenditure from the financial arrangement does not change after the amalgamation, and the amalgamated company's return of income for the corresponding tax year is made on this basis; and

(d) sections IA 3 to IA 6 and subparts IB and ID (which relate to tax losses of companies and consolidated groups) do not apply to allow the amalgamating company to carry a loss balance forward from an earlier tax year for use in the tax year corresponding to the income year except if section IE 2 (Treatment of tax losses by amalgamating company) allows all tax losses included in the loss balance, and arising from earlier tax years, to be attributed to the amalgamated company as a tax loss.

Amalgamated company's election

(2) The amalgamated company may choose to apply subsections (3) and (4) in their return of income for the corresponding tax year.

Treatment of amalgamating company

(3) The amalgamating company is treated as if it had never been party to the financial arrangement. Section EW 31 (Base price adjustment formula) does not

apply, in relation to the transfer of the financial arrangement or the obligations under it.

Treatment of amalgamated company

(4) The amalgamated company is treated as if it had taken the place of the amalgamating company in relation to the financial arrangement in terms of—

(a) the date the company entered into the arrangement; and

(b) the consideration paid; and

(c) the income derived; and

(d) the expenditure incurred; and

(e) the returns of income provided.

Defined in this Act: amalgamated company, amalgamating company, consideration, corresponding income year, financial arrangement, financial arrangements rules, income, income year, loss balance, resident's restricted amalgamation, return of income, tax loss, tax year, wholly-owned group of companies

Compare: 2004 No 35 ss FE 6(5), (6), FE 7(1)(a), (2)

Section FO 12(1)(d): amended (with effect on 1 April 2020), on 30 March 2021, by section 72(1) (and see section 72(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FO 12(1)(d): amended (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 114(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FO 12 list of defined terms **consolidated group**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FO 13 Financial arrangements: resident's restricted amalgamation, calculation method unchanged

When this section applies

(1) This section applies, despite sections EW 42 and GB 21 (which relate to non-market transfers of financial arrangements) in an income year in which the obligations that an amalgamating company has under a financial arrangement pass to the amalgamated company on a resident's restricted amalgamation when—

(a) the method of calculating income and expenditure from the financial arrangement does not change after the amalgamation; and

(b) section FO 12 does not apply.

Disposal and acquisition

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

Base price adjustment and income or expenditure

(3) For the income year of the amalgamation,—

(a) the amalgamating company must calculate a base price adjustment under section EW 31 (Base price adjustment formula) as modified by subsection (4); and

(b) the amalgamated company has an amount of income or expenditure determined under subsection (5).

Base price adjustment for amalgamating company

(4) For the income year of the amalgamation, the consideration for the disposal and acquisition of the financial arrangement is an amount that results in the base price adjustment for the amalgamating company under section EW 31 representing for the amalgamating company an allocation that is fair and reasonable, as between the amalgamating company and the amalgamated company, of the income or expenditure relating to the financial arrangement that the amalgamating company would have derived or incurred in the income year if the amalgamation had not taken place.

Income or expenditure of amalgamated company

(5) For the income year of the amalgamation, the amalgamated company has an amount of income or expenditure that represents for the amalgamated company an allocation that is fair and reasonable, as between the amalgamating company and the amalgamated company, of the income or expenditure relating to the financial arrangement that the amalgamating company would have derived or incurred in the income year if the amalgamation had not taken place.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, consideration, dispose, financial arrangement, income, income year, resident's restricted amalgamation

Compare: 2004 No 35 ss FE 6(5), (7), FE 7(1)(b), (3)

Section FO 13(2) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 13(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 13(3) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 13(3): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a

tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 13(4) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 13(4): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 13(5) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section FO 13(5): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying for a person and a financial arrangement if the person has taken a tax position for the financial arrangement relying on this section in the absence of the amendment made by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016; and for the 2008–09 or a later income year; and in a tax return filed before 26 February 2015), on 24 February 2016, by section 178(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

FO 14 Financial arrangements: resident's restricted amalgamation, other cases

When this section applies

(1) This section applies in an income year in which a financial arrangement belonging to an amalgamating company passes to the amalgamated company on a resident's restricted amalgamation when sections FO 12 and FO 13 do not apply.

Market value

(2) The amalgamating company is treated as having disposed of the financial arrangement. The consideration for the disposal is the market value of the financial arrangement on the date the amalgamated company acquires it.

Defined in this Act: amalgamated company, amalgamating company, consideration, financial arrangement, income year, market value, resident's restricted amalgamation

Compare: 2004 No 35 ss FE 6(5), (8), FE 7(1)(b), (4)

FO 15 Financial arrangements: amalgamation other than resident's restricted amalgamation

When this section applies

(1) This section applies when an obligation that an amalgamating company has in relation to a financial arrangement passes to the amalgamated company on an amalgamation that is not a resident's restricted amalgamation.

Market value for amalgamating company

(2) The amalgamating company is treated as having disposed of the financial arrangement or relieved itself of the obligations immediately before the amalgamation. The consideration for the disposal is the market price for assuming the obligations at the time of the amalgamation.

Market value for amalgamated company

(3) The amalgamated company is treated as having acquired the financial arrangement or assumed the obligations immediately after the amalgamation. The consideration for the acquisition is the market value of the property at the time of the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, consideration, financial arrangement, market value, resident's restricted amalgamation

Compare: 2004 No 35 s FE 5

FO 16 Amortising property

When this section applies

(1) This section applies in an income year in which amortising property belonging to an amalgamating company passes to the amalgamated company on a resident's restricted amalgamation. The passing of ownership is treated as a disposal of the property by the amalgamating company and an acquisition by the amalgamated company.

Treatment of amalgamating company

(1B) The amalgamating company is treated as neither deriving income nor having a deduction under sections EE 24 to EE 53 (which relate to disposals of depreciable property) as a result of the deemed disposal.

Value: all pool property

(2) If the amortising property forms the whole of a pool of property of the amalgamating company that is depreciated under sections EE 20 to EE 24 (which relate to depreciation under the pool method), the consideration for the disposal and acquisition is taken as the adjusted tax value of the pool immediately before the amalgamation.

Value: part pool property

(3) If the amortising property forms part of a pool of property of the amalgamating company that is depreciated under sections EE 20 to EE 24, the consideration for the disposal and acquisition is taken as the lesser of—

(a) the market value of the property; or

(b) the adjusted tax value of the pool immediately before the amalgamation.

Deductions for depreciation loss

(4) If the amortising property is other than pool property of the amalgamating company, the amalgamated company is treated as having been allowed the deduction that the amalgamating company would have had for an amount of depreciation loss, or a deduction under any other amortisation provision of this Act, relating to the property.

Defined in this Act: acquire, adjusted tax value, amalgamated company, amalgamating company, amortising property, amount, deduction, depreciation loss, dispose, income year, market value, other amortisation provision, pool, resident's restricted amalgamation

Compare: 2004 No 35 s FE 6(1), (4)

Section FO 16(1B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 235(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section FO 16(1B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 235(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

FO 17 Land

When this section applies

(1) This section applies when land belonging to an amalgamating company passes to the amalgamated company on a resident's restricted amalgamation.

Disposal at market value

(2) The amalgamating company is treated as having disposed of the land to the amalgamated company at the market value of the land at the date of the amalgamation if—

(a) the land is not revenue account property of the amalgamating company, and the disposal of the land would give rise to income for the amalgamated company under any of sections CB 6A to CB 14 (which relate to the disposal of land):

(b) the land is revenue account property of the amalgamating company but not merely because of the 2-year bright-line test in section CB 6A or the 10-year rule in any of sections CB 9 to CB 11 and CB 14, and the land is, or may be, revenue account property of the amalgamated company because of the 2-year bright-line test or the 10-year rule.

Disposal of land within 2-year bright-line test or 10-year rule

(3) If the land is, or may be, revenue account property of the amalgamating company because of the 2-year bright-line test in section CB 6A or the 10-year rule in any of sections CB 9 to CB 11 and CB 14, and the amalgamated company disposes of the land within the relevant 2-year or 10-year period after the amalgamating company acquired it, an amount derived from the disposal is

income of the amalgamated company under whichever is applicable of sections CB 6A to CB 14.

Defined in this Act: amalgamated company, amalgamating company, amount, income, land, resident's restricted amalgamation, revenue account property

Compare: 2004 No 35 s FE 6(3A), (3B)

Section FO 17(2) heading: replaced (with effect on 1 October 2015), on 16 November 2015, by section 17 of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section FO 17(2): replaced (with effect on 1 October 2015), on 16 November 2015, by section 17 of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section FO 17(2)(a): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FO 17(2)(a): amended (with effect on 27 March 2021), on 30 March 2021, by section 73(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section FO 17(2)(b): replaced, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FO 17(3) heading: replaced, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section FO 17(3): replaced, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Treatment of financial arrangements between amalgamating companies

FO 18 When amalgamating companies are parties to financial arrangement

When this section applies

(1) This section applies when amalgamating companies are parties to a financial arrangement that exists on the date of the amalgamation of the companies and section FO 21 does not apply.

Financial arrangement discharged

(2) The financial arrangement is, for the purposes of section EW 31 (Base price adjustment formula), treated as having been discharged immediately before the amalgamation. The consideration for the discharge is as follows:

(a) on a resident's restricted amalgamation,—

(i) if the amalgamating company is solvent, the consideration is the accrued balance for the financial arrangement:

(ii) if the amalgamating company is insolvent but is likely to be able to meet its obligations under the financial arrangement, the consideration is the accrued balance for the financial arrangement:

(iii) if the amalgamating company is insolvent and is unlikely to be able to meet its obligations under the financial arrangement, the consideration is the market value of the financial arrangement on the date of the amalgamation:

(b) on an amalgamation other than a resident's restricted amalgamation, the consideration is the market value of the financial arrangement on the date of the amalgamation.

When subsection (4) applies

(3) Subsection (4) applies when an amalgamating company that is the borrower under the financial arrangement—

(a) is solvent; or

(b) is insolvent but is likely to be able to meet its obligations under the financial arrangement.

No remission

(4) The other party to the financial arrangement is not regarded as remitting an amount in excess of the consideration treated as paid for the discharge under subsection (2)(a)(i) or (ii) or (b), as applicable, merely by virtue of the discharge.

When subsection (6) applies

(5) Subsection (6) applies when an amalgamating company that is the borrower under the financial arrangement is insolvent and is unlikely to meet its financial obligations under the financial arrangement.

Market value treated as paid

(6) For the purposes of section EW 31, the financial arrangement is treated as discharged immediately before the amalgamation and the market value of the financial arrangement is treated as being paid by the amalgamating company to the other party to the financial arrangement.

Amount remitted

(7) For the purposes of subsection (6), the other party to the financial arrangement is treated as having remitted an amount equal to the excess over market value of the outstanding accrued balance for the financial arrangement, *see* section FO 20.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, company, consideration, financial arrangement, market value, pay, resident's restricted amalgamation

Compare: 2004 No 35 s FE 10(1)–(5), (6)(c)

Section FO 18(1) heading: replaced, on 1 April 2017, by section 115 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FO 18(1): replaced, on 1 April 2017, by section 115 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FO 18(2) heading: substituted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(2): substituted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(3) heading: substituted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(3): substituted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(4) heading: substituted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(4): substituted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(5) heading: added (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(5): added (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(6) heading: added (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(6): added (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(7) heading: added (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18(7): added (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 66(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section FO 18 list of defined terms **pay**: inserted (with effect on 1 April 2008), on 21 December 2010, by section 66(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

FO 19 Calculation of outstanding accrued balance: consideration for discharge

Formula

(1) In section FO 18(2)(a), the outstanding accrued balance is calculated using the formula—

consideration + prior expenditure + expenditure accrued in year
− income accrued in year − consideration paid.

Definition of items in formula

(2) In the formula,—

(a) **consideration** is the consideration paid to the amalgamating company under the financial arrangement:

(b) **prior expenditure** is the expenditure that the amalgamating company incurs less the income that it derives from the financial arrangement calculated under either a spreading method or section EW 53 (Adjustment

required) in all income years other than the current income year from the time the financial arrangement was entered into:

(c) **expenditure accrued in year** is the expenditure that the amalgamating company accrues from the financial arrangement for the period from the first day of the income year in which the amalgamation occurs to the date of the amalgamation, calculated either—

(i) if the amalgamating company was party to the financial arrangement in an earlier income year, using the spreading method it used to calculate income and expenditure under the financial arrangement in the income year; or

(ii) using a spreading method that the amalgamating company chooses, if the method could have been used if the income year had ended immediately before the amalgamation:

(d) **income accrued in year** is the income that the amalgamating company accrues from the financial arrangement for the period described in paragraph (c) and calculated as described in that paragraph:

(e) **consideration paid** is the consideration that the amalgamating company pays for the financial arrangement before the date of the amalgamation.

Defined in this Act: amalgamating company, amalgamation, consideration, financial arrangement, income, income year, pay, spreading method

Compare: 2004 No 35 s FE 10(6)(a)

FO 20 Calculation of outstanding accrued balance: amounts remitted

Formula

(1) In section FO 18(7), the outstanding accrued balance is calculated using the formula—

consideration + prior income + income accrued in year
− expenditure accrued in year − consideration paid.

Definition of items in formula

(2) In the formula,—

(a) **consideration** is the consideration paid by the party under the financial arrangement:

(b) **prior income** is the income that the party derives less the expenditure that it incurs under the financial arrangement calculated under either a spreading method or section EW 53 (Adjustment required) in all income years other than the current income year from the time the financial arrangement was entered into:

(c) **income accrued in year** is the income that the party accrues from the financial arrangement for the period from the first day of the income year in which the amalgamation occurs to the date of the amalgamation, calculated either—

(i) using the spreading method used to calculate income and expenditure under the financial arrangement in the income year, if the party was a party to the financial arrangement in an earlier income year; or

(ii) using a spreading method that the party chooses, if the method could have been used if the income year had ended immediately before the amalgamation:

(d) **expenditure accrued in year** is the expenditure that the party accrues under the financial arrangement for the period described in paragraph (c) and calculated as described in that paragraph:

(e) **consideration paid** is the consideration paid to the party under the financial arrangement before the date of the amalgamation.

Defined in this Act: amalgamation, consideration, financial arrangement, income, income year, spreading method

Compare: 2004 No 35 s FE 10(6)(b)

Section FO 20(1): amended, on 30 March 2017, by section 116 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FO 21 When amalgamating companies are parties to financial arrangements: economic groups

When this section applies

(1) This section applies when—

(a) amalgamating companies are parties to a financial arrangement that exists on the date of the amalgamation; and

(b) section EW 46C(1)(a) or (b) (Consideration when debt remitted within economic group) applies to the amalgamating companies as creditor and debtor for the financial arrangement; and

(c) section EW 46C(3) does not apply.

Consideration: debtor

(2) The debtor is treated as having paid the amount of the financial arrangement on the date of the amalgamation.

Consideration: creditor

(3) The creditor is treated as having been paid the amount of the financial arrangement on the date of the amalgamation.

Defined in this Act: amalgamating company, amalgamation, amount, financial arrangement, pay

Section FO 21: inserted, on 1 April 2017, by section 117 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section FO 21(1)(b): amended (with effect on 1 April 2008), on 30 March 2022, by section 110 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Subpart FP—Tax relief for emergencies

Subpart FP: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

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General provisions

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 1 Outline of subpart

General outline

(1) This section outlines the provisions of this subpart that may be brought into effect to provide tax relief to a person in response to an emergency event.

Specific provisions

(2) The provisions in this subpart provide—

- (a) rollover relief for certain affected property that is—
  - (i) land or buildings held on revenue account, *see* sections FP 5 to FP 7:
  - (ii) depreciable property, *see* sections FP 8 to FP 11:
  - (iii) improvements to land, *see* section FP 12:
- (b) relief when—
  - (i) income-earning activities are interrupted, *see* section FP 13:
  - (ii) depreciable property is damaged, *see* sections FP 14 and FP 15:

(iii) access to depreciable property is restricted, *see* section FP 16:

(c) some optional timing rules for the treatment of—

(i) depreciable property, *see* sections FP 17 and FP 18:

(ii) group assets, *see* section FP 19:

(d) employment-related relief relating to exempt income, fringe benefits, and accommodation expenditure, *see* sections FP 20 to FP 22:

(e) spreading rules when livestock are destroyed because of an emergency event, *see* sections FP 23 to FP 26:

(f) some relief from land sales rules, *see* section FP 27.

Definitions

(3) Section FP 3 contains the definitions relevant for this subpart.

Defined in this Act: affected property, depreciable property, emergency event, exempt income, fringe benefit, land

Section FP 1: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 2 Application to emergency events

This subpart applies when there is an emergency event and the Governor-General has made regulations under section 6J of the Tax Administration Act 1994 declaring that 1 or more of the provisions in this subpart apply in relation to the emergency event.

Defined in this Act: emergency event

Section FP 2: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 3 Definitions for the purposes of subpart FP

In subpart FP, —

affected class means 1 of the following classes of the person's depreciable property that the affected depreciable property is included in:

(a) buildings:

(b) commercial fit-out not referred to in paragraph (c):

(c) commercial fit-out for which the person uses the pool method:

(d) depreciable property for which the person uses the pool method, other than commercial fit-out:

(e) depreciable property not referred to in paragraphs (a) to (d)

affected depreciable property means depreciable property that—

(a) is not depreciable intangible property; and

(b) is included in an affected class; and

(c) as a result of an emergency event, is affected by—

(i) damage that meets the requirements of section EE 47(4) (Events for purposes of section EE 44); or

(ii) a disposal and reacquisition under section FP 14

affected depreciation loss means, for an affected class,—

(a) the total amount of depreciation loss under section EE 48(2) (Effect of disposal or event), treated as a positive amount, that the person has for all items of affected depreciable property in the affected class for which the compensation received for the item is less than the adjusted tax value of that item; or

(b) in any other case, zero

affected depreciation recovery income means, for an affected class, the total amount of depreciation recovery income the person would have, in the absence of this subpart, from the compensation received for each item of affected depreciable property in the affected class under section EE 48(1)

affected improvement to land means an improvement to land subject to section DO 4 or DO 5 (which relate to improvements to farmland and expenditure on horticultural plants) that has been damaged or destroyed in an emergency event

affected property means—

(a) affected depreciable property:

(b) affected improvements to land:

(c) affected revenue property

affected revenue property means a person's land or building that is—

(a) revenue account property under section CB 6, CB 7, CB 12, or CB 13 (which relate to income from certain disposals of land); and

(b) damaged by an emergency event; and

(c) useless for the purposes of deriving income as a result of that event; and

(d) if it is a building, required to be demolished or abandoned for later demolition due to the damage to the land, building, or the neighbourhood of the building

compensation means—

(a) insurance or another amount in recognition of loss:

(b) for affected revenue property, an amount that a person derives from insurance, a government or local authority buy-out, or other amount in recognition of loss, or a combination of these, that would be income of the person under section CB 6, CB 7, CB 12, CB 13, or CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) in the absence of this subpart

cost deductions means, for affected revenue property, the total amount of a person's deductions under section DB 23 (Cost of revenue account property) for that property

current year means an income year that falls within the emergency event period in relation to which a person may apply a provision in this subpart

emergency event period means the period—

(a) beginning with the start of the income year in which the emergency event first occurs; and

(b) ending with either—

(i) the last day of the income year that is 5 income years after the income year referred to in paragraph (a); or

(ii) a later date specified by the Governor-General by Order in Council made under section 6J of the Tax Administration Act 1994

replacement cost means the amount of expenditure a person incurs to acquire replacement property

replacement property means property that replaces affected property and is,—

(a) for affected revenue property, a building or land that is revenue account property located in New Zealand:

(b) for affected depreciable property, property—

(i) included in the same class, as described in the definition of affected class, as the affected depreciable property; and

(ii) located in New Zealand:

(c) for an affected improvement to land, an improvement to farmland as described in schedule 20, part A (Expenditure on farming, horticultural, aquacultural, and forestry improvements) or a listed horticultural plant located in New Zealand

suspended recovery income—

(a) is defined in section FP 6 for the purposes of affected revenue property:

(b) is defined in section FP 9 for the purposes of an affected class of depreciable property:

(c) is defined in section FP 12(3) for the purposes of affected improvements to land.

Defined in this Act: acquire, adjusted tax value, affected class, affected depreciable property, affected depreciation loss, affected depreciation recovery income, affected improvement to land, affected property, affected revenue property, amount, commercial fit-out, compensation, cost deductions, current year, deduction, depreciable intangible property, depreciable property, depreciation loss, depreciation recovery income, dispose, emergency event, emergency event period, farmland, income, income year, land, listed horticultural plant, local authority, New Zealand, pool method, replacement cost, replacement property, revenue account property, suspended recovery income

Section FP 3: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Rollover relief: property

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 4 Summary of property rollover relief provisions

Guidance

(1) This section is intended to provide guidance on sections FP 5 to FP 12. If a conflict arises between this section and another provision of this subpart, that other provision prevails.

Summary of provisions

(2) Sections FP 5 to FP 12 are intended to defer any unanticipated tax liability arising from the receipt of compensation for certain assets destroyed by an emergency event. In general, the sections do this by suspending the recognition of the amount of that compensation as income that exceeds the cost of the assets and rolling it over to use it to reduce the acquisition cost of replacement property. Any amount unused at the end of the emergency event period will be income of the person at that time. The amount will also be income of the person if they decide not to acquire replacement property or they go into liquidation or become bankrupt before the end of the emergency event period.

Suspended recovery income

(3) The definition of suspended recovery income differs depending on the type of property. For land and buildings under section FP 5, suspended recovery income is the amount by which the compensation for the damaged property exceeds the cost of the property. For depreciable property under section FP 8, suspended recovery income is the total depreciation recovery income for the affected class of depreciable property. This is the extent to which the compensation exceeds the adjusted tax value for each item of affected depreciable property in the class, capped at the amount of depreciation deductions claimed for the relevant item. For items when the compensation received is less than the adjusted tax value, the difference is deducted from the class total. For improvements to land under section FP 12, suspended recovery income is the amount of compensation that would have been income under section CG 4 (Receipts for expenditure or loss from insurance, indemnity, or otherwise), absent this subpart. Section CG 4 limits the amount of income to the deduction for the land improvement.

Reduction of suspended recovery income

(4) Suspended recovery income is reduced when a person acquires replacement property. The reduction occurs each time an item is replaced. The amount that remains at the end of the income year that is 5 income years after the income year in which the emergency event first occurs, or at the point the person

decides not to acquire any more replacement property, or goes into liquidation or becomes bankrupt, is income of the person.

Impact on asset values

(5) For land, buildings, and depreciable property, spent suspended recovery income reduces the cost of the replacement property for tax purposes (*see* sections FP 7 and FP 11). When the replacement property is subsequently disposed of, the extent to which the difference between the cost for tax purposes and the sale proceeds is taxable is determined by normal tax rules. For land improvements, the value attributed to the replacement is zero unless the replacement cost exceeds the amount of suspended recovery income, in which case the excess is attributed.

Defined in this Act: acquire, adjusted tax value, affected class, affected depreciable property, amount, compensation, deduction, depreciable property, depreciation recovery income, dispose, emergency event, emergency event period, income, income year, land, liquidation, replacement cost, replacement property, suspended recovery income

Section FP 4: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Replacements: revenue account property

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 5 Replacement property for land or buildings affected by emergency events

When this section applies

(1) This section applies for a person and a current year when the person—

(a) owns affected revenue property; and

(b) receives an amount of compensation in or before the current year for the affected revenue property that exceeds their cost deductions for that property; and

(c) plans in the current year to acquire replacement property, and the replacement cost exceeds their cost deductions for the affected revenue property; and

(d) notifies the Commissioner of their decision to suspend recognition of the amount of their suspended recovery income in accordance with section 226H of the Tax Administration Act 1994.

Suspended recovery income

(2) The person has an amount of income under section CC 2B (Compensation for land or buildings affected by emergency events) for the amount of the suspended recovery income for the affected revenue property for the current year when—

(a) the current year ends, if the current year is the final income year of the emergency event period; or

(b) in the current year, the person decides not to replace the affected revenue property; or

(c) in the current year, the person goes into liquidation or becomes bankrupt.

Relationship to other sections

(3) This section overrides sections CB 6, CB 7, CB 12, and CB 13 (which relate to income from certain disposals of land), and CG 6 (Receipts from insurance, indemnity, and compensation for trading stock).

Defined in this Act: acquire, affected revenue property, amount, Commissioner, compensation, cost deductions, current year, emergency event period, income, income year, liquidation, notify, replacement cost, replacement property, suspended recovery income

Section FP 5: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 6 Meaning of suspended recovery income for affected revenue property

Suspended recovery income

(1) Subject to subsection (2), the amount of suspended recovery income a person has for their affected revenue property is the amount by which the compensation received by the person exceeds their cost deductions for that property.

When property replaced

(2) When a person replaces their affected revenue property, the amount of their suspended recovery income under subsection (1) is reduced by the amount of the replacement cost adjustment calculated under subsection (3) or (5), as applicable.

Replacement cost adjustment: compensation exceeds replacement cost

(3) If the compensation received by the person for the affected revenue property exceeds the replacement cost of the replacement property and is equal to or exceeds the amount calculated under this subsection, the replacement cost adjustment is the amount calculated under the following formula:

(replacement cost ÷ cost deductions) × (compensation − replacement cost).

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **replacement cost** is the replacement cost, as defined in section FP 3, of the replacement property:

(b) **cost deductions** is the cost deductions, as defined in section FP 3, of the affected revenue property:

(c) **compensation** is the compensation, as defined in section FP 3, received for the affected revenue property.

Replacement cost adjustment: compensation less than replacement cost

(5) If the compensation received by the person for the affected revenue property is less than or equal to the replacement cost or the compensation is less than the

amount calculated under subsection (3), the replacement cost adjustment is the amount of the suspended recovery income under subsection (1).

Defined in this Act: affected revenue property, amount, compensation, cost deductions, replacement cost, replacement property, suspended recovery income

Section FP 6: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 7 Cost of replacement property for section DB 23

For the purposes of section DB 23 (Cost of revenue account property) and determining the amount of a person's expenditure incurred as the cost of replacement property that a person acquires to replace affected revenue property, the person's replacement cost is reduced by the amount of the replacement cost adjustment determined under section FP 6(3) or (5), as applicable.

Defined in this Act: acquire, affected revenue property, amount, replacement cost, replacement property

Section FP 7: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Replacements: depreciable property

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 8 Replacement property for depreciable property affected by emergency events

When this section applies

(1) This section applies for a person and a current year when the person—

(a) owns 1 or more items of affected depreciable property that are in the same affected class; and

(b) in or before the current year receives compensation for the items of affected depreciable property; and

(c) has an amount of affected depreciation recovery income; and

(d) has an amount of affected depreciation loss that is less than the amount of affected depreciation recovery income; and

(e) plans in the current year to acquire replacement property; and

(f) notifies the Commissioner of their decision to suspend recognition of their suspended recovery income in accordance with section 226H of the Tax Administration Act 1994.

Depreciation recovery income

(2) The person has, in the current year, an amount of depreciation recovery income under section CG 1 (Amount of depreciation recovery income) for an affected class equal to the amount of suspended recovery income for the affected class—

(a) at the end of the current year, if the current year is the final income year of the emergency event period; or

(b) when, in the current year, the person decides not to acquire any more replacement property for the affected class; or

(c) when, in the current year, the person goes into liquidation or becomes bankrupt.

Relationship to subpart EE

(3) This section overrides subpart EE (Depreciation).

Defined in this Act: acquire, affected class, affected depreciable property, affected depreciation loss, affected depreciation recovery income, amount, Commissioner, compensation, current year, depreciation recovery income, emergency event period, income year, liquidation, notify, replacement property, suspended recovery income

Section FP 8: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 9 Meaning of suspended recovery income for affected class

Suspended recovery income

(1) Subject to subsection (2), the amount of suspended recovery income a person has for an affected class is the amount by which the affected depreciation recovery income for that class exceeds the affected depreciation loss for that class.

When property replaced

(2) When the person replaces an item of their affected depreciable property, the amount of their suspended recovery income for the affected class under subsection (1) is reduced by the amount of the replacement reduction calculated under section FP 10.

Defined in this Act: affected class, affected depreciable property, affected depreciation loss, affected depreciation recovery income, amount, suspended recovery income

Section FP 9: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 10 Replacement reduction for affected depreciable property

When this section applies

(1) This section applies for the purposes of sections FP 9 and FP 11 to determine the amount of the replacement reduction when affected depreciable property is replaced.

Replacement property for which person does not use pool method

(2) If the person acquires an item of replacement property and links it with an affected class of affected depreciable property for which the person does not use the pool method, the amount of the replacement reduction is—

(a) zero, if the cost of the affected class is equal to or less than the person's total replacement costs in acquiring, before that item, other replacement property linked with the affected class; or

(b) in any other case, calculated using the formula—

limited replacement cost × class excess recovery ÷ affected class cost.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **limited replacement cost** is the lesser of—

(i) the amount by which the cost of the affected class exceeds the total replacement costs in acquiring, before the item of replacement property, other replacement property linked with the affected class; and

(ii) the replacement cost of that item:

(b) **class excess recovery** is the amount by which the affected depreciation recovery income for an affected class exceeds the affected depreciation loss for that class:

(c) **affected class cost** is the total cost for the person of the affected class.

Replacement property for which person uses pool method

(4) If the person acquires an item of replacement property and links it with an affected class of affected depreciable property for which the person uses the pool method, the amount of the replacement reduction is the lesser of—

(a) the replacement cost of the item; and

(b) the amount of suspended recovery income that remains for the class of affected property after the acquisition of other replacement property but before the acquisition of the item of replacement property.

Order of acquisition for items acquired at same time

(5) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in their first return of income in which the acquisition is taken into account.

Defined in this Act: acquire, affected class, affected depreciable property, affected depreciation loss, affected depreciation recovery income, amount, pool method, replacement cost, replacement property, return of income, suspended recovery income

Section FP 10: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 11 Effect of replacing affected depreciable property on subpart EE

When this section applies

(1) This section applies for the purposes of subpart EE (Depreciation) when a person—

(a) acquires an item of replacement property (**replacement item**) to replace affected depreciable property:

(b) disposes of the replacement item.

Replacement property linked to affected class for which person does not use pool method

(2) If the person acquires the replacement item and links it with an affected class for which the person does not use the pool method, the amount of the replacement reduction in section FP 10(2) is treated as not being included in the replacement cost of the replacement item for the purposes of determining,—

(a) under section EE 16(4) (Amount resulting from standard calculation), the item **value or cost** for the replacement item, if the person uses the diminishing value method or straight-line method for that item; or

(b) under section EE 22 (Cases affecting pool), the cost of the replacement item, if the person uses the pool method for the replacement item.

Replacement property linked to affected class for which person uses pool method

(3) If the person acquires a replacement item and links the item with an affected class for which the person uses the pool method, the replacement cost of the replacement item is treated as being reduced by the replacement reduction in section FP 10(4) for the purposes of determining—

(a) the adjusted tax value of the replacement item, if paragraph (b) or (c) does not apply; or

(b) the cost of the replacement item for the straight-line method, if that method is used to determine depreciation loss for the replacement item; or

(c) the adjusted tax value of the pool of the replacement item, if the person uses the pool method for the replacement item.

Disposal of replacement property: reduction in cost treated as depreciation loss

(4) For the purposes of section EE 48 (Effect of disposal or event), when a person disposes of a replacement item, the amount by which the replacement cost on the replacement item is treated as being reduced under subsection (2) or (3) is an amount of depreciation loss for the replacement item for which the person has been allowed a deduction.

Defined in this Act: acquire, adjusted tax value, affected class, affected depreciable property, amount, deduction, depreciation loss, diminishing value method, dispose, pool method, replacement cost, replacement property, straight-line method

Section FP 11: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Replacements: improvements to land

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 12 Replacement property for improvements to land affected by emergency events

When this section applies

(1) This section applies for a person and a current year when the person—

(a) receives an amount of compensation in or before the current year for an affected improvement to land; and

(b) would have, in the absence of this section, in or before the current year, a total amount of income under section CG 4 (Receipts for expenditure or loss from insurance, indemnity, or otherwise) from the compensation for the affected improvement to land; and

(c) has had deductions for the affected improvement to land under 1 or more of section DO 4, DO 5, or DO 11 (which relate to improvements to land); and

(d) plans in the current year to acquire replacement property; and

(e) notifies the Commissioner of their decision to suspend recognition of their suspended recovery income for the affected improvement to land in accordance with section 226H of the Tax Administration Act 1994.

Suspended recovery income

(2) The person has an amount of income under section CC 2C (Compensation for improvements to land affected by emergency events) for the amount of the suspended recovery income for the affected improvement to land for the current year when—

(a) the current year ends, if the current year is the final income year of the emergency event period and the person has not acquired replacement property:

(b) in the current year, the person decides not to replace the affected improvement to land:

(c) in the current year, the person goes into liquidation or becomes bankrupt.

Meaning of suspended recovery income

(3) The amount of suspended recovery income a person has for their affected improvement to land is the amount of compensation received for that affected improvement to land that would have been income under section CG 4 in the absence of this section.

When compensation more than replacement cost

(4) If the person acquires replacement property in the current year and the compensation received for the affected improvement to land exceeds the replacement

cost, the person has an amount of income under section CC 2C for the amount, if any, by which the original cost for the affected improvement to land exceeds the replacement cost.

Value of replacement property

(5) If the person acquires replacement property, the value attributed to the replacement cost of the affected improvement to land for the purposes of section DO 4, DO 5, or DO 11, as applicable, is,—

(a) if the suspended recovery income is equal to or greater than the replacement cost, zero:

(b) if the suspended recovery income is less than the replacement cost, the amount by which the replacement cost exceeds the suspended recovery income.

Relationship to section CG 4

(6) This section overrides section CG 4.

Defined in this Act: acquire, affected improvement to land, amount, Commissioner, compensation, current year, deduction, emergency event period, income, income year, liquidation, notify, replacement cost, replacement property, suspended recovery income

Section FP 12: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Deductions and depreciation

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Interruption expenditure

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 13 Treatment of expenditure when income-earning activity interrupted

When this section applies

(1) This section applies for a person and the current year when—

(a) the person has an income-earning activity in New Zealand immediately before an emergency event; and

(b) the activity is interrupted for a period (the **period of interruption**) as a result of the emergency event; and

(c) in the current year, during the period of interruption, the person incurs expenditure or loss (the **interruption expenditure**) in meeting an obligation relating to the income-earning activity; and

(d) the interruption expenditure does not meet the requirements of the general permission for the person and the income-earning activity, but would do so but for the interruption; and

(e) the person resumes the income-earning activity in the emergency event period.

Deduction for interruption expenditure

(2) The person is allowed a deduction for the interruption expenditure under section DB 70 (Deduction for interruption expenditure due to emergency event).

Timing of deduction

(3) The deduction is allocated to the income year in which the person resumes the income-earning activity.

Defined in this Act: current year, deduction, emergency event, emergency event period, general permission, income year, loss, New Zealand

Section FP 13: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

When certain items of depreciable property damaged

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 14 When property uneconomic to repair

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by an emergency event; and

(b) the person is entitled to an amount of compensation for the damage to the item; and

(c) the person reasonably assesses that the item is uneconomic to repair; and

(d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44).

Treatment as disposal and reacquisition of items

(2) The person is treated as, on the date of the emergency event,—

(a) disposing of the item for the amount of compensation; and

(b) reacquiring the item for zero consideration.

Relationship with section EE 52

(3) This section overrides section EE 52 (Amount of depreciation recovery income when compensation received).

Defined in this Act: amount, compensation, depreciable property, dispose, emergency event

Section FP 14: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 15 Insurance for damage of property caused by emergency event: limit on depreciation recovery income

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by an emergency event; and

(b) the person is entitled to an amount of compensation for the damage to the item; and

(c) the person would, in the absence of this section, derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item; and

(d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(e) section FP 14 does not apply in relation to the item.

Limit on depreciation recovery income under section EE 52

(2) The person derives an amount of depreciation recovery income in the income year that is equal to the lesser of—

(a) the amount of depreciation recovery income that the person would derive in the income year for the item under section EE 52 in the absence of this section; and

(b) the total amount of depreciation loss for which the person has a deduction for the item.

Relationship with section EE 52

(3) This section overrides section EE 52.

Defined in this Act: amount, compensation, deduction, depreciable property, depreciation loss, depreciation recovery income, emergency event, income year

FP 16 Item treated as available for use if access restricted due to emergency event

An item of depreciable property is treated as being available for use in a current year when access to the item is affected by a restriction imposed due to the effects of an emergency event if—

(a) the item was used or available for use immediately before the restriction was imposed; and

(b) the item would be used or available for use in the absence of the restriction.

Defined in this Act: current year, depreciable property, emergency event

Section FP 16: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Optional timing rules

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Certain optional timing rules for depreciable property

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 17 Insurance for emergency event damage causing disposal: optional timing rule for income, deductions

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by an emergency event; and

(b) the damage—

(i) results in the item being affected by a disposal and reacquisition under section FP 14; or

(ii) meets the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(c) the person is entitled to an amount of compensation for the damage to the item; and

(d) the person chooses to apply this section for all items of depreciable property to which paragraphs (a) to (c) apply.

Timing of income from compensation and consideration from disposals

(2) When the amount of compensation for the damage is derived or able to be reasonably estimated before the end of the emergency event period, the person's income from the compensation and the consideration derived from the disposal of the item are attributed to the earlier of—

(a) the first income year in which—

(i) the amount of the cost of disposing of the item (the **disposal cost**) is, or has been, incurred or able to be reasonably estimated; and

(ii) the amount of compensation is, or has been, derived or able to be reasonably estimated; and

(iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated; and

(b) the final income year in the emergency event period.

Timing of deductions for disposal costs and depreciation loss

(3) When the disposal cost is incurred or able to be reasonably estimated before the end of the emergency event period, the person's deductions for the disposal cost and for depreciation loss under section EE 48 (Effect of disposal or event) are attributed to the earlier of—

(a) the first income year in which—

(i) the disposal cost is, or has been, incurred or able to be reasonably estimated; and

(ii) the amount of compensation is, or has been, derived or able to be reasonably estimated; and

(iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated; and

(b) the final income year in the emergency event period.

Relationship with other sections

(4) This section overrides sections EE 1, EE 22, and EE 48 (which relate to the timing of depreciation loss and depreciation recovery income) in relation to the timing of the person's—

(a) income from the compensation and consideration from the disposal of the item:

(b) deductions for the disposal cost and depreciation loss.

Defined in this Act: amount, compensation, deduction, depreciable property, depreciation loss, dispose, emergency event, emergency event period, income, income year

Section FP 17: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 18 Insurance for repairs of emergency event damage: optional timing rule for income, deductions

When this section applies

(1) This section applies for a person and an item of depreciable property when—

(a) the item is damaged by an emergency event; and

(b) the damage—

(i) does not result in the item being affected by a disposal and reacquisition under section FP 14; and

(ii) does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and

(c) the person is entitled to an amount of compensation for the damage to the item; and

(d) the person chooses to apply this section for all items of depreciable property to which paragraphs (a) to (c) apply.

Timing of income from compensation

(2) When the amount of compensation for the damage is derived or able to be reasonably estimated before the end of the emergency event period, the person's income from the compensation is attributed to the earlier of—

(a) the first income year in which—

(i) the amount of expenditure for total repair of the damage (the **repair cost**) is, or has been, incurred or able to be reasonably estimated; and

(ii) the amount of compensation is, or has been, derived or able to be reasonably estimated; and

(b) the final income year in the emergency event period.

Timing of deductions for repair costs

(3) If the repair cost is incurred or able to be reasonably estimated before the end of the emergency event period, the person's deduction for that cost is attributed to the earlier of—

(a) the first income year in which—

(i) the cost is, or has been, incurred or able to be reasonably estimated; and

(ii) the amount of compensation is, or has been, derived or able to be reasonably estimated; and

(b) the final income year in the emergency event period.

Relationship with other sections

(4) This section overrides sections CG 4, EE 22, and EE 52 (which provide for receipts of insurance or indemnity payments) in relation to the timing of the person's—

(a) income from the compensation:

(b) deduction for the repair cost.

Defined in this Act: amount, compensation, deduction, depreciable property, dispose, emergency event, emergency event period, income, income year

Section FP 18: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Optional rule for valuation of group assets

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 19 Optional rules for valuation of group assets

When this section applies

(1) This section applies for the purposes of sections FE 16 (Total group assets) and FE 18 (Measurement of debts and assets of worldwide group) and a person when—

(a) an asset of the person's New Zealand group is damaged as a result of an emergency event; and

(b) the asset is impaired or derecognised under generally accepted accounting practice as a result of the damage; and

(c) insurance for the damage is recognised at a later date under generally accepted accounting practice; and

(d) the person has notified the Commissioner in the manner provided by section 226I of the Tax Administration Act 1994 that they have chosen to apply this section.

Optional treatment of insurance

(2) The person may choose to include an amount of the insurance, corresponding to the amount of the impairment or the derecognised value of the asset, in the value of the total group assets of the person's New Zealand group during the period—

(a) beginning with the impairment or derecognition of the asset; and

(b) ending before the earlier of—

(i) the recognition of the amount of compensation; and

(ii) the beginning of the final income year in the emergency event period.

Corresponding treatment for worldwide group

(3) If a person includes an amount under subsection (2) in the value of the total group assets of the person's New Zealand group for a period, they must include the amount in the value of the total group assets of their worldwide group for the period.

Defined in this Act: amount, Commissioner, emergency event, emergency event period, generally accepted accounting practice, income year, New Zealand, notify, total group assets

Section FP 19: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Employment-related relief

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 20 Certain amounts derived by employees during emergency events

Income derived by an employee from an employer is exempt income to the extent given by section CW 19B (Certain amounts derived by employees during emergency events: exempt income) if the income—

(a) would be assessable income in the absence of this section; and

(b) is provided by the employer for the purpose of relief of employees from the adverse effects of an emergency event; and

(c) is derived in the period of 8 weeks starting on the date the emergency event begins, as specified by regulations made under section 6J of the Tax Administration Act 1994; and

(d) does not replace a PAYE income payment; and

(e) does not depend on the seniority of the employee; and

(f) if the employee is associated with the employer, is available to another employee who—

(i) is not associated with the employer; and

(ii) is, or was immediately before an emergency event, in full-time employment with the employer; and

(g) is treated by the employer as being exempt income for the employee.

Defined in this Act: assessable income, associated, emergency event, employee, employer, employment, exempt income, income, PAYE income payment

Section FP 20: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 21 Employee benefits for emergency: not fringe benefit

When this section applies

(1) This section applies when an employee receives from an employer a benefit that—

(a) would be a fringe benefit in the absence of this section; and

(b) is for the purpose of the relief of employees from the adverse effects of an emergency event; and

(c) is derived in the period of 8 weeks starting on the date the emergency event begins, as specified by regulations made under section 6J of the Tax Administration Act 1994; and

(d) does not replace a PAYE income payment; and

(e) does not depend on the seniority of the employee; and

(f) if the employee is associated with the employer, is available to another employee who—

(i) is not associated with the employer; and

(ii) is, or was immediately before an emergency event, in full-time employment with the employer; and

(g) is treated by the employer as not being a fringe benefit.

Benefits with known value for employee

(2) Benefits satisfying subsection (1) that would, in the absence of this section, be fringe benefits having a value for the employee that the employer could estimate are not fringe benefits to the extent to which their total value as fringe benefits for the period would be less than or equal to the amount by which $5,000 exceeds the income that is—

(a) exempt income under section CW 19B(b) (Certain amounts derived by employees during emergency events: exempt income); and

(b) derived by the employee from the employer in the same period.

Benefits without known value for employee

(3) Benefits satisfying subsection (1) that would, in the absence of this section, be fringe benefits having a value for the employee that the employer could not estimate are not fringe benefits.

Defined in this Act: associated, emergency event, employee, employer, employment, exempt income, fringe benefit, income, PAYE income payment

Section FP 21: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 22 Accommodation expenditure incurred during emergency events

When this section applies

(1) This section applies for the purposes of section CW 16B (Accommodation expenditure: out-of-town secondments and projects) when—

(a) the employment duties of an employee require them to work on a project of limited duration for rebuilding or recovery, including the repair and reconstruction of land, infrastructure, and other property in an area affected by an emergency event; and

(b) the distant workplace is a workplace in an area affected by the emergency event.

Exempt income

(2) The value provided or expenditure incurred by the employer of the employee for or in relation to the accommodation is exempt income of the employee under section CW 16B as modified by this section.

Modified definition of project of limited duration

(3) For the purposes of this section, paragraph (c)(iii) of the definition of **project of limited duration** and section CW 16C(2) (Time periods for certain accommodation expenditure) are modified by replacing the words "3 years" with the words "5 years" wherever they appear if the employee starts work at the distant workplace in the emergency event period.

Defined in this Act: accommodation, distant workplace, emergency event, emergency event period, employee, employer, exempt income, land, project of limited duration, rebuilding, recovery, workplace

Section FP 22: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Income spreading for forced livestock sales

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 23 Livestock destroyed because of emergency events

When this section applies

(1) This section applies to an income year (the **cull year**) that falls within an emergency event period when—

(a) a person who owns or carries on a business has livestock on hand at the start of the cull year that they—

(i) use for breeding in the ordinary course of carrying on the business; and

(ii) have valued under the national standard cost scheme or the cost price method in the previous income year; and

(b) in the cull year, some or all of the person's livestock are destroyed, because of the relevant emergency event, pursuant to—

(i) a power exercised under section 121 of the Biosecurity Act 1993:

(ii) a direction given under section 122 of that Act; and

(c) the number of mixed-age female breeding animals that the person expects to have on hand at the end of the income year following the cull year, for the type of livestock listed in schedule 17 (Types and classes of livestock), some or all of which were destroyed because of the relevant emergency event, is at least 75% of the number of mixed-age female breeding animals of that type that the person had on hand at the start of the cull year.

How this section applies

(2) When regulations made under section FP 26 provide that this section applies to more than 1 type or class of livestock listed in schedule 17, a person choosing to apply this section must—

(a) apply the formulas in sections FP 24 and FP 25 separately to each type of livestock; and

(b) notify the Commissioner in their election made under subsection (3) as to the type of livestock to which the election applies.

Timing of income

(3) The person may choose to allocate the amount of income calculated using the formula in section FP 24 equally between the 6 income years following the cull year.

Timing of deductions

(4) When a person makes an election under subsection (3), the amount of the deduction they would have had under section DB 49(3) (Adjustment for opening values of trading stock, livestock, and excepted financial arrangements) at the beginning of the cull year for their livestock that was destroyed is allocated equally between the 6 income years following the cull year.

When business ceases

(5) If the person stops owning or carrying on the business in an income year (the **cessation year**), any income and deductions that have not yet been allocated to an income year under subsections (3) and (4) are allocated to the cessation year.

Elections

(6) A person makes an election under subsection (3) by notifying the Commissioner by the date of filing their return of income for the cull year. The election cannot be revoked.

When election treated as never having been made

(7) A person who makes an election under subsection (3) is treated as never having made the election if the number of mixed-age female breeding animals the person has on hand at the end of the income year following the cull year, for the type of livestock listed in schedule 17, some or all of which were destroyed because of the relevant emergency event, is less than 75% of the number of mixed-age female breeding animals that the person had on hand at the start of the cull year.

Meaning of mixed-age female breeding animals

(8) In this section, **mixed-age female breeding animals** means, as applicable,—

(a) mixed-age cows:

(b) mixed-age hinds:

(c) mixed-age ewes:

(d) mixed-age does:

(e) breeding sows.

Relationship with sections CG 6 and DB 49

(9) This section overrides sections CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) and DB 49.

Defined in this Act: amount, business, class, Commissioner, cost price, deduction, emergency event, emergency event period, income, income year, mixed-age female breeding animals, national standard cost scheme, notify, return of income

Section FP 23: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 24 Calculation of income for section FP 23

What this section does

(1) When a person chooses to allocate their income under section FP 23(3), this section provides the formula to calculate the amount of that income.

Calculation of income

(2) The amount of income is calculated under the following formula:

$$\Sigma(\text{number} \times (\text{sale proceeds} + \text{livestock compensation}) \div \text{culled stock}).$$

Definition of items in formula

(3) The items in the formula in subsection (2) are defined in subsections (4) to (8).

Σ

(4) **Σ** is the symbol for the summation of the amounts calculated using the formula in the brackets that follow that symbol for each of the classes of livestock.

Number

(5) **Number**, for a class of livestock, is the number that is the lesser of the following 2 numbers, or the first number if they are the same:

(a) the number that is the greater of zero and the number calculated using the formula in section FP 25(2); and

(b) the number of livestock of that class that—

(i) were breeding stock or stock that the person expected to be capable of, and intended to be used for, breeding upon reaching maturity; and

(ii) the person valued under the national standard cost scheme or the cost price method in the income year before the cull year.

Sale proceeds

(6) **Sale proceeds**, for a class of livestock, is the amount of income the person derives as consideration for the disposal of livestock of that class, including their carcasses, that are part of the destroyed livestock referred to in section FP 23(1)(b) (the **destroyed livestock**).

Compensation

(7) **Livestock compensation**, for a class of livestock, is the amount of income the person derives as compensation to which they are entitled under section 162A of the Biosecurity Act 1993 and that they receive by the end of the income year following the cull year, but only to the extent to which the compensation relates to—

(a) an excess of the value of the destroyed livestock that belong to that class used in the calculation of that compensation over the amount of income described in subsection (6) for that class; and

(b) an excess of the cost of replacement livestock of the same class that the person acquires and intends to be used for breeding over the amount of income that would, in the absence of this paragraph, be described in this subsection.

Culled stock

(8) **Culled stock**, for a class of livestock, is the number of livestock of that class that are part of the destroyed livestock.

Defined in this Act: acquire, amount, class, compensation, income, income year, national standard cost scheme

Section FP 24: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 25 Livestock number for section FP 24

What this section does

(1) When a person calculates an amount of income under the formula in section FP 24, this section provides the formula to calculate the number for a class of livestock that is referred to in subsection (5)(a) of that section.

Calculation of number

(2) The number for a class of livestock is calculated under the following formula:

valuation method breeding stock + culled stock – opening stock.

Definition of items in formula

(3) In the formula in subsection (2), for a class of livestock,—

(a) **valuation method breeding stock** is the number of livestock of that class that—

(i) were breeding stock or stock that the person expected to be capable of, and intended be used for, breeding upon reaching maturity; and

(ii) the person valued under the national standard cost scheme or the cost price method in the income year before the cull year:

(b) **culled stock** is the number of livestock of that class that are part of the destroyed livestock referred to in section FP 23(1)(b):

(c) **opening stock** is the number of livestock of that class that the person had on hand at the start of the cull year.

Defined in this Act: amount, class, income, income year, national standard cost scheme

Section FP 25: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 26 Livestock specified by regulations

Types and classes of livestock

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, make regulations specifying 1 or more types or classes of livestock set out in schedule 17 (Types and classes of livestock) to which sections FP 23 to FP 25 apply.

Application

(2) Regulations made under this section may be expressed to come into force on a day that is before, on, or after the date on which they are made, but not earlier than the date the emergency event begins, as specified by regulations made under section 6J of the Tax Administration Act 1994, and the regulations come into force or, as the case may be, are deemed to have come into force accordingly.

Retrospective

(3) Regulations made under this section may be retrospective only to the extent provided for in subsection (2).

Secondary legislation

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: class, emergency event

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section FP 26: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Relief from bright-line test and other land sale rules

Heading: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

FP 27 Certain land and buildings affected by emergency event

Sections CB 6A and CB 9 to CB 11 (which relate to income from disposals of land) do not apply to a person and land or buildings, or both, purchased by the Crown or a local authority from the person if the land or buildings, or both, were damaged by an emergency event.

Defined in this Act: emergency event, land, local authority

Section FP 27: inserted, on 1 April 2025, by section 65 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Subpart FZ—Terminating provisions

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Debentures

FZ 1 Treatment of interest payable under debentures issued before certain date

When this section applies

(1) This section applies for the purposes of section FA 2 (Recharacterisation of certain debentures).

Profit-related debentures

(2) A debenture issued before 8 pm New Zealand standard time on 23 October 1986 is a profit-related debenture if the rate of interest may be determined by reference to the dividend payable by the company issuing the debenture or in any other manner.

Fixed rates of interest

(3) Section FA 2(2) applies to a profit-related debenture issued before 8 pm New Zealand standard time on 23 October 1986.

Defined in this Act: company, debenture, dividend, interest, pay, profit-related debenture

Compare: 2004 No 35 s FC 1

Section FZ 1(3): amended (with effect on 1 April 2008), on 6 October 2009, by section 236 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Leases

FZ 2 Effect of specified lease on lessor and lessee

Lease treated as sale

(1) The leasing of a personal property lease asset under a specified lease is treated as a sale of the asset, made at the start of the term of the lease, by the lessor to the lessee. The lessee is treated as having incurred, through the sale, capital expenditure of an amount equal to the cost price of the asset.

Loan applied to finance acquisition of asset

(2) A lessor under a specified lease is treated as having advanced to the lessee a loan of an amount equal to the cost price of the personal property lease asset. The lessee is treated as having applied the loan in the financing of the acquisition of the asset.

No deduction

(3) A lessor under a specified lease is denied a deduction under section DZ 14(2) (Deductions under specified leases) for an amount of depreciation loss for the personal property lease asset.

Asset sold to lessor

(4) At the end of the term of a specified lease, if the personal property lease asset is not acquired by the lessee under the terms of the lease or in the exercise of an option under the lease, the asset is treated as sold at the end of the term of the lease to the lessor for—

(a) an amount equal to the guaranteed residual value, if any, set out for the asset in the lease; or

(b) if no guaranteed residual value is set out in the lease, no consideration.

Treatment when lease terminated

(5) If a specified lease is terminated before the term of the lease ends, whether by cancellation, surrender, or otherwise,—

(a) the personal property lease asset relating to the lease is treated as sold on the date of the termination to the lessor by the lessee at a price equal to the amount by which the amount of the outstanding balance, at the time of termination, of a loan advance by the lessor to the lessee is more than the amount or the sum of the amounts payable by the lessee to the lessor in consideration for the release by the lessor of the lessee from the obligations of the lessee under the lease:

(b) despite paragraph (a), if, in relation to the amount of the outstanding balance and the amount or the sum of the amounts payable by the lessee to the lessor, no excess arises, the asset is treated as having been sold for no consideration:

(c) if the value of the consideration payable by the lessee to the lessor in relation to the termination is more than the amount of the outstanding balance, at the time of termination, of a loan advanced by the lessor to the lessee, an amount equal to the amount of the excess is treated as income derived by the lessor in the income year in which the lease is terminated.

Subsequent sale, assignment, or lease

(6) If, on or after the end of the term of a specified lease, the personal property lease asset relating to the lease is sold, assigned, or leased under a specified lease by the lessor to another person, and the value of the consideration on the sale, assignment, or lease—

(a) is more than the amount determined for the first specified lease under subsection (4), the amount determined is increased by a further amount that is equal to the part, if any, of the excess paid by the lessor to the lessee:

(b) is less than the amount determined for the first specified lease under subsection (4)(a), and the lessee is required to make a further payment to the lessor equal to the difference between the guaranteed residual value for the lease value, and the value of the consideration, the amount determined is reduced by the amount of the further payment.

Consideration more than amount determined under subsection (4)

(7) Despite subsection (6), if the value of the consideration on the sale, assignment, or lease is more than the amount determined under subsection (4), the part, if any, of the excess that is not paid to the lessee is treated as income under section CZ 20 (Disposal of personal property lease asset under specified lease).

Associated persons

(8) If the lessee under a specified lease, or another person who is associated with the lessee, at any time acquires the personal property lease asset, and disposes of the asset, and the value of the consideration for the disposal is more than the value of the consideration for which the lessee or other person acquired it, an amount equal to the excess is income under section CZ 20.

Meaning of outstanding balance

(9) In this section, and in section FZ 3, **outstanding balance** means the amount calculated using the formula—

loans advanced + interest payable − instalments.

Definition of items in formula

(10) In the formula,—

(a) **loans advanced** is the total amount of all loans advanced under the lease by the lessor for the period—

(i) starting on the date that the lease started; and

(ii) ending on the date immediately before the start of the instalment period:

(b) **interest payable** is the total amount of interest payable for each loan for the period—

(i) starting on the date that the lease started; and

(ii) ending on the date immediately before the start of the instalment period:

(c) **instalments** is the total amount of all instalments paid by the lessee in the period—

(i) starting on the date that the lease started; and

(ii) ending on the date immediately before the start of the instalment period.

Defined in this Act: amount, associated person, cost price, deduction, depreciation loss, guaranteed residual value, income, income year, instalment, lessee, lessor, loan, outstanding balance, pay, personal property lease asset, specified lease, term of the lease

Compare: 2004 No 35 s FC 6(2)–(8)

FZ 3 Income of lessor under specified lease

Interest

(1) The income of a lessor derived under a specified lease is treated as interest.

Treatment of amount derived

(2) The amount of interest derived under subsection (1) is treated as—

(a) during the term of the lease, derived during the initial period and each instalment period, an amount that is calculated either,—

(i) on the outstanding balance for the initial period, and each instalment period, at such a rate and in such a manner that the aggregate of all of the amounts so calculated is equal to the amount first mentioned in paragraph (b); or

(ii) for the initial period and each instalment period, under such other method commonly applied in commercial usage as, having regard to the term of the lease and to the frequency of the personal property lease payments, results in the allocation to that initial period and to each instalment period of an amount that is fair and reasonable and results in the sum of all amounts so allocated being equal to the amount first mentioned in paragraph (b):

(b) in relation to the term of the lease, an amount that is equal to the sum of the personal property lease payments under the specified lease and the amount of the guaranteed residual value, if any, under the specified lease, reduced by the cost price of the personal property lease asset.

Calculation for income year

(3) The interest derived by a lessor is, for an income year, treated as an amount equal to the sum of the amounts calculated under subsection (2)(a) as calculated for the initial period, if any, and each instalment period that ends in the income year.

Some definitions

(4) In this section,—

initial period means the period—

(a) starting on the date of the start of a lease; and

(b) ending just before the start of the instalment period that follows the start of the lease

instalment period means the period—

(a) starting on the day on which an instalment is payable; and

(b) ending with the day just before the day on which the next instalment is payable.

Defined in this Act: amount, guaranteed residual value, income, income year, initial period, instalment, instalment period, interest, lessor, outstanding balance, pay, personal property lease asset, personal property lease payment, specified lease, term of the lease

Compare: 2004 No 35 s FC 7

FZ 4 Deductions under specified leases

A lessee under a specified lease is denied a deduction for expenditure incurred by them under the lease except to the extent described in section DZ 14(3) (Deductions under specified leases).

Defined in this Act: deduction, lessee, specified lease

Compare: 2004 No 35 s FC 8

Relationship property

FZ 5 Commercial bills

When this section applies

(1) This section applies for the purposes of section CZ 6 (Commercial bills before 31 July 1986) when a commercial bill is transferred under a settlement of relationship property.

Transfer at cost

(2) The transfer is treated as a disposal by the transferor and an acquisition by the transferee for an amount that equals the cost of the bill to the transferor.

Defined in this Act: amount, commercial bill, settlement of relationship property

Compare: 2004 No 35 s FF 5

Estate property

FZ 6 Transitional valuation rule for estate property

What this section applies to

(1) This section applies to property transferred under section FC 1(1)(a) (Disposals to which this subpart applies) either on a person's death or on a distribution by an executor, administrator, or trustee of an estate, if—

(a) the death or distribution occurred before 1 October 2005; and

(b) in the tax year in which the property passes, all beneficiaries of the deceased person are resident in New Zealand, and no income of a beneficiary is exempt income under section CW 43 (Charitable bequests).

Market value or value under settlement of relationship property

(2) The valuation of the transferred property for tax purposes for the corresponding income year in which the death or distribution occurred is measured as a transfer occurring immediately before the death of the person, or at the date of distribution, as applicable, at—

(a) market value; or

(b) a value under subpart FB (Transfers of relationship property) for property of the type; or

(c) a value under subsection (4).

Returns of income

(3) For the purposes of providing a return of income for the deceased person, beneficiary, and estate, a value determined under subsection (2) is treated as correct.

Requirements of other provisions

(4) Despite subsection (3), if this Act, the Income Tax Act 2004, or Income Tax Act 1994, requires the use of a market value for an item of property, that value must be used in the return of income.

Defined in this Act: corresponding income year, exempt income, income, market value, New Zealand, property, resident in New Zealand, return of income, tax year, trustee

Compare: 2004 No 35 ss FI 9, FI 10

Section FZ 6(1): amended, on 30 March 2017, by section 118 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Earthquake-affected group property

Heading: inserted (with effect on 4 September 2010), on 2 November 2012 (applying for income years ending after 4 September 2010 and before the 2016–17 income year), by section 73(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

FZ 7 Valuation of group assets: insurance proceeds from Canterbury earthquake

When this section applies

(1) This section applies for the purposes of sections FE 16 (Total group assets) and FE 18 (Measurement of debts and assets of worldwide group) and a person if—

(a) an asset of the person's New Zealand group is damaged as a result of a Canterbury earthquake, as that term is defined in section 4 of the Canterbury Earthquake Recovery Act 2011; and

(b) the asset is impaired or derecognised, under generally accepted accounting practice as a result of the damage; and

(c) insurance for the damage is recognised at a later date under generally accepted accounting practice.

Optional treatment of insurance

(2) The person may choose to include an amount of the insurance, corresponding to the amount of the impairment or the derecognised value of the asset, in the value of the total group assets of the person's New Zealand group during the period—

(a) beginning with the impairment or derecognition of the asset; and

(b) ending before the earlier of—

(i) the recognition of the amount of insurance:

(ii) the beginning of the 2019–20 income year.

Corresponding treatment for worldwide group

(3) If a person includes an amount under subsection (2) in the value of the total group assets of the person's New Zealand group for a period, the person must include the amount in the value of the total group assets of the person's worldwide group for the period.

Notice to Commissioner

(4) A person choosing to apply subsection (2) for an income year must give to the Commissioner—

(a) notice that the person has applied this section for the income year; and

(b) the amount of income that would arise under section CH 9 (Interest apportionment: excess debt entity) for the income year in the absence of this section; and

(c) the amount of income that arises under section CH 9 for the income year after the application of this section; and

(d) further information required by the Commissioner.

Form and timing of notice

(5) The information required by subsection (4) must be given—

(a) in the form and by the means prescribed by the Commissioner; and

(b) no later than the later of 30 November 2012 and the day by which the person is required to make a return of income for the corresponding tax year.

Defined in this Act: Commissioner, generally accepted accounting practice, income year, notice, return of income, total group assets

Section FZ 7: replaced (with effect on 4 September 2010), on 27 February 2014, by section 76 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section FZ 7 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Group property affected by North Island flooding events

Heading: inserted (with effect on 1 April 2022), on 28 March 2024, by section 78(1) (and see section 78(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

FZ 7B Valuation of group assets: insurance proceeds from North Island flooding events

When this section applies

(1) This section applies for the purposes of sections FE 16 (Total group assets) and FE 18 (Measurement of debts and assets of worldwide group) and a person if—

(a) an asset of the person's New Zealand group is damaged as a result of a North Island flooding event; and

(b) the asset is impaired or derecognised under generally accepted accounting practice as a result of the damage; and

(c) insurance for the damage is recognised at a later date under generally accepted accounting practice.

Optional treatment of insurance

(2) The person may choose to include an amount of the insurance, corresponding to the amount of the impairment or the derecognised value of the asset, in the value of the total group assets of the person's New Zealand group during the period—

(a) beginning with the impairment or derecognition of the asset; and

(b) ending before the earlier of—

(i) the recognition of the amount of insurance:

(ii) the beginning of the 2027–28 income year.

Corresponding treatment for worldwide group

(3) If a person includes an amount under subsection (2) in the value of the total group assets of the person's New Zealand group for a period, the person must include the amount in the value of the total group assets of the person's worldwide group for the period.

Notice to Commissioner

(4) A person choosing to apply subsection (2) for an income year must give notice to the Commissioner of the following:

(a) that the person has applied this section for the income year; and

(b) a reasonable estimate of the amount of income that would arise under section CH 9 (Interest apportionment: excess debt entity) for the income year in the absence of this section; and

(c) the amount of income that arises under section CH 9 for the income year after the application of this section; and

(d) any further information required by the Commissioner.

Form and timing of notice

(5) The information required by subsection (4) must be given—

(a) in the form and by the means prescribed by the Commissioner; and

(b) no later than the day by which the person is required to make a return of income for the corresponding tax year, or at a later time if the Commissioner considers there are exceptional circumstances.

Defined in this Act: amount, Commissioner, generally accepted accounting practice, income, income year, North Island flooding events, notice, return of income, tax year

Section FZ 7B: inserted (with effect on 1 April 2022), on 28 March 2024, by section 78(1) (and see section 78(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Interest apportionment rules

Heading: inserted, on 1 July 2018, by section 36 of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

FZ 8 Transition period for amendments to interest apportionment rules

What this section does

(1) This section gives the effect, for an excess debt entity meeting the requirements of subsection (2), of the amendments (the **affected amendments**) to section FE 5 (Thresholds for application of interest apportionment rules) made by section 20(1), (2), and (6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 and to section FE 6 (Apportionment of interest by excess debt entity) made by section 21(5) and (6) of that Act.

Requirements for section to apply

(2) An excess debt entity meets the requirements of this subsection if, using the method of calculating debt percentages as amended by the provisions referred to in subsection (1),—

(a) the excess debt entity is a company described in section FE 2(1)(cb) (When this subpart applies) or is controlled by a group of persons that act in concert and are each described in section FE 2(a) to (db); and

(b) the debt percentage of the excess debt entity's New Zealand group is greater than 60% on the date given by subsection (5) (the **transition date**); and

(c) the debt percentage of the excess debt entity's New Zealand group on the transition date is greater than 100% of the debt percentage of the excess debt entity's worldwide group on the transition date.

Transition period

(3) For an excess debt entity meeting the requirements of subsection (2), the affected amendments apply as varied by subsection (4) for a period of 5 income years (the **transition period**) consisting of the first income year beginning on or after 1 July 2018 and the 4 following income years.

Method and threshold values for calculations

(4) For the period from the transition date to the end of the transition period, in determining whether the excess debt entity is required to apportion its interest expenditure under subpart FE (Interest apportionment on thin capitalisation) and in determining the apportionment of the excess debt entity's interest expenditure under section FE 6,—

(a) the method of calculating debt percentages is applied as amended; and

(b) the threshold value for the debt percentage of the excess debt entity's New Zealand group for the income year is 60%; and

(c) the threshold value for the ratio of the debt percentage of the excess debt entity's New Zealand group for the income year to the debt percentage of the excess debt entity's worldwide group is the lesser of 110% and the corresponding ratio calculated for the transition date.

Transition date

(5) For the purposes of this section, the transition date is whichever the excess debt entity elects, in a return of income for the first income year beginning on or after 1 July 2018, of—

(a) the date (the **introduction date**) on which the Taxation (Neutralising Base Erosion and Profit Shifting) Bill is introduced:

(b) the date that is the last measurement date under section FE 8 (Measurement dates) preceding the introduction date.

Defined in this Act: company, excess debt entity, income year, return of income

Section FZ 8: inserted, on 1 July 2018, by section 36 of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Trading stock

[Repealed]

Heading: repealed, on 1 April 2024, by section 79 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

FZ 9 Transfers of trading stock to non-associates, donee organisations, or public authorities

[Repealed]

Section FZ 9: repealed, on 1 April 2024, by section 79 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Part G
Avoidance and non-market transactions

Subpart GA—Avoidance: general

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GA 1 Commissioner's power to adjust

When this section applies

(1) This section applies if an arrangement is void under section BG 1 (Tax avoidance).

Commissioner's general power

(2) The Commissioner may adjust the taxable income of a person affected by the arrangement in a way the Commissioner thinks appropriate, in order to counteract a tax advantage obtained by the person from or under the arrangement.

Commissioner's specific power over tax credits

(3) The Commissioner may—

(a) disallow some or all of a tax credit of a person affected by the arrangement; or

(b) allow another person to benefit from some or all of the tax credit.

Commissioner's identification of hypothetical situation

(4) When applying subsections (2) and (3), the Commissioner may have regard to 1 or more of the amounts listed in subsection (5) which, in the Commissioner's opinion, had the arrangement not occurred, the person—

(a) would have had; or

(b) would in all likelihood have had; or

(c) might be expected to have had.

Reconstructed amounts

(5) The amounts referred to in subsection (4) are—

(a) an amount of income of the person:

(b) an amount of deduction of the person:

(c) an amount of tax loss of the person:

(d) an amount of tax credit of the person.

No double counting

(6) When applying subsection (2), if the Commissioner includes an amount of income or deduction in calculating the taxable income of the person, it must not be included in calculating the taxable income of another person.

Meaning of tax credit

(7) In this section, **tax credit** means a reduction in the tax a person must pay because of—

(a) a credit allowed for a payment by the person of an amount of tax or of another item; or

(b) another type of benefit.

Defined in this Act: amount, arrangement, Commissioner, deduction, tax, tax credit, tax loss, taxable income

Compare: 2004 No 35 s GB 1(1)–(2C)

GA 2 Commissioner's power to adjust: fringe benefit tax

When this section applies

(1) This section applies if—

(a) an arrangement is void under section BG 1 (Tax avoidance); and

(b) the arrangement involves altering the incidence of fringe benefit tax (FBT).

Commissioner's power in relation to excluded income

(2) The Commissioner may adjust the excluded income under section CX 3 (Excluded income) of a person affected by the arrangement in a way the Commissioner thinks appropriate, in order to counteract a tax advantage obtained by the person from or under the arrangement.

Commissioner's identification of hypothetical situation

(3) When applying subsection (2), the Commissioner may have regard to 1 or more of the amounts listed in subsection (4) which, in the Commissioner's opinion, had the arrangement not occurred, the person—

(a) would have had; or

(b) would in all likelihood have had; or

(c) might be expected to have had.

Reconstructed amounts

(4) The amounts referred to in subsection (3) are—

(a) an amount of excluded income of the person:

(b) an amount of excluded income of the person, if the person had been allowed the benefit of an amount of excluded income derived by another person as a result of the arrangement.

No double counting

(5) If the Commissioner includes an amount of excluded income in calculating the taxable income of the person, it must not be included in calculating the taxable income of another person.

Defined in this Act: amount, arrangement, Commissioner, excluded income, FBT, fringe benefit tax, taxable income

Compare: 2004 No 35 s GC 17B

Subpart GB—Avoidance: specific

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Arrangements involving dividend stripping

GB 1 Arrangements involving dividend stripping

When this section applies

(1) This section applies when—

(a) a person disposes of shares in a company in an income year; and

(b) the disposal is part of a tax avoidance arrangement; and

(c) some or all of the consideration that the person derives from the disposal is in substitution for a dividend in an income year.

When amount substitutes for dividend

(2) An amount derived by the person is in substitution for a dividend if it is equivalent to or substitutes for a dividend that, but for the arrangement, the person—

(a) would have derived; or

(b) would in all likelihood have derived; or

(c) might be expected to have derived.

Substitute treated as dividend

(3) The amount derived in substitution for a dividend is treated as a dividend derived by the person in the income year in which the disposal occurs.

Defined in this Act: arrangement, company, dispose, dividend, income year, tax avoidance arrangement

Compare: 2004 No 35 s GB 1(3)

Arrangements involving transfer pricing

GB 2 Arrangements involving transfer pricing

When this section applies

(1) This section applies in relation to a person if an arrangement has a purpose or effect of defeating the intent and application of—

(a) section GC 7 (Excess amount payable by person):

(b) section GC 8 (Insufficient amount receivable by person):

(c) section GC 9 (Compensating arrangement: person paying less than arm's length amount):

(d) section GC 10 (Compensating arrangement: person receiving more than arm's length amount).

Possible examples

(2) Without limiting the generality of subsection (1), the following collateral arrangements may result in that purpose or effect:

(a) a collateral arrangement with an associated person who is a non-resident:

(b) a market-sharing arrangement:

(c) an arrangement not to enter a market:

(d) a back-to-back supply arrangement:

(e) an income-sharing arrangement.

Application of sections GC 7 to GC 10

(3) Section GC 7, GC 8, GC 9, or GC 10, as applicable, applies to require the substitution of an arm's length amount of consideration, despite section GC 6(2) and (3) (Purpose and application of rules and nature of arrangements).

Defined in this Act: arrangement, associated person, non-resident

Compare: 2004 No 35 s GC 1

Section GB 2(3): amended, on 1 July 2018, by section 37 of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Arrangements involving tax losses

GB 3 Arrangements for carrying forward loss balances: companies' ownership

When this section applies

(1) This section applies when—

(a) a share in a company (the **loss company**) or another company has been subject to an arrangement, including an arrangement directly or indirectly altering rights attached to the shares; and

(b) the arrangement allows the loss company to meet the requirements of section IA 5(2) and (3) (Restrictions on companies' loss balances carried forward: continuity of ownership); and

(c) a purpose of the arrangement is to defeat the intent and application of sections IA 5 and IP 3 (Ownership continuity breach: tax loss components of companies carried forward).

Company treated as not meeting requirements

(2) The loss company is treated as not meeting the requirements of section IA 5(2) and (3) in relation to the share.

Defined in this Act: arrangement, company, loss balance, share

Compare: 2004 No 35 s GC 2

Section GB 3 heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 75(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GB 3(1)(b): amended (with effect on 1 April 2020), on 30 March 2021, by section 75(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GB 3(1)(c): amended (with effect on 1 April 2020), on 30 March 2022, by section 111 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section GB 3(2): amended (with effect on 1 April 2020), on 30 March 2021, by section 75(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

GB 3BA Arrangements for carrying forward loss balances: companies' business activities

When this section applies

(1) This section applies when—

(a) a share in a company (the **loss company**) or another company has been subject to an arrangement, including an arrangement—

(i) directly or indirectly altering rights attached to the shares:

(ii) to change the nature of business activities carried on by the loss company; and

(b) the arrangement is entered into within the 2 years immediately preceding a breach of the requirements for continuity of ownership of section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership) that, if they had been met, would have enabled a tax loss component of the loss company to be carried forward to a tax year in a loss balance; and

(c) the arrangement allows the loss company to meet the requirements of section IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach) for the carrying forward of the tax loss component to the tax year; and

(d) a purpose of the arrangement is to defeat the intent and application of section IB 3.

Company treated as not meeting requirements

(2) The loss company is treated as not meeting the requirements of section IB 3(2) in relation to the tax loss component.

Defined in this Act: arrangement, business, company, loss balance, share, tax loss component, tax year

Section GB 3BA: inserted (with effect on 1 April 2020), on 30 March 2021, by section 76(1) (and see section 76(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

GB 3BAB Arrangements to inject income into companies carrying forward loss balances

When this section applies

(1) This section applies when—

(a) a person (**person A**) enters into an arrangement with another person (**person B**); and

(b) person A and person B are associated persons at the time they enter into the arrangement; and

(c) an effect of the arrangement is that a company derives an amount of assessable income for an income year that, but for the arrangement, a person other than the company—

(i) would have derived; or

(ii) would in all likelihood have derived; or

(iii) might be expected to have derived; and

(d) tax loss components of the company are carried forward under section IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach) to the tax year corresponding to the income year; and

(e) the arrangement has tax avoidance as its sole or main purpose.

Treatment of injected income

(2) The amount is schedular income of the company for the tax year corresponding to the income year.

Defined in this Act: amount, arrangement, assessable income, associated person, company, income year, schedular income, tax avoidance, tax loss component, tax year

Section GB 3BAB: inserted (with effect on 1 April 2020), on 30 March 2021, by section 76(1) (and see section 76(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

GB 3BAC Arrangements to shift expenditure from companies carrying forward loss balances

When this section applies

(1) This section applies when—

(a) tax loss components of a company are carried forward under section IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach) to a tax year; and

(b) a person (**person A**) enters into an arrangement with another person (**person B**); and

(c) person A and person B are associated persons at the time they enter into the arrangement; and

(d) an effect of the arrangement is that, in the absence of this section, a person other than the company is allowed a deduction for an amount of expenditure or loss the person incurs that, but for the arrangement, the company—

(i) would have incurred in the income year corresponding to the tax year; or

(ii) would in all likelihood have incurred in the income year corresponding to the tax year; or

(iii) might be expected to have incurred in the income year corresponding to the tax year; and

(e) the arrangement has tax avoidance as its sole or main purpose.

Treatment of company

(2) The company is treated as having incurred the amount of expenditure or loss—

(a) in the course of carrying on a business for the purpose of deriving assessable income; and

(b) in the income year corresponding to the tax year.

Treatment of other person

(3) The person referred to in subsection (1)(d) that is not the company is treated as not having incurred the amount of expenditure or loss.

Defined in this Act: amount, arrangement, assessable income, associated person, business, company, deduction, income year, loss, tax avoidance, tax loss component, tax year

Section GB 3BAC: inserted (with effect on 1 April 2020), on 30 March 2021, by section 76(1) (and see section 76(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

GB 3B Arrangements for carrying back net losses: companies

When this section applies

(1) This section applies when—

(a) a share in a company (the **loss company**) or another company has been subject to an arrangement, including an arrangement directly or indirectly altering rights attached to the shares; and

(b) the arrangement allows the loss company to meet the requirements of section IZ 8 (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year); and

(c) a purpose of the arrangement is to defeat the intent and application of section IZ 8.

Company treated as not meeting requirements

(2) The loss company is treated as not meeting the requirements of section IZ 8 in relation to the shares.

Defined in this Act: arrangement, company, share

Section GB 3B: inserted (with effect on 15 April 2020), on 30 April 2020, by section 7 of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

GB 4 Arrangements for grouping tax losses: companies

When this section applies

(1) This section applies when—

(a) a share in a company (the **offset company**) or another company has been subject to an arrangement, including an arrangement directly or indirectly altering rights attached to the shares; and

(b) the arrangement allows the offset company to meet the requirements of subparts IC and IP, and sections IZ 7 and IZ 8 (which relate to the use of tax losses by group companies), as applicable; and

(c) a purpose of the arrangement is to defeat the intent and application of those provisions.

Company treated as not meeting requirements

(2) The offset company is treated as not meeting the requirements of subparts IC and IP and section IZ 7 or IZ 8, as applicable, in relation to the share.

Defined in this Act: arrangement, company, share, tax loss

Compare: 2004 No 35 s GC 4

Section GB 4(1)(b): amended (with effect on 15 April 2020), on 30 April 2020, by section 8(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section GB 4(2): amended (with effect on 15 April 2020), on 30 April 2020, by section 8(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Arrangements to defeat continuity provisions

GB 5 Arrangements involving trust beneficiaries

When this section applies

(1) This section applies when—

(a) a share in a company or option over a share in a company is held by a trustee; and

(b) a change occurs in the beneficiaries of the trust; and

(c) a purpose or effect of the change is to defeat the intent and application of a continuity provision.

Trustee treated as disposing of share or option

(2) The trustee is treated as having disposed of the share or option to an unrelated person at the time of the change in beneficiaries, and as having reacquired it immediately afterwards.

Limited application of subsection (2)

(3) Subsection (2) applies only for the purposes of the application of the rules in sections YC 2 (Voting interests) and YC 3 (Market value interests) in the case of the continuity provisions.

Defined in this Act: company, continuity provisions, dispose, option, share, trustee

Compare: 2004 No 35 s GC 3

Arrangements involving qualifying companies

GB 6 Arrangements involving qualifying companies

When this section applies

(1) This section applies when—

(a) a share in a company has been subject to an arrangement at a time; and

(b) the arrangement allows the company or another company (the **relevant company**) to be a qualifying company at the time; and

(c) a purpose of the arrangement is to defeat the intent and application of subpart HA (Qualifying companies (QC)).

Company treated as not qualifying company

(2) The relevant company is treated as not being a qualifying company at that time.

Defined in this Act: arrangement, company, qualifying company, share

Compare: 2004 No 35 s GC 5

Section GB 6(1)(c): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Arrangements involving controlled foreign companies

GB 7 Arrangements involving CFC control interests

When this section applies

(1) This section applies when—

(a) 2 or more persons who are New Zealand residents enter into an arrangement; and

(b) under the arrangement, a control interest in a foreign company is held by another person; and

(c) a purpose of the arrangement is to prevent the foreign company being a controlled foreign company (CFC).

Interest treated as held by residents

(2) The control interest is treated as being held by the New Zealand residents in equal proportions, for the purposes of determining whether the company is a CFC.

Defined in this Act: arrangement, CFC, control interest, foreign company, New Zealand resident

Compare: 2004 No 35 s GC 7

GB 8 Arrangements involving attributed repatriation from CFCs

[Repealed]

Section GB 8: repealed, on 24 February 2016, by section 179 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

GB 9 Temporary disposals of direct control or income interests

When this section applies

(1) This section applies when,—

(a) before the end of a quarter, a person (the **disposer**), directly or indirectly disposes of a direct control interest or direct income interest in a foreign company (the **disposal**); and

(b) the disposal is not to a New Zealand resident who, immediately after the disposal, has an income interest of 10% or more in the foreign company from which attributed CFC income is derived; and

(c) within 183 days after the disposal, the disposer directly or indirectly acquires a direct control interest or direct income interest in the foreign company (the **reacquisition**); and

(d) the disposal has the effect of reducing attributed CFC income of—

(i) the disposer; or

(ii) an associated person of the disposer; or

(iii) if the disposer is a CFC, a person holding an income interest in the disposer; and

(e) the disposal and reacquisition are part of an arrangement that has an effect of defeating the intent and application of the international tax rules.

Treatment of disposal

(2) The disposal is treated as not having occurred, when the person's control interest or income interest in the foreign company at the end of the quarter is calculated, to the extent to which the reacquisition reverses the disposal.

Defined in this Act: arrangement, associated person, attributed CFC income, CFC, control interest, direct control interest, direct income interest, foreign company, income interest, international tax rules, quarter

Compare: 2004 No 35 s GC 9(1), (4), (7)

Section GB 9(1)(b): amended, on 24 February 2016, by section 180(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 9(1)(d): amended, on 24 February 2016, by section 180(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 9 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 180(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

GB 10 Temporary acquisitions of direct control or income interests

When this section applies

(1) This section applies when,—

(a) before the end of a quarter, a person (the **acquirer**), directly or indirectly acquires a direct control interest or direct income interest in a foreign company (the **acquisition**); and

(b) the acquisition is not from a New Zealand resident who, immediately before the acquisition, has an income interest of 10% or more in the foreign company from which an attributed CFC loss is incurred; and

(c) within 183 days after the acquisition, the acquirer directly or indirectly disposes of a direct control interest or direct income interest in the foreign company (the **disposal**); and

(d) the acquisition has the effect of increasing an attributed CFC loss of—

(i) the acquirer; or

(ii) an associated person of the acquirer; or

(iii) if the acquirer is a CFC, a person holding an income interest in the acquirer; and

(e) the acquisition and disposal are part of an arrangement that has an effect of defeating the intent and application of the international tax rules.

Treatment of acquisition

(2) The acquisition is treated as not having occurred, when the person's control interest or income interest in the foreign company at the end of the quarter is calculated, to the extent to which the disposal reverses the acquisition.

Defined in this Act: arrangement, associated person, attributed CFC loss, CFC, control interest, direct control interest, direct income interest, foreign company, income interest, international tax rules, quarter

Compare: 2004 No 35 s GC 9(1), (4), (7)

GB 11 Temporary increases in totals for control interest categories

When this section applies

(1) This section applies when,—

(a) before the end of a quarter, an increase occurs in the total of direct control interests in a foreign company in any of the control interest categories (the **total increase**); and

(b) the total increase results in a person (the **interest holder**) having a reduced income interest or control interest in a foreign company (the **interest reduction**); and

(c) within 365 days after the total increase, a reduction occurs in the total for the control interest category (the **total reduction**); and

(d) the interest reduction has the effect of reducing attributed CFC income of—

(i) the interest holder; or

(ii) an associated person of the interest holder; or

(iii) if the interest holder is a CFC, another person holding an income interest in the interest holder; and

(e) the total increase and total reduction are part of an arrangement that has an effect of defeating the intent and application of the international tax rules.

Treatment of interest reduction

(2) The interest reduction is treated as not having occurred, when the interest holder's control interest or income interest in the foreign company at the end of the quarter is calculated, to the extent to which the total reduction reverses the interest reduction.

Defined in this Act: arrangement, associated person, attributed CFC income, CFC, control interest, control interest category, direct control interest, foreign company, income interest, international tax rules, quarter

Compare: 2004 No 35 s GC 9(2), (7)

Section GB 11(1)(d): amended, on 24 February 2016, by section 181(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 11 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 181(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

GB 12 Temporary reductions in totals for control interest categories

When this section applies

(1) This section applies when,—

(a) before the end of a quarter, a reduction in the total of direct control interests in a foreign company occurs in a control interest category (the **total reduction**); and

(b) the total reduction results in a person (the **interest holder**) having an increased income interest or control interest in a foreign company (the **interest increase**); and

(c) within 365 days after the total reduction, an increase occurs in the total for the control interest category (the **total increase**); and

(d) the interest increase has the effect of increasing an attributed CFC loss of—

(i) the interest holder; or

(ii) an associated person of the interest holder; or

(iii) another person holding an income interest in the interest holder, if the interest holder is a CFC; and

(e) the total reduction and total increase are part of an arrangement which has an effect of defeating the intent and application of the international tax rules.

Treatment of interest increase

(2) The interest increase is treated as not having occurred, when the interest holder's control interest or income interest in the foreign company at the end of the quarter is calculated, to the extent to which the total increase reverses the interest increase.

Defined in this Act: arrangement, associated person, attributed CFC loss, CFC, control interest, control interest category, direct control interest, foreign company, income interest, international tax rules, quarter

Compare: 2004 No 35 s GC 9(2), (7)

GB 13 When combination of changes reduces income

When this section applies

(1) This section applies when—

(a) before the end of a quarter, either—

(i) a person directly or indirectly disposes of a direct control interest or direct income interest in a foreign company (the **disposal**); or

(ii) an increase occurs in the total of direct control interests in a foreign company in any of the control interest categories (the **total increase**); and

(b) in the case of the disposal, the disposal is not to a New Zealand resident who, immediately after the disposal, has an income interest of 10% or more in the foreign company from which they derive attributed CFC income; and

(c) in the case of the disposal, within 365 days after the disposal, a reduction occurs in the total of direct control interests in the foreign company in any of the control interest categories (the **total reduction**); and

(d) in the case of the total increase, within 365 days after the total increase, a person directly or indirectly acquires a direct control interest or direct income interest in the foreign company (the **reacquisition**); and

(e) the disposal or total increase has the effect of reducing attributed CFC income of—

(i) the person (the **interest holder**); or

(ii) an associated person of the interest holder; or

(iii) if the interest holder is a CFC, a person holding an income interest in the interest holder; and

(f) the disposal and total reduction or total increase and reacquisition are part of an arrangement that has an effect of defeating the intent and application of the international tax rules.

Treatment of disposal or total increase

(2) The disposal or total increase is treated as not having occurred, when the interest holder's control interest or income interest in the foreign company at the end of the quarter is calculated, to the extent to which the total reduction or reacquisition has the effect of reversing the effect of the disposal or total increase on the level of the interest holder's control interest or income interest.

Defined in this Act: arrangement, associated person, attributed CFC income, CFC, control interest, control interest category, direct control interest, direct income interest, foreign company, income interest, international tax rules, quarter

Compare: 2004 No 35 s GC 9(3), (4), (7)

Section GB 13(1)(b): amended, on 24 February 2016, by section 182(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 13(1)(e): amended, on 24 February 2016, by section 182(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 13 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 182(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

GB 14 When combination of changes increases loss

When this section applies

(1) This section applies when,—

(a) before the end of a quarter, either—

(i) a person directly or indirectly acquires a direct control interest or direct income interest in a foreign company (the **acquisition**); or

(ii) a decrease occurs in the total of direct control interests in a foreign company in any of the control interest categories (the **total decrease**); and

(b) in the case of the acquisition, the acquisition is not from a New Zealand resident who, immediately before the acquisition, has an income interest of 10% or more in the foreign company from which they have an attributed CFC loss; and

(c) in the case of the acquisition, within 365 days after the acquisition, an increase occurs in the total of direct control interests in the foreign company in any of the control interest categories (the **total increase**); and

(d) in the case of the total reduction, within 365 days after the total reduction, a person directly or indirectly disposes of a direct control interest or direct income interest in the foreign company (the **disposal**); and

(e) the acquisition or total reduction has the effect of reducing an attributed CFC loss of—

(i) the person (the **interest holder**); or

(ii) an associated person of the interest holder; or

(iii) if the interest holder is a CFC, a person holding an income interest in the interest holder; and

(f) the acquisition and total increase or total reduction and disposal are part of an arrangement that has an effect of defeating the intent and application of the international tax rules.

Treatment of acquisition or total reduction

(2) The acquisition or total reduction is treated as not having occurred, when the interest holder's control interest or income interest in the foreign company at the end of the quarter is calculated, to the extent to which the total increase or disposal has the effect of reversing the effect of the acquisition or total reduction on the level of the interest holder's control interest or income interest.

Defined in this Act: arrangement, associated person, attributed CFC loss, CFC, control interest, control interest category, direct control interest, direct income interest, foreign company, income interest, international tax rules, quarter

Compare: 2004 No 35 s GC 9(3), (4), (7)

GB 15 CFC income or loss: arrangements related to quarterly measurement

When this section applies

(1) This section applies when—

(a) an income interest in a CFC is transferred by a person to an associated person; and

(b) the associated persons make an arrangement for making or not making an election under section EX 26(3) (Use of quarterly measurement); and

(c) the arrangement has an effect of defeating the intent and application of the international tax rules.

Treatment of election

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

Defined in this Act: arrangement, associated person, CFC, Commissioner, income interest, international tax rules

Compare: 2004 No 35 s GC 10

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

When this section applies

(1) This section applies when—

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

(i) section EX 21D (Non-attributing active CFC: default test); or

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

(b) the person enters into an arrangement to—

(i) choose to include the CFC in the test group for 1 of the accounting periods; and

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

(c) the effect of the arrangement in the absence of this section would be that the person had less net attributable CFC income when the CFC was in the test group and greater net attributable CFC losses when the CFC was not in the test group.

Treatment of election

(2) The Commissioner may treat an election as having been made or not made, as appropriate to prevent the arrangement having the effect referred to in subsection (1)(c).

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

Section GB 15BA: inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 183(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

GB 15B Supplies affecting default test for non-attributing active CFC

When this section applies

(1) This section applies when a CFC makes a supply—

(a) to a person who would not meet the requirements of section EX 21D(1)(a) to (c) (Non-attributing active CFC: default test) for the person to be a member of a test group, under that section, with the CFC; and

(b) with the purpose of increasing the amount given by the denominator in the formula in section EX 21D(4) for the CFC.

Income from supply included in gross adjustment

(2) The income from the supply is included in the item gross adjustments in section EX 21D(9)(d).

Defined in this Act: CFC

Section GB 15B: inserted (with effect on 30 June 2009), on 6 October 2009, by section 237(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

GB 15C Arrangements related to accounting test for non-attributing active CFC

When this section applies

(1) This section applies when a person (the **party**) enters an arrangement having a purpose, that is more than incidental, of enabling a CFC to meet the requirements of section EX 21E (Non-attributing active CFC: test based on accounting standard) when the CFC would not meet the requirements of section EX 21D (Non-attributing active CFC: default test) to be a non-attributing active CFC.

CFC not non-attributing active CFC

(2) The CFC is not a non-attributing active CFC.

Person not non-attributing active CFC if type of financial arrangement involved

(3) A party who is a CFC associated with the CFC is not a non-attributing active CFC if—

(a) the arrangement involves a financial arrangement producing a foreign exchange loss for the CFC; and

(b) the foreign exchange loss decreases for the CFC the amount of the numerator in the formula in section EX 21E(5).

Defined in this Act: arrangement, associated, CFC, financial arrangement, loss, non-attributing active CFC

Section GB 15C: inserted (with effect on 30 June 2009), on 6 October 2009, by section 237(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Arrangements involving foreign investment funds

GB 16 FIF income or loss: arrangements for measurement day concessions

When this section applies

(1) This section applies when—

(a) an attributing interest in a foreign investment fund (FIF) is transferred by a person to an associated person; and

(b) the associated persons make an arrangement for making or not making—

(i) an election under section EX 26(3) (Use of quarterly measurement); or

(ii) *[Repealed]*

(iii) a combination of those elections; and

(c) the arrangement has an effect of defeating the intent and application of the international tax rules.

Treatment of election

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

Defined in this Act: arrangement, associated person, attributing interest, FIF, Commissioner, international tax rules

Compare: 2004 No 35 s GC 10

Section GB 16(1)(b)(ii): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 69(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Arrangements involving film rights

GB 17 Excessive amounts for film rights or production expenditure

When this section applies

(1) This section applies when—

(a) a person (the **buyer**) is allowed a deduction under—

(i) section DS 1 (Acquiring film rights) for expenditure incurred in acquiring a film right; or

(ii) section DS 2 (Film production expenditure) for expenditure incurred in acquiring goods or services in relation to a film; and

(b) the Commissioner considers that the buyer and the person from whom the film right, goods, or services were acquired (the **seller**) were not dealing with each other at arm's length; and

(c) the amount of expenditure incurred by the buyer is more than the market value of the film right, goods, or services at the time they were acquired.

Deduction reduced to market value

(2) The deduction is reduced to an amount equal to the market value.

Application to shares in film rights

(3) If the buyer acquires only a share in a film right, this section applies only to the part of the total market value of the film right that is attributable to that share.

Defined in this Act: Commissioner, deduction, film production expenditure, film right

Compare: 2004 No 35 ss GC 11A, GD 12

Section GB 17(1)(b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

GB 18 Arrangements to acquire film rights or incur production expenditure

When this section applies

(1) This section applies if the Commissioner considers that 2 persons have made arrangements so that any of the following sections applies more favourably in relation to a person in an income year than would have applied without the arrangements:

(a) section DS 1 (Acquiring film rights):

(b) section DS 2 (Film production expenditure):

(c) section EJ 4 (Expenditure incurred in acquiring film rights in feature films):

(d) section EJ 5 (Expenditure incurred in acquiring film rights in films other than feature films):

(e) section EJ 7 (Film production expenditure for New Zealand films):

(f) section EJ 8 (Film production expenditure for films other than New Zealand films).

Deduction reduced

(2) The deduction allowed to the person under section DS 1 or DS 2 is reduced to the amount that the Commissioner considers would have been allowed had the arrangements not occurred.

Allocation

(3) The deduction allocated under section EJ 4, EJ 5, EJ 7, or EJ 8 is allocated to the income year to which the Commissioner considers it would have been allocated had the arrangements not occurred.

Defined in this Act: arrangement, Commissioner, deduction, film production expenditure, film right, income year

Compare: 2004 No 35 ss GC 11B, GD 12B

GB 19 When film production expenditure payments delayed or contingent

When this section applies

(1) This section applies when—

(a) a person (the **payer**) is liable to pay any of the costs of goods or services applied in producing a film:

(b) either—

(i) the payment of the costs is deferred under an agreement between the provider of the goods or services and another person, and the period of deferral is excessive; or

(ii) the payment is contingent.

Costs incurred when paid

(2) For the purposes of sections DS 2, EJ 7, and EJ 8 (which relate to film production expenditure), the payer is treated as incurring the costs at the time of payment.

Defined in this Act: film, film production expenditure

Compare: 2004 No 35 s GD 12A

Arrangements involving petroleum and mineral mining

Heading: replaced, on 1 April 2014, by section 77 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

GB 20 Arrangements involving petroleum and mineral mining

When this section applies

(1) This section applies when—

(a) an arrangement includes—

(i) the disposal of a petroleum mining asset or a mineral mining asset (the **mining asset**); or

(ii) the incurring of petroleum exploration expenditure or 1 or more of the classes of mineral mining expenditure referred to in section DU 8 (Classes of mineral mining expenditure) (the **mining expenditure**); or

(iii) a farm-out arrangement; and

(b) the arrangement has a purpose or effect of tax avoidance.

Applying section GA 1

(2) The Commissioner may apply section GA 1 (Commissioner's power to adjust) to adjust the taxable income of a person affected by the arrangement so as to counteract a tax advantage obtained by the person.

Examples

(3) Without limiting the generality of subsection (1), arrangements having the effect of tax avoidance include the arrangements described in subsections (4) to (8).

Person acquiring asset relieved or compensated

(4) An arrangement has the effect of tax avoidance if it involves the disposal of a mining asset and it is probable that, at the time the arrangement is entered into, the person acquiring the mining asset—

(a) will, through a related arrangement, not have to suffer some or all of the expenditure of acquiring the mining asset; or

(b) will be effectively compensated in some way for some or all of the expenditure.

Person incurring expenditure relieved or compensated

(5) An arrangement has the effect of tax avoidance if it involves the incurring of mining expenditure and it is probable that, at the time the arrangement is entered into, the person who is to incur the mining expenditure—

(a) will, through a related arrangement, not have to suffer some or all of the mining expenditure; or

(b) will be effectively compensated in some way for some or all of the mining expenditure.

Farm-in party relieved or compensated

(6) An arrangement has the effect of tax avoidance if it involves a farm-out arrangement and it is probable that, at the time the arrangement is entered into,—

(a) the farm-in party will, through a related arrangement, not have to suffer some or all of the farm-in expenditure attributable to the proportionate interest acquired by the farm-in party under the farm-out arrangement; or

(b) the farm-in party or an associated person will be effectively compensated in some way for some or all of the farm-in expenditure.

Disposal of asset to associated person for over-value

(7) An arrangement has the effect of tax avoidance if it involves a petroleum miner or mineral miner disposing of a mining asset to an associated person for a purpose of ensuring that the associated person has a greater deduction than would have been allowed if the asset had been disposed of for its market value.

Farm-out arrangement with associate person for over-value

(8) An arrangement has the effect of tax avoidance if it involves a petroleum miner or a mineral miner entering into a farm-out arrangement with an associated person for the purpose of ensuring that the associated person has a greater deduction than would have been allowed if the farm-out arrangement had been entered into on substantially the same terms as those on which it would have been entered into with a person who is not associated.

Miners operating offshore

(9) This section applies, with the necessary modifications, to a petroleum miner or a mineral miner who undertakes mining operations or that are—

(a) outside New Zealand and undertaken through a branch or CFC; and

(b) substantially the same as the mining activities governed by this Act.

Treatment of partners

(10) For the purposes of this section, a partner is treated as having a share or interest in a petroleum permit, exploration permit, prospecting permit, or mining permit, as applicable, or other property of a partnership to the extent of their income interest in the partnership.

Disposal of part of asset

(11) For the purposes of this section, references to the disposal of an asset apply equally to the disposal of part of an asset.

Defined in this Act: arrangement, associated person, CFC, deduction, dispose, farm-in expenditure, farm-out arrangement, mineral miner, mineral mining asset, mining permit, New Zealand, petroleum exploration expenditure, petroleum mining asset, petroleum permit, tax avoidance, taxable income

Section GB 20: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 78(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section GB 20(1)(a)(ii): amended (with effect on 1 April 2014), on 30 March 2021, by section 77 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Arrangements involving financial arrangements

GB 21 Dealing that defeats intention of financial arrangements rules

When this section applies

(1) This section applies if the Commissioner considers that the parties to a financial arrangement were dealing with each other in a way that defeats the intention of the financial arrangements rules at the time the financial arrangement was—

(a) entered into or otherwise acquired; or

(b) varied; or

(c) disposed of.

Alteration of consideration

(2) The Commissioner may treat the relevant transaction as having occurred for the consideration that parties dealing at arm's length would have agreed on.

Defined in this Act: Commissioner, financial arrangement, financial arrangements rules

Compare: 2004 No 35 s GD 11

Arrangements involving trust beneficiary income

GB 22 Arrangements involving trust beneficiary income

When this section applies

(1) This section applies when—

(a) an arrangement involves a trustee transferring property, or providing services or other benefits, to a person other than a beneficiary of the trust; and

(b) the arrangement has the effect of defeating the intent and application of sections HC 17 to HC 23 (which relate to the income of beneficiaries) in relation to the beneficiary; and

(c) the trust is not a Maori authority.

Application of sections HC 17 to HC 23

(2) The beneficiary is treated, for the purposes of sections HC 17 to HC 23, as receiving the property or enjoying the services or benefits.

Defined in this Act: arrangement, Maori authority, trustee

Compare: 2004 No 35 s GC 14

Excessive remuneration

GB 23 Excessive remuneration to relatives

When this section applies: first case

(1) This section applies when—

(a) a person carries on a business or undertaking; and

(b) the person employs or engages a relative or, in a case in which the person is a company but not a close company, a relative of a director or shareholder of the company, to perform services for the business or undertaking; and

(c) the Commissioner considers that the income payable to the relative for the services is excessive; and

(d) the exemption in section GB 24 does not apply.

When this section applies: second case

(2) This section also applies when—

(a) a person carries on a business in partnership or has an effective look-through interest for a look-through company; and

(b) the partnership or look-through company employs or engages a relative of the person or, in a case in which the person is a company, a relative of a director or shareholder in the company, to perform services for the business; and

(c) the Commissioner considers that the income payable to the relative for the services is excessive; and

(d) the exemption in section GB 24 does not apply.

When this section applies: third case

(3) This section also applies when—

(a) a person carries on a business in partnership; and

(b) another partner in the partnership is—

(i) a relative of the person; or

(ii) if the person is a company, a relative of a director or shareholder in the company; or

(iii) a company in which a relative of the person is a director or shareholder; and

(c) the Commissioner considers that the other partner's share of partnership profit or losses is excessive; and

(d) the exemption in section GB 24 does not apply.

Allocation of income or losses

(4) For the purposes of this Act, the Commissioner may allocate the income or losses of the business or undertaking among the parties to the contract or partnership as the Commissioner considers reasonable, without taking into account an amount provided to the relative or other partner.

Treatment of amount allocated

(5) An amount the Commissioner allocates to 1 person is treated as not belonging to another person.

Matters for Commissioner's consideration

(6) The Commissioner may take into account each of the following matters when applying this section:

(a) the nature and extent of the services rendered by the relative:

(b) the value of the contributions made by the respective partners, by way of services, capital, or otherwise:

(c) any other relevant matters.

Treatment of amount allocated back to company

(7) If an amount provided by a company to a relative of a director or shareholder for services is allocated to the company under subsection (4), it is treated as a dividend paid by the company and derived by the relative.

Defined in this Act: close company, company, director, dividend, effective look-through interest, income, look-through company, relative, shareholder

Compare: 2004 No 35 s GD 3(1), (2)

Section GB 23(2)(a): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 67(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section GB 23(2)(b): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 67(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section GB 23 list of defined terms **effective look-through interest**: inserted, on 1 April 2011, by section 67(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section GB 23 list of defined terms **look-through company**: inserted, on 1 April 2011, by section 67(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

GB 24 Exemption for genuine contracts

When section GB 23 does not apply

(1) Section GB 23 does not apply if the relevant contract of employment, engagement, or partnership is a genuine contract.

When contracts genuine

(2) A contract is treated as a genuine contract if—

(a) the contract is in writing; and

(b) the contract is signed by all the parties to it; and

(c) in the case of a contract of employment or engagement, each person employed or engaged under the contract is 20 years or older on the date of signing the contract; and

(d) in the case of a contract of partnership, each partner is 20 years or older on the date of signing the contract; and

(e) the contract is binding for at least 3 years, except for the reasons set out in sections 69, 70, 72, and 73 of the Partnership Law Act 2019; and

(f) in the case of a contract of employment or engagement, each person employed or engaged has real control over their income under the contract; and

(g) in the case of a contract of partnership, each partner has—

(i) real control over their share of profits under the contract; and

(ii) real liability for their share of losses under the contract; and

(h) no part of the income or share of profits derived by the relative, or company of which the relative is a shareholder or director, is either a disposition without fully adequate consideration in money or money's worth passing to the person making the disposition or a disposition that any part of does not have fully adequate consideration in money or money's worth passing to the person making the disposition.

Defined in this Act: director, income, loss, shareholder, year

Compare: 2004 No 35 s GD 3(4), (5)

Section GB 24(2)(e): amended, on 21 April 2020, by section 86 of the Partnership Law Act 2019 (2019 No 53).

Section GB 24(2)(h): replaced (with effect on 1 October 2011), on 17 July 2013, by section 58 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

GB 25 Close company remuneration to shareholders, directors, or relatives

When this section applies

(1) This section applies when—

(a) a close company provides remuneration for services to a person (the **service provider**) who is—

(i) a shareholder or director of the company; or

(ii) a relative of a shareholder or director of the company; and

(b) the Commissioner considers that the amount provided is excessive; and

(c) the exemption in subsection (3) does not apply.

Excess treated as dividend

(2) For the purposes of this Act, the excess is treated as a dividend paid by the company and derived by the service provider.

Exemption: residents working full-time

(3) This section does not apply when—

(a) the service provider is an adult employed substantially full-time in the business of the company; and

(b) the service provider participates in the management or administration of the company; and

(c) the amount provided to the service provider was not influenced by their relationship with a shareholder or director; and

(d) the service provider is a New Zealand resident.

Defined in this Act: close company, Commissioner, company, director, dividend, New Zealand resident, shareholder

Compare: 2004 No 35 s GD 5

Section GB 25(3)(b): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 53(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

GB 25B Excessive effective look-through interests

When this section applies

(1) This section applies to the extent to which, for an income year,—

(a) a person (an **owner**) has an effective look-through interest for a look-through company (the **LTC**); and

(b) for the LTC, 2 or more owners are relatives, 1 of whom is under 20 years old (the **relevant relative**); and

(c) the Commissioner considers that the income arising from the application of section HB 1 (Look-through companies are transparent) for the relevant relative is excessive.

Reallocation of effective look-through interests

(2) Despite section HB 1, the effective look-through interests for the person are the interests that the Commissioner considers reasonable for the income year or part of the income year, as applicable, without taking into account an amount provided to the relevant relative.

Matters for Commissioner's consideration

(3) The Commissioner may take into account each of the following matters when applying this section:

(a) the nature and extent of services rendered by the relevant relative:

(b) the value of the contributions made by the respective owners, by way of services, capital, or otherwise:

(c) any other relevant matters.

Defined in this Act: effective look-through interest, income year, look-through company, relative

Section GB 25B: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 68(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Arrangements involving repatriation of commercial bills

GB 26 Arrangements involving repatriation of commercial bills

When this section applies

(1) This section applies when—

(a) a commercial bill has been issued by—

(i) a New Zealand resident who does not use the money lent in a business carried on through a fixed establishment outside New Zealand; or

(ii) a non-resident who uses the money lent in a business carried on through a fixed establishment in New Zealand; and

(b) a non-resident who holds the bill transfers it to another person (the **New Zealand transferee**); and

(c) the non-resident did not become a party to the bill for the purpose of carrying on a business through a fixed establishment in New Zealand; and

(d) the New Zealand transferee is either—

(i) a New Zealand resident; or

(ii) a non-resident who becomes a party to the commercial bill for the purpose of carrying on a business through a fixed establishment in New Zealand; and

(e) the transfer of the bill has the purpose of avoiding non-resident withholding tax (NRWT) or the approved issuer levy.

Income

(2) If the New Zealand transferee redeems the commercial bill, the redemption payment is income of the New Zealand transferee.

New Zealand transferee treated as redeeming bill

(3) For the purposes of this section, the New Zealand transferee is treated as redeeming the bill on the scheduled redemption date even if it is not redeemed.

Defined in this Act: approved issuer, commercial bill, fixed establishment, income, money lent, New Zealand resident, non-resident, NRWT, redemption payment

Compare: 2004 No 35 s GC 14A

Attribution rule for income from personal services

GB 27 Attribution rule for income from personal services

Application of section GB 29

(1) An amount of income in an income year of a person (the **associated entity**) is attributed to another person (the **working person**) under section GB 29 for the working person's corresponding tax year if,—

(a) during the income year, a third person (the **buyer**) acquires services from the associated entity, and the services are personally performed by the working person; and

(b) the working person is associated with the associated entity; and

(c) the threshold test in subsection (2) is met; and

(d) none of the exemptions in subsection (3) applies.

Threshold for application of attribution rule

(2) The attribution occurs only if—

(a) 80% or more of the associated entity's total income from personal services during the income year is derived from the supply of services to the buyer, a person associated with the buyer, or a combination of them; and

(b) 80% or more of the associated entity's income from personal services during the income year is derived through services personally performed by the working person, a relative of the working person, or a combination of them; and

(c) the working person's net income for the income year, assuming section GB 29 applies in relation to the associated entity and working person, is more than $78,100; and

(d) substantial business assets are not a necessary part of the business structure that is used to derive the total income referred to in paragraph (a).

Exemptions

(3) The attribution does not occur—

(a) if both the associated entity and the working person are non-residents at all times during the associated entity's income year:

(b) if the associated entity is a natural person and is neither a partner of a partnership nor a trustee of a trust:

(c) to the extent to which the services personally performed by the working person are essential support for a product supplied by the associated entity:

(d) if the total amount to be attributed to the working person, for the associated entity and the income year, is less than $5,000, unless—

(i) the application of this paragraph would prevent income being attributed to the working person for the income year in relation to another associated entity:

(ii) the associated entity is a CFC and a person who holds an attributing interest in the CFC files, after the date (the **Royal assent date**) on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 receives the

Royal assent, a return of income in which the amount of income attributed to the working person is determined under this section:

(e) if the associated entity is a CFC and—

(i) the amount gives rise to attributed CFC income under section CQ 2(2B) (When attributed CFC income arises) or attributed CFC loss under section DN 2(2) (When attributed CFC loss arises) for a person who holds an attributing interest in the CFC; and

(ii) the person who holds the attributing interest in the CFC files, after the Royal assent date, a return of income in which the amount attributed to the working person is determined under section EX 20B (Attributable CFC amount).

Treatment of certain dividends

(4) If a company that is required to attribute an amount to the working person under this section and section GB 29 pays a dividend, sections HA 14 to HA 19 (which relate to qualifying companies) are treated as applying to the company and the dividend if—

(a) the dividend is paid—

(i) no earlier than the end of 6 months after the end of the income year referred to in subsection (1); and

(ii) from income that has been attributed to the working person under this section and section GB 29; and

(b) the company,—

(i) for each tax year that corresponds to an income year in which it derived income from which it pays the dividend, has no net income other than income attributed under this section and section GB 29, ignoring interest income that is incidental to the company's business; and

(ii) is not a qualifying company; and

(iii) chooses to have the dividend treated as if it were paid by a qualifying company; and

(iv) keeps sufficient records to enable the Commissioner to verify the matters referred to in paragraph (a).

Cancellation of notional imputation credits

(5) For the purposes of subsection (4), to the extent to which the dividend paid by the company would have had an imputation credit attached that arose under section OB 16 (ICA attribution for personal services) in the absence of the election made under subsection (4)(b)(iii), the credit is treated as cancelled

immediately before it would have been attached under sections HA 14 to HA 19 (which relate to dividends paid by qualifying companies).

Defined in this Act: amount, associated person, attributable CFC amount, attributed CFC income, attributed CFC loss, business, CFC, Commissioner, company, dividend, imputation credit, income, income year, net income, non-resident, pay, qualifying company, relative, tax year, trustee

Compare: 2004 No 35 ss GC 14B, GC 14E, GC 14EB

Section GB 27(1)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 27(2)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 27(2)(c): amended, on 1 April 2025, by section 34 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section GB 27(3)(d): replaced, on 24 February 2016, by section 184 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 27(3)(e): replaced, on 24 February 2016, by section 184 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 27(4) heading: added, on 1 April 2008, by section 407(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section GB 27(4): replaced (with effect on 1 April 2008), on 23 March 2020, by section 127(1) (and see section 127(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GB 27(5) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 41(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section GB 27(5): added (with effect on 1 April 2008), on 7 December 2009, by section 41(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section GB 27(5): amended (with effect on 1 April 2008), on 23 March 2020, by section 127(2) (and see section 127(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GB 27 list of defined terms **amount**: inserted, on 1 April 2008, by section 407(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section GB 27 list of defined terms **attributable CFC amount**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 238(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 27 list of defined terms **attributed CFC income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 238(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 27 list of defined terms **attributed CFC loss**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 238(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 27 list of defined terms **business**: inserted, on 1 April 2008, by section 407(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section GB 27 list of defined terms **CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 238(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 27 list of defined terms **Commissioner**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 127(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GB 27 list of defined terms **company**: inserted, on 1 April 2008, by section 407(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section GB 27 list of defined terms **dividend**: inserted, on 1 April 2008, by section 407(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section GB 27 list of defined terms **imputation credit**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section GB 27 list of defined terms **pay**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section GB 27 list of defined terms **qualifying company**: inserted, on 1 April 2008, by section 407(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section GB 27 compare note: amended, on 1 April 2008, by section 407(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

GB 28 Interpretation of terms used in section GB 27

When this section applies

(1) This section applies for the purposes of section GB 27.

Associated persons

(2) A person is treated as being associated with another person if they are associated at the time the services are personally performed by the working person.

Non-associated buyers

(3) For the purposes of section GB 27(2)(a), a buyer is not treated as being associated with another buyer if either—

(a) both buyers are public authorities; or

(b) the working person cannot be reasonably expected to know that a particular buyer is associated with another buyer, other than by making a specific enquiry.

Relatives

(4) For the purposes of section GB 27(2)(b), a person is a relative of the working person only if the person is a relative at the beginning of the relevant income year of the working person.

Fringe benefits included

(5) For the purposes of section GB 27(2)(c), the working person's annual gross income includes the taxable value of a fringe benefit, as determined under sections RD 25 to RD 63 (which relate to fringe benefit tax), provided or granted by a person associated with the working person.

Meaning of substantial business assets

(6) **Substantial business assets** means depreciable property that—

(a) at the end of the associated entity's corresponding income year, has a total cost of more than either—

(i) $75,000; or

(ii) 25% of the associated entity's total income from services for the income year; and

(b) is not for private use.

Assets subject to finance lease, hire purchase agreement, or specified lease

(7) For the purposes of subsection (6)(a), the cost of depreciable property includes—

(a) the consideration provided to the lessee in the case of property subject to a finance lease or a hire purchase agreement, including expenditure or loss incurred by the lessee in preparing and installing the finance lease asset for use, unless the lessee is allowed a deduction for the expenditure or loss, other than a deduction for an amount of depreciation loss:

(b) the cost price, in the case of property subject to a specified lease.

Private use of assets

(8) Subsection (6)(b) does not apply to depreciable property if 20% or less of the property's use is for private use.

Calculation of private proportion of use

(9) For the purposes of subsection (8), the percentage of a property's use for private purposes for an income year is calculated according to—

(a) the proportion that the number of days for which fringe benefit tax is payable by the associated entity in relation to the property bears to the total number of days in the income year in which the property is owned by or is subject to a finance lease, hire purchase agreement, or specified lease, involving the associated entity, if the property is subject to the FBT rules:

(b) the proportion that the expenditure incurred in relation to the property, for which a deduction is denied to the associated entity, bears to all expenditure incurred by the associated entity in relation to the property in the income year, if the property is not subject to the FBT rules.

Defined in this Act: annual gross income, associated person, consideration, cost price, deduction, depreciable property, FBT rules, finance lease, fringe benefit, fringe benefit tax, hire purchase agreement, income, income year, public authority, relative, specified lease, substantial business assets

Compare: 2004 No 35 s GC 14C

Section GB 28(2): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 239(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 28(6)(a)(ii): amended, on 1 April 2023, by section 73 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section GB 28 list of defined terms **1973 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 28 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 28 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

GB 29 Attribution rule: calculation

Amount attributed

(1) A working person is treated as deriving income in an income year equal to the least of the following amounts:

(a) the associated entity's net income for the corresponding tax year, calculated as if their only income were derived from personal services:

(b) the associated entity's net income for the corresponding tax year:

(c) if and to the extent to which the associated entity is a company or a trust that has a loss balance to be carried forward under section IA 4 (Using loss balances carried forward to tax year) arising from a business or a trading activity of supplying personal services, the associated entity's net income for the corresponding tax year after subtracting the loss balance carried forward from an earlier corresponding tax year.

Associated entity's net income calculated before attribution

(1B) For the purposes of calculating the associated entity's net income for the corresponding tax year in the application of subsection (1), section DC 8 (Attribution of personal services) is ignored.

Calculation for trustee or partnership

(2) For the purposes of calculating the associated entity's net income for the corresponding tax year in the application of subsection (1),—

(a) if the associated entity is a trustee of a trust, the trustees are treated as not having made a distribution of beneficiary income out of the year's income:

(b) if the associated entity is a partnership, the associated entity is treated as a taxpayer and section HG 2 (Partnerships are transparent) does not apply:

(c) if the associated entity is a look-through company, the associated entity is treated as a taxpayer and section HB 1 (Look-through companies are transparent) does not apply.

Salary paid or fringe benefits treated as deductions

(3) For the purposes of calculating the associated entity's net income for the corresponding tax year in the application of subsection (1),—

(a) the associated entity is allowed a deduction for employment income paid to the working person during the income year:

(b) the associated entity is allowed a deduction for the taxable value of a fringe benefit provided or granted by the associated entity to the working

person during the income year, and for the fringe benefit tax payable on the fringe benefit.

Reduction of attributable income for distributions

(4) For the purposes of calculating the associated entity's net income for the corresponding tax year in the application of subsection (1), the amount of net income of the associated entity for the corresponding tax year is reduced by—

(a) in the case of a trustee of a trust, the amount of beneficiary income derived by the working person from the trust in the income year:

(b) in the case of a partnership, the share of profits allocated by the partnership to the working person:

(c) in the case of a company, a dividend paid—

(i) by the associated entity to the working person during the income year or before the end of 6 months after the end of the income year; and

(ii) from income derived in the income year.

Attribution reduced by market value of administrative services

(5) If the associated entity is a partnership that receives administrative services from another person related to their income from personal services and has not paid for the administrative services, the amount to be attributed to the working person is reduced by the market value of the administrative services provided by the other person.

Reduction of beneficiary income when rule results in trust having tax loss

(6) If the associated entity is a trustee and the amount attributable would cause the associated entity to have a tax loss for the corresponding tax year, for the purposes of this Act,—

(a) beneficiary income from the trust for the income year must be reduced to the extent to which the associated entity's taxable income for the corresponding tax year is zero; and

(b) the reduction in beneficiary income must be divided among the beneficiaries other than the working person—

(i) according to proportions determined by the trust's trustees:

(ii) if the trustees do not make the determination, according to the proportion that each beneficiary's beneficiary income bears to the total beneficiary income from the trust for the income year.

Attribution to more than 1 working person

(7) If the amount attributable is to be attributed to more than 1 working person, the share attributed to each working person must reflect the respective value of the services personally performed by each working person.

Defined in this Act: beneficiary income, company, deduction, dividend, fringe benefit, fringe benefit tax, income, income year, look-through company, net income, taxpayer, tax loss, tax year, trustee

Compare: 2004 No 35 s GC 14D

Section GB 29(1)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GB 29(1B) heading: inserted (with effect on 1 April 2008), on 23 March 2020, by section 128(1) (and see section 128(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GB 29(1B): inserted (with effect on 1 April 2008), on 23 March 2020, by section 128(1) (and see section 128(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GB 29(2)(b): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 69(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section GB 29(2)(b): amended, on 1 April 2008, by section 16(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section GB 29(2)(c): added, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 69(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section GB 29 list of defined terms **look-through company**: inserted, on 1 April 2011, by section 69(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Arrangements involving restrictive covenants

GB 30 Arrangements to avoid taxation of restrictive covenant payments

When this section applies

(1) This section applies if a person enters into an arrangement that has an effect of avoiding section CE 9 (Restrictive covenants).

Treatment as restrictive covenant payment

(2) The Commissioner may treat—

(a) an amount provided under the arrangement as an amount to which section CE 9(2) applies; and

(b) a person affected by the arrangement as the person who gave the undertaking referred to in section CE 9(1).

Example

(3) An example of an arrangement that may be subject to this section is an arrangement that involves a collateral arrangement to dispose of property.

Defined in this Act: arrangement, Commissioner

Compare: 2004 No 35 s GC 14F

Arrangements involving fringe benefit tax

GB 31 FBT arrangements: general

When this section applies

(1) This section applies when—

(a) 2 or more persons enter into an arrangement; and

(b) a purpose or effect of the arrangement is to defeat the intent and application of any of the FBT rules; and

(c) the purpose or effect is not merely incidental.

FBT rules treated as applying

(2) For the purposes of the FBT rules, the Commissioner may treat—

(a) a party to the arrangement (the **provider**) as the employer of a person (the **recipient**) of whom the Commissioner notifies the provider:

(b) the recipient as the employee of the provider:

(c) a benefit as being provided by the provider to the recipient through the employment of the recipient.

Actual or likely benefit

(3) The Commissioner may apply subsection (2)(c) only in the case of a benefit that,—

(a) is in fact provided by the provider to the recipient; or

(b) had the arrangement not occurred, the recipient—

(i) would have obtained; or

(ii) would in all likelihood have obtained; or

(iii) might be expected to have obtained.

Arrangements to reduce motor vehicle costs

(4) Schedule 5, clause 4(c) (Fringe benefit values for motor vehicles) may apply to treat the cost of a motor vehicle as equal to its market value.

Defined in this Act: arrangement, Commissioner, employee, employer, employment, FBT rules, notify

Compare: 2004 No 35 ss GC 16(b), GC 17

Section GB 31 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

GB 32 Benefits provided to employee's associates

When this section applies

(1) This section applies when—

(a) a benefit is provided to a person who is associated with an employee of an employer; and

(b) the benefit would be a fringe benefit if provided to the employee; and

(c) the benefit is provided either by the employer or by another person under an arrangement with the employer for providing the benefit; and

(d) the exemptions in subsections (2) and (2B) do not apply.

Exemption for shareholder-employees and corporate associates

(2) Subsection (3) does not apply when—

(a) the benefit is provided by an employer that is a company; and

(b) the employee is a shareholder in the company; and

(c) the person associated with the employee is a company; and

(d) the benefit is not provided under an arrangement that has a purpose of providing the benefit either—

(i) in place of employment income; or

(ii) free from fringe benefit tax.

Exemption for LTCs and partnerships

(2B) Subsection (3) does not apply when—

(a) the benefit is provided by an employer that is—

(i) a look-through company (an **LTC**):

(ii) a partnership or limited partnership; and

(b) the person associated with the employee, described in subsection (1)(a), is—

(i) an owner of the relevant LTC:

(ii) a partner of the relevant partnership or limited partnership.

Benefit treated as provided to employee

(3) For the purposes of the FBT rules, the benefit is treated as provided by the employer to the employee.

Application of section CX 18

(4) Section CX 18 (Benefits provided to associates of both employees and shareholders) applies to determine when a benefit provided to an associate of both an employee and a shareholder is treated as a fringe benefit and not a dividend.

Defined in this Act: arrangement, associated person, company, dividend, employee, employer, employment income, FBT rules, fringe benefit, fringe benefit tax, limited partnership, LTC, partner, partnership

Compare: 2004 No 35 s GC 15(1)–(3)

Section GB 32(1)(d): amended, on 2 November 2012, by section 74(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section GB 32(2B) heading: inserted, on 2 November 2012, by section 74(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section GB 32(2B): inserted, on 2 November 2012, by section 74(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section GB 32(2B)(a)(i): replaced (with effect on 2 November 2012), on 27 February 2014, by section 79 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section GB 32 list of defined terms **limited partnership**: inserted, on 2 November 2012, by section 74(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section GB 32 list of defined terms **LTC**: inserted, on 2 November 2012, by section 74(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section GB 32 list of defined terms **partner**: inserted, on 2 November 2012, by section 74(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section GB 32 list of defined terms **partnership**: inserted, on 2 November 2012, by section 74(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Arrangements involving depreciation loss

GB 33 Arrangements involving depreciation loss

When this section applies

(1) This section applies when—

(a) an asset of a person has been subject to an arrangement; and

(b) the arrangement allows the person or another person to have a deduction for an amount of depreciation loss; and

(c) a purpose of the arrangement is to defeat the intent and application of this Act.

No deduction

(2) The relevant person is denied the deduction.

Defined in this Act: arrangement, Commissioner, deduction, depreciation loss

Compare: 2004 No 35 s GC 6

Arrangements involving imputation rules

GB 34 ICA arrangements for carrying amounts forward

When this section applies

(1) This section applies when—

(a) a share in an imputation credit account (ICA) company or another company has been subject to an arrangement, including an arrangement directly or indirectly altering rights attached to the share; and

(b) the arrangement allows the ICA company to meet the requirements of section OA 8(2), (7), and (8) (Shareholder continuity requirements for memorandum accounts); and

(c) a purpose of the arrangement is to defeat the intent and application of section OA 8(2), (7), and (8).

Company treated as not meeting requirements

(2) The ICA company is treated as not meeting the requirements in relation to the share.

Defined in this Act: arrangement, company, imputation credit account, share

Compare: 2004 No 35 s GC 21

Section GB 34(1)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 119(1)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section GB 34(1)(c): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 119(1)(b) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

GB 35 Imputation arrangements to obtain tax advantage

When section GB 36 applies

(1) Section GB 36 applies if an arrangement to obtain a tax advantage arises as described in either subsection (2) or (3).

Share disposal or issue arrangements

(2) An arrangement is an arrangement to obtain a tax advantage if—

(a) the arrangement is for the disposal or issue of shares; and

(b) a party to the arrangement might reasonably have expected that a dividend would be paid in relation to the shares with an imputation credit attached; and

(c) a party might reasonably have expected that a party will, or will not, be able to obtain a tax advantage from the credit; and

(d) a purpose of the arrangement is that a party will obtain a tax advantage; and

(e) the purpose is not a merely incidental one.

Dividend or credit streaming arrangements

(3) An arrangement is an arrangement to obtain a tax advantage if—

(a) the arrangement relates to 1 or more distributions by a company, including bonus issues, during 1 or more tax years; and

(b) under the arrangement, the company streams—

(i) the payment of dividends; or

(ii) the attachment of imputation credits; and

(c) the streaming will give a higher credit value to a person who will obtain a tax advantage from the higher credit value than to a person who will not or may reasonably be expected to obtain a lesser benefit.

Meaning of higher credit value

(4) For the purposes of subsection (3)(c), a dividend has a **higher credit value** than another dividend if 1 or both of the following applies:

(a) the dividend has an attached imputation credit and the other dividend does not:

(b) the imputation ratio of the dividend is higher than that of the other dividend.

Defined in this Act: arrangement, dividend, higher credit value, imputation credit, imputation ratio, share, tax advantage

Compare: 2004 No 35 s GC 22(1), (2)

Section GB 35(2)(b): amended, on 1 April 2017, by section 119(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 35(3)(b): replaced, on 1 April 2017, by section 119(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 35(4): replaced, on 1 April 2017, by section 119(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 35 list of defined terms **combined imputation and FDP ratio**: repealed, on 1 April 2017, by section 119(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 35 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 119(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 35 list of defined terms **FDP ratio**: repealed, on 1 April 2017, by section 119(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

GB 36 Reconstruction of imputation arrangements to obtain tax advantage

Reconstruction of either type of arrangement

(1) In the case of a share disposal or issue arrangement described in section GB 35(2), or a streaming arrangement described in section GB 35(3), if the Commissioner decides this subsection should apply, the following paragraphs apply:

(a) a person who would get a tax credit advantage from the arrangement is denied it:

(b) a company that would get an account advantage from the arrangement has a debit to its imputation credit account in the tax year in which the arrangement began.

Reconstruction of streaming arrangement

(2) In the case of a streaming arrangement described in section GB 35(3) in which the company is the only party, or if the Commissioner decides this subsection should apply, the company has a debit to its imputation credit account in the tax year in which the arrangement began. Subsection (1) does not apply to the extent to which this subsection applies to the arrangement.

Amount of adjustment

(3) The amount of the credit or refund denied under subsection (1)(a) and the debit arising under subsection (1)(b) or (2) is in each case the amount of the imputation credit that the Commissioner determines is subject to the arrangement.

Commissioner's powers of determination

(4) The Commissioner may make determinations for the purposes of this section under section 90AF of the Tax Administration Act 1994.

Some definitions

(5) In this section and section 90AF of the Tax Administration Act 1994,—

account advantage means a credit arising to an imputation credit account under sections OB 4 to OB 29 (which relate to credits arising to imputation credit accounts)

tax credit advantage means a tax credit allowed under section LE 1 (Tax credits for imputation credits).

Defined in this Act: account advantage, arrangement, Commissioner, company, imputation credit, imputation credit account, notice, tax credit advantage, tax year

Compare: 2004 No 35 s GC 22(4), (5), (9)

Section GB 36(1)(b): amended, on 1 April 2017, by section 120(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 36(2): amended, on 1 April 2017, by section 120(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 36(3): amended, on 1 April 2017, by section 120(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 36(5): replaced, on 1 April 2017, by section 120(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 36 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 120(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 36 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 120(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

GB 37 Arrangements for payment of dividend by other companies

When this section applies

(1) This section applies when—

(a) an arrangement is entered into in relation to a company (the **first company**) and a shareholder in the first company; and

(b) the arrangement has a purpose of allowing a dividend to be paid by another company to any of the following parties (the **payee**):

(i) the shareholder:

(ii) if the shareholder is a trustee in relation to the shareholding, a beneficiary of the trust:

(iii) an associated person of the shareholder:

(iv) an associated person of a beneficiary of the trust.

Direct or indirect payments

(2) The arrangement may include—

(a) the payee acquiring shares in the other company:

(b) a form of indirect payment of a dividend from the other company.

Dividend treated as paid by first company

(3) For the purposes of the imputation rules, the dividend is treated as if it were paid by the first company.

No imputation credit

(4) Any imputation credit attached to the dividend paid by the other company—

(a) is not included in the amount of the dividend derived by the payee; and

(b) is not treated as an imputation credit for the purposes of section LE 1 (Tax credits for imputation credits); and

(c) is a debit under section OB 30 (ICA payment of dividend) of the first company.

Defined in this Act: arrangement, associated person, company, dividend, imputation credit, imputation credit account, share, shareholder, trustee

Compare: 2004 No 35 s GC 23

GB 38 When sections GB 35 to GB 37 apply to consolidated groups

Tax advantage arrangements

(1) Sections GB 35 and GB 36 apply, with the necessary modifications, in a case that involves accounts of a consolidated group as if—

(a) the consolidated group were a single company; and

(b) references to provisions of this Act were references to the equivalent provisions applicable to the equivalent accounts.

Arrangement for dividend from another company

(2) If a company is treated by section GB 37(3) as having paid a dividend, and is at the time of payment a member of a consolidated group, section GB 37 applies as if the reference to section OB 30 (ICA payment of dividend) were a reference to section OP 28 (Consolidated ICA payment of dividend).

Defined in this Act: company, consolidated group, dividend

Compare: 2004 No 35 s GC 24

Arrangements involving foreign dividends

GB 39 FDP arrangements: general

[Repealed]

Section GB 39: repealed (with effect on 30 June 2009), on 6 October 2009, by section 240(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

GB 40 BETA arrangements for carrying amounts forward

[Repealed]

Section GB 40: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 70(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

GB 41 FDPA arrangements for carrying amounts forward

[Repealed]

Section GB 41: repealed, on 1 April 2017, by section 121 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Arrangements involving Maori authority credits

GB 42 Maori authority credit arrangements to obtain tax advantage

When section GB 43 applies

(1) Section GB 43 applies if an arrangement to obtain a tax advantage arises as described in either subsection (2) or (3).

Arrangements for share disposal or issue

(2) An arrangement is an arrangement to obtain a tax advantage if—

(a) the arrangement is for the disposal or issue of a share in a Maori authority that is a company; and

(b) a party to the arrangement might reasonably have expected that a taxable Maori authority distribution would be paid in relation to the share with a Maori authority credit attached; and

(c) a party might reasonably have expected that a party will or will not be able to obtain a tax advantage from the credit; and

(d) a purpose of the arrangement is that a party will obtain a tax advantage; and

(e) the purpose is not a merely incidental one.

Distribution or credit streaming arrangements

(3) An arrangement is an arrangement to obtain a tax advantage if—

(a) the arrangement is in relation to 1 or more taxable Maori authority distributions by a Maori authority during 1 or more tax years; and

(b) under the arrangement, the Maori authority streams—

(i) the distributions; or

(ii) the attachment of Maori authority credits; and

(c) the streaming will give a higher credit value to a member who will obtain a tax advantage from the higher credit value than to a member who will not or may reasonably be expected to obtain a lesser benefit.

Meaning of higher credit value

(4) A taxable Maori authority distribution has a **higher credit value** than another distribution if either of the following applies:

(a) the distribution has a Maori authority credit and the other distribution does not:

(b) the Maori authority credit ratio under section OK 19(2) (Maori authority credits attached to distributions) of the distribution is higher than that of the other distribution.

Defined in this Act: arrangement, Maori authority, Maori authority credit, member, share, tax advantage, taxable Maori authority distribution

Compare: 2004 No 35 s GC 27A(1)–(3)

GB 43 Reconstruction of Maori authority credit arrangements to obtain tax advantage

Reconstruction of either type of arrangement

(1) In the case of an arrangement for a share disposal or issue as described in section GB 42(2) or a streaming arrangement as described in section GB 42(3), if the Commissioner decides this subsection should apply, the following paragraphs apply:

(a) a member who would get a tax credit advantage from the arrangement is denied it:

(b) a Maori authority that would get both a tax credit advantage and an account advantage from the arrangement has a debit to its Maori authority credit account in the tax year in which the arrangement began.

Reconstruction of streaming arrangement

(2) In the case of a streaming arrangement as described in section GB 42(3) in which the Maori authority is the only party, or if the Commissioner decides this subsection should apply, the Maori authority has a debit to its Maori authority credit account in the tax year in which the arrangement began. Subsection (1) does not apply to the extent to which this subsection applies to the arrangement.

Amount of adjustment

(3) The amount of the credit denied under subsection (1)(a) and the debit arising under subsection (1)(b) or (2) is in each case the amount of the Maori authority credit that the Commissioner determines is subject to the arrangement.

Commissioner's powers of determination

(4) The Commissioner may make determinations for the purposes of this section under section 90AG of the Tax Administration Act 1994.

Some definitions

(5) In this section and section 90AG of the Tax Administration Act 1994,—

account advantage means a credit arising to a Maori authority credit account under sections OK 2 to OK 9 (which relate to credits arising to Maori authority credit accounts)

tax credit advantage means a tax credit allowed under section LO 1 (Tax credits for Maori authority credits).

Defined in this Act: account advantage, arrangement, Commissioner, Maori authority, Maori authority credit, Maori authority credit account, member, notice, tax credit advantage, tax year

Compare: 2004 No 35 s GC 27A(5), (6), (10)

Arrangements involving tax credits for families

Heading: substituted, on 1 April 2008, by section 408(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

GB 44 Arrangements involving tax credits for families

When this section applies

(1) This section applies if both of the following paragraphs are met:

(a) a person enters into an arrangement:

(b) a purpose of the arrangement is that subparts MA to MG and MZ (which relate to tax credits for families) has a more favourable effect than would otherwise have occurred.

Credit reduced

(2) A tax credit under subparts MA to MG and MZ is reduced to the amount that the Commissioner considers would have arisen had the arrangement not occurred.

Defined in this Act: arrangement, Commissioner

Compare: 2004 No 35 s GC 28

Section GB 44 heading: amended, on 1 April 2008, by section 408(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section GB 44(1)(a): replaced, on 27 February 2014, by section 80(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section GB 44(1)(b): amended, on 1 July 2018, by section 4(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section GB 44(1)(b): amended, on 27 February 2014, by section 80(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section GB 44(2): amended, on 1 July 2018, by section 4(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section GB 44(2): amended, on 27 February 2014, by section 80(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Arrangements involving FamilyBoost tax credits

Heading: inserted, on 1 July 2024, by section 9 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

GB 44B Arrangements involving FamilyBoost tax credits

When this section applies

(1) This section applies when—

(a) a person enters into an arrangement; and

(b) the arrangement has a purpose or effect of defeating the intent and application of subpart MH (FamilyBoost tax credits).

Credit reduced

(2) A tax credit under subpart MH is reduced to the amount the Commissioner considers would have arisen had the arrangement not occurred.

Defined in this Act: amount, arrangement, Commissioner, tax credit

Section GB 44B: inserted, on 1 July 2024, by section 9 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Arrangements involving money not at risk

GB 45 Arrangements involving money not at risk

Application of section GB 46

(1) Section GB 46 can apply to an arrangement when—

(a) a person sells or issues, or promotes the selling or issuing of, the arrangement, whether or not for remuneration; and

(b) a person (the **participant**) who is a party to the arrangement or affected by it, considered together with their affected associates, has for an assessment period a total amount of deductions from the arrangement that is more than their total amount of assessable income from the arrangement, having regard to the rules in subsection (2); and

(c) as part of or for the purposes of the arrangement, the participant or an affected associate borrows a limited-recourse amount under a limited-recourse loan; and

(d) on the relevant balance date, the total of the limited-recourse amounts of the limited-recourse loans of the participant and affected associates is more than half of the total cost of their arrangement property on the relevant balance date; and

(e) on the relevant balance date, the total cost of their arrangement property is more than 142.85% of the total cost of the part of the property that is acceptable property.

Certain deductions or income disregarded

(2) For the purposes of subsection (1)(b), the following amounts are disregarded:

(a) a deduction under section GB 46:

(b) *[Repealed]*

(c) an amount of income under section GB 46.

Some definitions

(3) In this section,—

acceptable property is—

(a) land:

(b) buildings:

(c) plant:

(d) machinery:

(e) shares in a listed company that in total represent a direct voting interest of 10% or less in the listed company:

(f) a share and an option that are acquired or created with an intention that the share or option will produce income that is employment income of a participant under section CE 1(1)(d) (Amounts derived in connection with employment):

(g) a share in a foreign company, if the proceeds of a disposal of the share would not be assessable income of the holder other than under the FIF rules

arrangement property means property held as part of the arrangement by the participant and affected associates

assessment period is any of—

(a) the earliest income year (the **first income year**) in which an interest in the arrangement was acquired by the participant or an affected associate of the participant:

(b) the first income year and the next income year:

(c) the first income year and the next 2 income years

relevant balance date means the balance date, or the latest balance date, of the participant and affected associates that ends the assessment period.

Defined in this Act: acceptable property, affected associate, arrangement, arrangement property, assessable income, assessment period, deduction, direct voting interest, dispose, employment income, FIF rules, foreign company, income, income year, limited-recourse amount, limited-recourse loan, relevant balance date, share, shareholder, tax loss component

Compare: 2004 No 35 s GC 29(1)

Section GB 45(2)(b): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GB 45(3) **acceptable property**: amended (with effect on 1 April 2008), on 6 October 2009, by section 241 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 45 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

GB 46 Deferral of surplus deductions from arrangements

When this section applies

(1) This section applies when—

(a) an arrangement of the type described in section GB 45 is made; and

(b) a person (the **participant**) is a party to the arrangement or affected by it; and

(c) *[Repealed]*

(d) the participant has, for an income year, a total amount of deductions from the arrangement that is more than their total amount of assessable income from the arrangement, having regard to the rules in subsection (6); and

(e) the participant considered together with their affected associates has for the income year a total amount of deductions from the arrangement that is more than their total amount of assessable income from the arrangement, having regard to the rules in subsection (6); and

(f) on the balance date, or the latest balance date, of the participant and affected associates for the income year, the arrangement involves a limited-recourse loan in relation to which the participant or an affected associate of the participant is a borrower.

Income for participant

(2) The participant is treated as deriving in the income year an amount of assessable income calculated using the formula—

(participant's excess deductions ÷ total individual excess deductions)
× total ineligible amount.

Definition of items in formula

(3) In the formula,—

(a) **participant's excess deductions** is the amount of excess deductions of the participant for the income year described in subsection (1)(d):

(b) **total individual excess deductions** is the amount, for the income year, by which the total deductions from the arrangement are more than the total assessable income from the arrangement, having regard to the rules in subsection (6), for the group that consists of—

(i) the participant; and

(ii) each affected associate of the participant who has, for the income year, a total amount of deductions from the arrangement that is more than their total assessable income from the arrangement, having regard to the rules in subsection (6):

(c) **total ineligible amount** is the lesser of—

(i) the total individual excess deductions for the group and the income year as described in subsection (1)(e); and

(ii) the total limited-recourse amount that, on the balance date or the latest balance date of the participant and the affected associates, the participant and the affected associates have an undischarged obligation to repay as part of or for the purposes of the arrangement.

Matching deduction in following year

(4) A participant who has an amount of assessable income for an income year under subsection (2) has a deduction of an equal amount for the following income year.

Obligation to repay limited-recourse amount not discharged

(5) For the purposes of subsections (1) and (3)(c)(ii), an obligation to repay a limited recourse amount is not discharged by a transaction to the extent to which the transaction—

(a) involves, as part of the arrangement, the use of—

(i) a put or call option that is not a contract for the sale for future delivery of goods at market value:

(ii) a contract of insurance or guarantee; and

(b) does not give rise to assessable income for the person who is the borrower of the limited-recourse amount under the limited-recourse loan.

Some deductions included, some income excluded

(6) For the purposes of subsections (1)(d) and (e) and (3)(b),—

(a) a deduction of a person includes—

(i) a deduction under subsection (4); and

(ii) *[Repealed]*

(b) income of a person excludes an amount of income arising under subsection (2).

Defined in this Act: arrangement, assessable income, associated person, deduction, income year, limited-recourse amount, limited-recourse loan, tax loss

Compare: 2004 No 35 s GC 31

Section GB 46(1)(c): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GB 46(1)(e): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GB 46(3)(b)(ii): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GB 46(6)(a)(ii): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GB 46 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

GB 47 Calculation rules for sections GB 45 and GB 46

Consolidation of assessable income and deductions, and cost of property

(1) The deductions and assessable income from an arrangement for each person in a group of persons, and the cost of property that is held by each person in the group as part of the arrangement, are calculated on a basis of consolidation for the elimination of intra-group balances in accordance with generally accepted accounting practice.

Calculation of assessable income and deductions, and cost of property

(2) The deductions and assessable income from an arrangement for each person in a group of persons, and the cost of property that is held by each person in the group as part of the arrangement, are calculated using the proportionate method in accordance with generally accepted accounting practice for partnerships, if the group is any of—

(a) persons who are a partnership and the partners in a partnership:

(b) a joint venture and the partners in the joint venture.

(c) *[Repealed]*

Defined in this Act: arrangement, assessable income, deduction, generally accepted accounting practice, shareholder

Compare: 2004 No 35 s GC 29(2), (3)

Section GB 47(2)(c): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GB 47 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

GB 48 Defined terms for sections GB 45 and GB 46

Affected associate

(1) For an arrangement, a person is an **affected associate** of another person if each person is a party to the arrangement or is affected by the arrangement, and—

(a) *[Repealed]*

(b) the persons are associated persons.

Limited-recourse amount

(2) A **limited-recourse amount**, for a limited-recourse loan, means the total for the limited-recourse loan of the amounts for which the obligations of a borrower are affected in a way that is described in subsection (3)(c).

Limited-recourse loan

(3) A **limited recourse loan** means a financial arrangement that meets each of the following requirements:

(a) it is not an excepted financial arrangement:

(b) it involves the provision of money by a person (the **lender**) to another person (the **borrower**):

(c) it has 1 or more of the following effects, or an effect which is substantially similar:

(i) relieving the borrower from the obligation to repay all or some of the money, whether the relief is contingent or not:

(ii) requiring the borrower to make no repayment for a period of 10 or more years from the date on which the loan is made, other than repayments for the purpose of defeating the intent and application of section GB 46:

(iii) providing that the repayment of the money is in substance secured solely against assets that are employed in the arrangement:

(d) if the lender is not an associated person of the borrower, the lender provides the money on terms that are not arm's length and the lender is either—

(i) not a person who regularly provides money to persons on arm's length terms under arrangements that do not meet the requirements of paragraphs (a) to (c); or

(ii) a person who is neither a New Zealand resident nor carrying on business in New Zealand through a fixed establishment in New Zealand:

(e) if the lender is an associated person of the borrower, the lender obtains the money under an arrangement that meets the requirements of paragraphs (a) to (c).

Defined in this Act: affected associate, arrangement, associated person, excepted financial arrangement, financial arrangement, fixed establishment, limited-recourse amount, limited-recourse loan, listed company, money, resident in New Zealand

Compare: 2004 No 35 s GC 30

Section GB 48(1)(a): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GB 48(1)(b): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 242(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 48(3)(d): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 242(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 48(3)(e): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 242(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 48 list of defined terms **1973 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 48 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 48 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GB 48 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Arrangements involving returning share transfers

GB 49 Arrangements involving returning share transfers

When this section applies

(1) This section applies when—

(a) a person enters into an arrangement; and

(b) an effect of the arrangement means that a requirement of the definition of **returning share transfer** is not met; and

(c) the effect of the arrangement is to defeat the intent and application of this Act.

Arrangement treated as returning share transfer

(2) The Commissioner may treat—

(a) the arrangement as a returning share transfer; and

(b) a person affected by the arrangement as a share user or a share supplier, under the returning share transfer.

Defined in this Act: arrangement, Commissioner, returning share transfer, share supplier, share user

Compare: 2004 No 35 s GC 14G

Arrangements involving employee share schemes

Heading: inserted, on 29 September 2018, by section 109 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

GB 49B Employee share schemes

When this section applies

(1) This section applies when a person enters into an arrangement and the purpose or effect of the arrangement is to defeat the intent and application of the definition of **employee share scheme** or the definition of **share scheme taxing date** in relation to an employee share scheme.

Reconstruction

(2) The Commissioner may classify the arrangement or set a share scheme taxing date as the Commissioner considers appropriate to counteract a tax advantage obtained by the person from or under the agreement.

Defined in this Act: arrangement, Commissioner, employee share scheme, share, share scheme taxing date

Section GB 49B: inserted, on 29 September 2018, by section 109 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Arrangements involving partners and owners

Heading: added, on 1 April 2008, by section 17(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Heading: amended, on 1 April 2017, by section 122(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

GB 50 Arrangements involving partners and owners

When this section applies

(1) This section applies when—

(a) a partner of a partnership or an owner of a look-through company enters into an arrangement; and

(b) the arrangement involves an amount of consideration (the **arrangement amount of consideration**) that is not a market value amount of consideration; and

(c) the arrangement has a purpose or effect of defeating the intent and application of subparts HB and HG (which relate to joint venturers, partners, partnerships, and look-through companies).

Market value amount substituted

(2) A market value amount of consideration is substituted for the arrangement amount of consideration.

Defined in this Act: amount, arrangement, look-through company, partner, partnership

Section GB 50: added, on 1 April 2008, by section 17(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section GB 50 heading: amended, on 1 April 2017, by section 122(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 50(1)(a): replaced, on 1 April 2017, by section 122(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 50(1)(c): amended, on 1 April 2017, by section 122(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section GB 50 list of defined terms **look-through company**: inserted, on 1 April 2017, by section 122(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Arrangements involving interest apportionment rules

Heading: inserted, on 1 April 2015, by section 120 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

GB 51 Proportionality between amount of debt and ownership interests

When this section applies

(1) This section applies when—

(a) a person has ownership interests in a company or a trustee who is a linked trustee for the person under section FE 4 (Some definitions) has ownership interests in the company; and

(b) an arrangement affects the relationship between the level of an ownership interest in the company relating to the person and the company's debt relating to the person; and

(c) the arrangement has an effect of defeating the intent and application of subpart FE (Interest apportionment on thin capitalisation).

Arrangement disregarded

(2) The effect of the arrangement on the proportionality between the level of an ownership interest in the company relating to the person and the company's debt relating to the person is disregarded for the purposes of subpart FE.

Defined in this Act: company, ownership interest

Section GB 51: inserted, on 1 April 2015, by section 120 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

GB 51B Increases or decreases in value

When this section applies

(1) This section applies when there is an increase or decrease in a value that affects, or would affect, the result of a calculation (the **affected calculation**) under subpart FE (Interest apportionment on thin capitalisation) and the increase or decrease is—

(a) caused by an action or omission that has, or would have, a purpose or effect of defeating the intent and application of subpart FE:

(b) produced by an arrangement that has an effect of defeating the intent and application of subpart FE.

Increase or decrease excluded from calculation

(2) The effect on the affected calculation of the increase or decrease in the value is disregarded for the purposes of subpart FE.

Defined in this Act: arrangement, income year

Section GB 51B: inserted, on 1 July 2018, by section 38(1) (and see section 38(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Arrangements involving residential land

Heading: inserted (with effect on 1 October 2015), on 16 November 2015, by section 18 of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

GB 52 Arrangements involving residential land: companies' shares

When this section applies

(1) This section applies when—

(a) a company owns residential land directly or indirectly for which the bright-line end date in section CB 6A(1) (Disposal within 2 years:

bright-line test for residential land) is within 2 years of a disposal of shares that paragraph (c) of this section applies to (**company residential land**); and

(b) residential land owned directly or indirectly by the company makes up 50% or more, by market value, of the assets of the company; and

(c) 50% or more of the shares in the company, by market value, are disposed of within a 12-month period, with a purpose or effect of defeating the intent and application of section CB 6A.

Disposal at cost, reacquisition at market

(2) The company is treated as disposing of the relevant shareholder portion of company residential land to the relevant shareholder for an amount of consideration equal to the total cost to the company of the portion, and the shareholder is treated as acquiring the portion for that total cost and then disposing of it, back to the company, for an amount of consideration equal to the market value of the portion. The company is treated as reacquiring the portion for the market value.

A definition

(3) In this section, **shareholder portion** means the proportion that the market value of the shares disposed of by a shareholder bears to the total market value of the shares in the company.

Defined in this Act: bright-line end date, company, dispose, residential land, share, shareholder, year

Section GB 52: inserted (with effect on 1 October 2015), on 16 November 2015, by section 18 of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section GB 52(1)(a): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section GB 52(1)(c): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section GB 52(1)(c): amended (with effect on 27 March 2021), on 30 March 2021, by section 78(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GB 52 list of defined terms **bright-line end date**: inserted, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section GB 52 list of defined terms **year**: inserted, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

GB 53 Arrangements involving residential land: trusts

When this section applies

(1) This section applies when—

(a) the trustees of a trust own residential land directly or indirectly (**trust residential land**); and

(b) trust residential land makes up 50% or more, by market value, of the assets of the trust; and

(c) the trust's trust deed changes, a decision-maker under the trust deed changes, or an arrangement under the trust changes, with a purpose or effect of defeating the intent and application of section CB 6A (Disposal within 2 years: bright-line test for residential land).

Market value disposal

(2) The trustees are treated as disposing of the trust residential land affected by a change described in subsection (1)(c) for an amount of consideration equal to the market value of the land at the time of the change.

Defined in this Act: amount, arrangement, dispose, land, residential land, trustee

Section GB 53: inserted (with effect on 1 October 2015), on 16 November 2015, by section 18 of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section GB 53(1)(c): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Interest incurred in relation to certain land

[Repealed]

Heading: repealed, on 1 April 2025, by section 80 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

GB 53B Interposed residential property percentage: increases or decreases in value

[Repealed]

Section GB 53B: repealed, on 1 April 2025, by section 80 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

GB 53C On-lending at lower rate

[Repealed]

Section GB 53C: repealed, on 1 April 2025, by section 81 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Arrangements involving establishments and non-resident businesses

Heading: inserted, on 1 July 2018, by section 39(1) (and see section 39(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

GB 54 Arrangements involving establishments

When this section applies

(1) This section applies when—

(a) a non-resident makes, under an arrangement, a supply, as defined in section 5 of the Goods and Services Tax Act 1985, (the **facilitated supply**) that is of goods or services to—

(i) a person in New Zealand (the **recipient**); or

(ii) a person in New Zealand (the **intermediary**), who makes under the arrangement a supply of the goods or services to another

person in New Zealand (the **recipient**) whose existence is known to the facilitator referred to in paragraph (b), at the time of the facilitated supply; and

(b) a person (the **facilitator**), who is not an intermediary for the facilitated supply, carries out in New Zealand under the arrangement an activity for the purpose of bringing about the supply by the intermediary to the recipient or the facilitated supply to the recipient; and

(c) the facilitator—

(i) is associated with the non-resident or is an employee of the non-resident:

(ii) derives 80% or more of the facilitator's assessable income in the income year of the activity, and in the previous income year, from services provided to the non-resident or to persons associated with the non-resident; and

(d) the activity is more than preparatory for or auxiliary to the facilitated supply; and

(e) income of the non-resident from the facilitated supply is not within the scope of a double tax agreement that—

(i) incorporates article 12(1) of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting:

(ii) includes a provision having a scope equal to or greater than the scope of the article referred to in subparagraph (i) and enters into force after 7 June 2017; and

(f) section YD 4B(3) (Meaning of permanent establishment) does not determine whether the non-resident has a permanent establishment in New Zealand; and

(g) income of the non-resident from the supply is not attributable, other than under this section, to a permanent establishment in New Zealand of the non-resident; and

(h) the arrangement has a purpose or effect of affecting the imposition on the non-resident of income tax or ancillary tax, or of income tax or ancillary tax and the income tax of a country or territory other than New Zealand, by directly or indirectly—

(i) altering the incidence of income tax or ancillary tax:

(ii) relieving a person from liability to pay income tax or ancillary tax or from a potential or prospective liability to future income tax or ancillary tax:

(iii) avoiding, postponing, or reducing a liability to income tax or ancillary tax or a potential or prospective liability to future income tax or ancillary tax; and

(i) the purpose or effect is more than merely incidental; and

(j) the non-resident, or a group of persons that include the non-resident, is a large multinational group.

Activities attributed to permanent establishment

(2) The non-resident is treated as having a permanent establishment in New Zealand—

(a) through which the non-resident makes the facilitated supply in the course of a business carried on in New Zealand; and

(b) to which activities of the facilitator referred to in subsection (1)(b) are attributed.

Defined in this Act: arrangement, assessable income, associated, business, double tax agreement, goods, income, income tax, large multinational group, New Zealand, non-resident, permanent establishment, services

Section GB 54: inserted, on 1 July 2018, by section 39(1) (and see section 39(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GB 54(1)(b): amended (with effect on 1 July 2018), on 18 March 2019, by section 204(1) (and see section 204(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GB 54(1)(h): amended (with effect on 1 July 2018), on 18 March 2019, by section 204(2)(a) (and see section 204(5) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GB 54(1)(h)(i): amended (with effect on 1 July 2018), on 18 March 2019, by section 204(2)(b) (and see section 204(5) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GB 54(1)(h)(ii): amended (with effect on 1 July 2018), on 18 March 2019, by section 204(2)(c) (and see section 204(5) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GB 54(1)(h)(iii): amended (with effect on 1 July 2018), on 18 March 2019, by section 204(2)(d) (and see section 204(5) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GB 54(1)(i): amended (with effect on 1 July 2018), on 18 March 2019, by section 204(3) (and see section 204(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Arrangements involving tax credits for charitable or other public benefit gifts

Heading: inserted, on 1 April 2019, by section 205 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

GB 55 Arrangements involving tax credits for charitable or other public benefit gifts

When this section applies

(1) This section applies when—

(a) a person enters into an arrangement; and

(b) the arrangement has a purpose or effect of defeating the intent and application of section LD 1 (Tax credits for charitable or other public benefit gifts).

Credit reduced

(2) A tax credit under section LD 1 is reduced to the amount that the Commissioner considers would have arisen had the arrangement not occurred.

Defined in this Act: amount, arrangement, Commissioner, tax credit

Section GB 55: inserted, on 1 April 2019, by section 205 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Arrangements involving research and development tax credits

Heading: inserted, on 1 April 2019, by section 7 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

GB 56 Arrangements involving research and development tax credits

When this section applies

(1) This section applies when an arrangement has a purpose or effect, not being a merely incidental purpose or effect, of defeating the intent and application of subpart LY (Research and development tax credits).

Credit reduced

(2) A person's entitlement to a research and development tax credit is reduced to the amount that the Commissioner thinks appropriate, whether or not the person is a party to the arrangement.

Defined in this Act: arrangement, eligible research and development expenditure, goods, research and development tax credit, services

Section GB 56: inserted, on 1 April 2019, by section 7 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Subpart GC—Market value substituted

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Disposals of trading stock or similar property

GC 1 Certain disposals of trading stock at below market value

When this section applies

(1) This section applies when—

(a) a person (**person A**) disposes of trading stock for—

(i) no consideration; or

(ii) an amount that is less than the market value of the trading stock at the time of the disposal; and

(b) 1 or more of the following apply:

(i) the disposal is effected by person A taking the trading stock for their own use or consumption:

(ii) the disposal is not made by person A in the course of carrying on a business for the purpose of deriving their assessable income, or their excluded income, or a combination of their assessable income and excluded income:

(iii) the disposal is to an associated person.

Market value consideration

(2) Person A is treated as deriving an amount equal to the market value of the trading stock at the time of the disposal.

Market value expenditure

(3) If person A disposes of the trading stock to another person, an amount equal to the market value of the trading stock at the time of the disposal is treated as expenditure incurred by the other person in acquiring the trading stock.

Shares in trading stock

(4) In this section, **trading stock** includes an interest in trading stock.

Exclusions

(5) This section does not apply to a disposal of trading stock—

(a) to a donee organisation:

(b) under a relationship agreement:

(c) by a person to another person, who is not associated with them, for use by the other person in a farming, agricultural, or fishing business that is affected by a self-assessed adverse event:

(d) under a share-lending arrangement, by a share user to a share supplier or by a share supplier to a share user:

(e) to which section GC 20(2) or GC 21(7) applies.

Defined in this Act: amount, assessable income, associated person, business, donee organisation, excluded income, relationship agreement, self-assessed adverse event, share-lending arrangement, share supplier, share user, trading stock

Section GC 1: replaced, on 1 April 2024, by section 82(1) (and see section 82(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

GC 2 Disposals of timber rights or standing timber

When section GC 1 applies

(1) Section GC 1 applies to each of the following disposals as if it were a disposal of trading stock—

(a) a grant of a right to take timber, other than in favour of the grantor:

(b) a disposal of standing timber as part of the disposal of the land on which it stands, other than a disposal subject to a right in favour of the seller to take timber.

Exclusion

(2) Subsection (1) does not apply to a disposal of land with standing timber if the disposal is within 1 of the exclusions in section CB 25(2) (Disposal of land with standing timber).

Limitation

(3) Section GC 1(4) does not apply if the disposal is of land with standing timber subject to a right to take timber.

Defined in this Act: timber, trading stock

Compare: 2004 No 35 s GD 1(2), (3A)

Section GC 2(3): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 55(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

GC 3 Disposals by life insurers

Section GC 1 applies to a life insurer that disposes of any property, other than a financial arrangement, in the course of their business of life insurance, as if the property were trading stock.

Defined in this Act: financial arrangement, life insurance, life insurer, property, trading stock

Compare: 2004 No 35 s GD 7

GC 3B Disposals of emissions units

When section GC 1 applies

(1) Section GC 1 applies to a disposal of an emissions unit as if the emissions unit were trading stock.

Exclusions

(2) Section GC 1 does not apply to a disposal of an emissions unit if the disposal is—

(a) the surrender of the unit under the Climate Change Response Act 2002:

(b) the transfer of the unit to the Crown under a permanent forestry scheme:

(c) the transfer of a forest land emissions unit—

(i) from the person (the **transferor**) who receives the unit from the Crown; and

(ii) to a person (the **transferee**) as a party to a forestry rights agreement as defined in the Forestry Rights Registration Act 1983; and

(iii) as required by a provision of the forestry rights agreement relating to the allocation of income or emissions units between the transferor and the transferee:

(d) the cancellation of the unit.

Defined in this Act: dispose, emissions unit, trading stock

Section GC 3B: inserted (with effect on 26 September 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 56(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section GC 3B(2)(b): amended, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section GC 3B(2)(c)(iii): amended (with effect on 1 January 2009), on 30 March 2022, by section 113(1) (and see section 113(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section GC 3B(2)(d): inserted (with effect on 1 January 2009), on 30 March 2022, by section 113(2) (and see section 113(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section GC 3B list of defined terms **disposal**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GC 3B list of defined terms **dispose**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

GC 4 Disposals and acquisitions of FIF attributing interests

When subsection (2) applies

(1) Subsection (2) applies if—

(a) a person disposes of an attributing interest in a foreign investment fund (FIF); and

(b) they calculate their FIF income or loss from the interest for the period ending with the disposal using the comparative value method, deemed rate of return method, the fair dividend rate method, or the cost method; and

(c) the consideration, if any, for the disposal is below the market value of the interest at the time.

Disposal treated as at market value

(2) The person is treated as having disposed of the interest for an amount equal to its market value at the time.

When subsection (4) applies

(3) Subsection (4) applies if—

(a) a person acquires an attributing interest in a FIF; and

(b) they calculate their FIF income or loss from the interest for the period after the acquisition using the comparative value method, deemed rate of return method, the fair dividend rate method, or the cost method; and

(c) the consideration, if any, for the acquisition is not equal to the market value of the interest at the time.

Acquisition treated as at market value

(4) The person is treated as having acquired the interest for an amount equal to its market value at the time.

Defined in this Act: attributing interest, comparative value method, cost method, deemed rate of return method, fair dividend rate method, FIF, FIF income, FIF loss

Compare: 2004 No 35 s GD 14

GC 4B Disposals of ETS units at below market value

[Repealed]

Section GC 4B: repealed (with effect on 26 September 2008), on 6 October 2009, by section 244 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Leases

GC 5 Leases for inadequate rent

When this section applies

(1) This section applies in relation to leases of real and personal property if and to the extent to which—

(a) a property is leased; and

(b) the lease is 1 of the types referred to in subsection (2); and

(c) the lessee uses the property in deriving income; and

(d) no rent is payable, or the Commissioner considers that the rent is less than adequate.

When this section does not apply

(1B) This section does not apply when the property is an asset to which subpart DG (Expenditure related to use of certain assets) applies.

Types of leases

(2) The following types of leases are subject to this section:

(a) a lease by a company:

(b) a lease by a person to a relative or a related company:

(c) a lease by 2 or more persons to a relative or a related company of any of those persons:

(d) a lease by a partnership, ignoring section HG 2 (Partnerships are transparent), to a relative of a partner or a related company of the partnership.

Lease treated as having adequate rent

(3) The lessee is treated as paying, and the lessor is treated as deriving as income, an adequate rent determined by the Commissioner.

Timing

(4) The adequate rent is treated as—

(a) paid on the rent payment dates set out in the lease, if any; and

(b) paid on a daily basis on each day of the lease term, if there are no rent payment dates; and

(c) income derived by the lessor on the date on which it is treated as being paid; and

(d) accruing on a daily basis.

Some definitions

(5) In this section,—

lease means a tenancy of any duration, including a sublease or bailment

related company means a company that is associated with—

(a) in the case of a single lessor, the lessor, 1 or more relatives of the lessor, or a combination of them:

(b) in the case of multiple lessors, including a partnership, any of the lessors, 1 or more relatives of any of the lessors, or a combination of them

rent includes a premium or other consideration for the lease.

Defined in this Act: asset, Commissioner, company, income, lease, related company, relative, rent

Compare: 2004 No 35 s GD 10

Section GC 5(1): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 48(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section GC 5(1B) heading: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 59(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GC 5(1B): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 59(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section GC 5(2)(d): amended (with effect on 1 April 2008), on 29 March 2025, by section 66(1) (and see section 66(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section GC 5(5) **related company**: amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 245(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 5 list of defined terms **asset**: inserted (with effect on 1 April 2013), on 17 July 2013, by section 59(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Transfer pricing arrangements

GC 6 Purpose and application of rules and nature of arrangements

Purpose of rules

(1) The purpose of this section and sections GC 7 to GC 14 is to substitute an arm's length consideration in the calculation of a person's net income if the person's net income is reduced by the conditions of a cross-border arrangement—

(a) with an associated person or with a party to a financial arrangement that is a cross-border related borrowing of the person under subsection (3B); and

(b) for the acquisition or supply of goods, services, or anything else, or that includes a financial arrangement that is a cross-border related borrowing.

Rules apply consistently with OECD transfer pricing guidelines

(1B) This section and sections GC 7 to GC 14 apply consistently with the OECD transfer pricing guidelines.

What is a transfer pricing arrangement?

(2) An arrangement is a **transfer pricing arrangement** if—

(a) the arrangement involves the supply and acquisition of goods, services, money, other intangible property, or anything else; and

(b) the arrangement—

(i) is between a supplier and acquirer who are associated persons or are a company and a person who is a member of a non-resident owning body that has an ownership interest in the company of 50% or more:

(ii) includes a financial arrangement that is a cross-border related borrowing; and

(c) the arrangement is a cross-border arrangement under subsection (3).

When arrangement is cross-border arrangement

(3) An arrangement is a cross-border arrangement if the requirements of any of the following paragraphs is met:

(a) the supplier and acquirer are a New Zealand resident and non-resident, unless the requirements of both of the following subparagraphs are met:

(i) the non-resident enters into the arrangement for the purposes of a business carried on by the non-resident in New Zealand through a fixed establishment in New Zealand:

(ii) the New Zealand resident has not entered into the arrangement for the purposes of a business carried on by the New Zealand resident outside New Zealand:

(b) the supplier and acquirer are 2 New Zealand residents and either or both enter into the arrangement for the purposes of a business carried on by the person outside New Zealand:

(c) the supplier and acquirer are 2 non-residents, unless each enters into the arrangement for the purposes of a business carried on by the person in New Zealand through a fixed establishment in New Zealand.

When financial arrangement is cross-border related borrowing

(3B) A financial arrangement is a **cross-border related borrowing** under this subsection if, under the financial arrangement,—

(a) a non-resident person (the **lender**) provides funds to another person (the **borrower**) when—

(i) the lender and borrower are associated persons:

(ii) a person or group of persons has a total ownership interest, determined under sections FE 38 to FE 41 (which give the measurement of ownership interests in companies), of 50% or more in each of the lender and borrower:

(iii) the funding is provided through an indirect associated funding arrangement described in subsection (3C):

(iv) the lender is a member of a non-resident owning body, or of a group of non-residents who act in concert and are each described in section FE 2(1)(a) to (db) (When this subpart applies), and the members of the non-resident owning body or of the group have a total ownership interest, determined under sections FE 38 to FE 41, of 50% or more in the borrower; and

(b) expenditure arises for the borrower for which the borrower is allowed a deduction.

When indirect associated funding arrangement exists

(3C) An indirect associated funding arrangement exists under this subsection when,—

(a) under an arrangement, a non-resident person (the **indirect lender**) provides funds or pays money, directly or indirectly, to another person (the **direct lender**) who provides funds to a third person (the **borrower**)—

(i) in order for the funds to be provided to the borrower, or to reimburse the direct lender or compensate them, for providing the funds to the borrower; and

(ii) with the purpose or effect that this section and sections GC 6 to GC 14 and GC 16 to GC 19 do not apply to the arrangement; and

(b) the indirect lender is associated with the borrower, or a person or group of persons has a total ownership interest, determined under sections FE 38 to FE 41, of 50% or more in each of the indirect lender and borrower; and

(c) the direct lender is not associated with the borrower and is not described in subsection (3B)(a)(iv).

Application of sections to cross-border related borrowing

(3D) If a transfer pricing arrangement includes a financial arrangement that is a cross-border related borrowing, sections GC 7 to GC 14 are applied to the transfer pricing arrangement as if the adjustments required by sections GC 15 to GC 19 had been made to the credit rating of the borrower and the conditions of the financial arrangement.

Certain preference shares excluded from calculation of ownership interest

(3E) In calculating the ownership interests in a lender or borrower (the **issuer**) for the purposes of subsection (3B), a preference share is not included in the calculation if the preference share—

(a) is held by a person (the **creditor**) who is not associated with the issuer; and

(b) was issued to the creditor with the intention of satisfying or replacing debt provided by the creditor to the issuer in the ordinary course of business.

Application of sections

(4) Section GC 7, GC 8, GC 9, or GC 10 can apply to an arrangement under section GB 2 (Arrangements involving transfer pricing).

Defined in this Act: acquisition, arrangement, associated person, cross-border related borrowing, fixed establishment, financial arrangement, net income, New Zealand, New Zealand resident, non-resident, non-resident owning body , OECD transfer pricing guidelines, ownership interest, supply, transfer pricing arrangement

Compare: 2004 No 35 s GD 13(1), (2)

Section GC 6 heading: amended, on 1 July 2018, by section 40(1) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(1): replaced, on 1 July 2018, by section 40(2) (and see section 40(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(1B) heading: inserted, on 1 July 2018, by section 40(3) (and see section 40(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(1B): inserted, on 1 July 2018, by section 40(3) (and see section 40(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(2)(b): replaced, on 1 July 2018, by section 40(4) (and see section 40(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3B) heading: inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3B): inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3C) heading: inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3C): inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3D) heading: inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3D): inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3E) heading: inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6(3E): inserted, on 1 July 2018, by section 40(5) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6 list of defined terms **cross-border related borrowing**: inserted, on 1 July 2018, by section 40(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6 list of defined terms **financial arrangement**: inserted, on 1 July 2018, by section 40(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6 list of defined terms **non-resident owning body**: inserted, on 1 July 2018, by section 40(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6 list of defined terms **OECD transfer pricing guidelines**: inserted, on 1 July 2018, by section 40(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 6 list of defined terms **ownership interest**: inserted, on 1 July 2018, by section 40(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

GC 7 Excess amount payable by person

If the amount of consideration payable by a person (the **taxpayer**) under a transfer pricing arrangement is more than an arm's length amount, an amount equal to the arm's length amount is treated as the amount payable by the taxpayer for the purposes of the calculation of their income tax liability for a tax year.

Defined in this Act: amount, arrangement, income tax liability, tax year, taxpayer, transfer pricing arrangement

Compare: 2004 No 35 s GD 13(3)

GC 8 Insufficient amount receivable by person

Amount receivable

(1) If the amount of consideration receivable by a person (the **taxpayer**) under a transfer pricing arrangement is less than an arm's length amount, an amount equal to the arm's length amount is treated as the amount receivable by the taxpayer for each of the following purposes:

(a) the calculation of their income tax liability for a tax year:

(b) *[Repealed]*

(c) the determination of the obligation of another person to withhold under Part R (General collection rules) from the amount.

Non-resident's exemption: deduction to payer

(2) This section does not apply when—

(a) the taxpayer is neither resident in New Zealand nor entering into the transfer pricing arrangement for the purposes of a business carried on in New Zealand through a fixed establishment in New Zealand; and

(b) the increase under subsection (1) in the amount receivable by the taxpayer—

(i) produces an increase in the amount that is a deduction of the other party, or would be a deduction of the other party in the absence of sections FH 5, FH 8, and FH 9 (which deny deductions arising from some mismatch situations); or

(ii) if the transfer pricing arrangement is an interest-free loan, would produce an increase in the income of the borrower under subpart FE (Interest apportionment on thin capitalisation) or an increase in the amount that would be a deduction of the borrower in the absence of subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements); and

(c) the amount receivable is interest, royalties, or an insurance premium to which section YD 8 (Apportionment of premiums derived by non-resident general insurers) applies.

Non-resident's exemption: fixed-rate share dividend

(3) This section does not apply if both of the following requirements are met:

(a) the taxpayer is neither resident in New Zealand nor entering into the arrangement for the purposes of a business carried on in New Zealand through a fixed establishment in New Zealand:

(b) the amount is a dividend receivable on a fixed-rate share.

Defined in this Act: amount, arrangement, deduction, dividend, fixed establishment, fixed-rate share, income tax liability, interest, resident in New Zealand, royalty, tax year, taxpayer, transfer pricing arrangement

Compare: 2004 No 35 s GD 13(4), (5)

Section GC 8(1)(b): repealed (with effect on 30 June 2009), on 6 October 2009, by section 246(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 8(2)(a): amended (with effect on 1 July 2018), on 30 March 2021, by section 80(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 8(2)(b): replaced (with effect on 1 July 2018), on 30 March 2021, by section 80(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

GC 9 Compensating arrangement: person paying less than arm's length amount

When this section applies

(1) This section applies when—

(a) a person (the **taxpayer**) is a party to a transfer pricing arrangement with another person; and

(b) an adjustment is made for an income year under either—

(i) section GC 7 to an amount payable by the taxpayer under the transfer pricing arrangement; or

(ii) section GC 8 to an amount receivable by the taxpayer under the transfer pricing arrangement; and

(c) an amount of consideration payable by the taxpayer in the same income year, or in the preceding or next income year, for an acquisition (the **compensating acquisition arrangement**) from the same person is less than an arm's length amount; and

(d) either—

(i) the transfer pricing arrangement involves goods, services, money, other intangible property, or anything else of the same type as that acquired in the compensating acquisition arrangement; or

(ii) the amount of consideration actually payable or receivable in the transfer pricing arrangement is set having regard to the amount of consideration payable under the compensating acquisition arrangement.

Paying arm's length amount

(2) For the purposes of calculating the taxpayer's income tax liability, the amount paid by them in the compensating acquisition arrangement is treated for the corresponding tax year as an amount equal to the arm's length amount determined under section GC 13.

Defined in this Act: acquisition, amount, arrangement, income tax liability, tax year, transfer pricing arrangement

Compare: 2004 No 35 s GD 13(10)

GC 10 Compensating arrangement: person receiving more than arm's length amount

When this section applies

(1) This section applies when—

(a) a person (the **taxpayer**) is a party to a transfer pricing arrangement with another person; and

(b) an adjustment is made for a tax year under either—

(i) section GC 7 to an amount payable by the taxpayer under the transfer pricing arrangement; or

(ii) section GC 8 to an amount receivable by the taxpayer under the transfer pricing arrangement; and

(c) an amount of consideration receivable by the taxpayer in the same tax year, or the preceding or next tax year, for a supply (the **compensating**

supply arrangement) to the same person is more than an arm's length amount; and

(d) either—

(i) the transfer pricing arrangement involves goods, services, money, other intangible property, or anything else of the same type as that acquired in the compensating supply arrangement; or

(ii) the amount of consideration actually payable or receivable in the transfer pricing arrangement is set having regard to the amount of consideration receivable under the compensating supply arrangement.

Receiving arm's length amount

(2) The amount received by the taxpayer in the compensating supply arrangement is treated as being an amount equal to the arm's length amount determined under section GC 13, for each of the following purposes:

(a) the calculation of their income tax liability for a tax year:

(b) *[Repealed]*

(c) the determination of the obligation of another person to withhold under Part R (General collection rules) from the amount.

Defined in this Act: amount, arrangement, income tax liability, supply, tax year, transfer pricing arrangement

Compare: 2004 No 35 s GD 13(10)

Section GC 10(1)(b)(ii): amended (with effect on 1 April 2008), on 23 March 2020, by section 129(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GC 10(1)(c): amended (with effect on 1 April 2008), on 23 March 2020, by section 129(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GC 10(2)(b): repealed (with effect on 30 June 2009), on 6 October 2009, by section 247(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

GC 11 Applications for matching treatment

When this section applies

(1) This section applies when—

(a) an arm's length amount of consideration is substituted under section GC 7 or GC 8 in relation to a transfer pricing arrangement entered into by a person (the **taxpayer**); and

(b) the other party to the arrangement or, if the other party is a controlled foreign company (CFC), a person with an income interest in the CFC, applies to the Commissioner within 6 months after an assessment is made for the taxpayer which reflects the substitution; and

(bb) the difference between the arm's length amount and either the consideration payable in the absence of section GC 7 or the consideration

receivable in the absence of section GC 8, as the case may be, is not a dividend; and

(c) the Commissioner considers it is fair and reasonable to apply subsection (2), having regard to an adjustment made under a double tax agreement or any other matter; and

(d) the Commissioner has notified the other party.

Substitution applying for other party

(2) The substitution applies for the purposes of the application of this Act to the other party—

(a) *[Repealed]*

(b) including, when the other party is a CFC, the calculation of net attributable CFC income or net attributable CFC loss in relation to the other party, and the resultant calculation of the attributed CFC income or an attributed CFC loss or attributed CFC net loss of a person.

Defined in this Act: amount, apply, arrangement, assessment, attributed CFC income, attributed CFC loss, attributed CFC net loss, CFC, Commissioner, dividend, double tax agreement, income interest, net attributable CFC income, net attributable CFC loss, notify, taxpayer, transfer pricing arrangement

Compare: 2004 No 35 s GD 13(11)

Section GC 11 heading: amended, on 2 June 2016, by section 47(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section GC 11(1)(b): amended, on 2 June 2016, by section 47(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section GC 11(1)(bb): inserted, on 30 March 2025, by section 67(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section GC 11(2)(a): repealed, on 30 March 2025, by section 67(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section GC 11(2)(b): substituted (with effect on 30 June 2009), on 6 October 2009, by section 248(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 11 list of defined terms **apply**: inserted, on 2 June 2016, by section 47(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section GC 11 list of defined terms **branch equivalent income**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 248(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 11 list of defined terms **branch equivalent loss**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 248(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 11 list of defined terms **net attributable CFC income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 248(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 11 list of defined terms **net attributable CFC loss**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 248(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 11 list of defined terms **notify**: inserted, on 2 June 2016, by section 47(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

GC 12 Effect on person's withholding obligations

An adjustment under any of sections GC 7 to GC 10 has no effect on an obligation of the taxpayer to withhold under Part R (General collection rules) in relation to the amount.

Defined in this Act: amount

Section GC 12: substituted (with effect on 30 June 2009), on 6 October 2009, by section 249(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section GC 12: amended, on 30 March 2025, by section 68 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

GC 13 Calculation of arm's length amounts

Determining arm's length amounts

(1) An arm's length amount of consideration for a supply and acquisition under a transfer pricing arrangement must be determined by—

(a) identifying, as required by subsections (1B) and (1C), a transaction reproducing the supply and acquisition (the **identified transaction**) or the absence of such a transaction; and

(b) identifying the conditions (the **arm's length conditions**) that independent parties after real and independent bargaining might be expected to agree upon for the identified transaction; and

(c) applying whichever 1 or a combination of the methods listed in subsection (2) produces the most reliable measure of the arm's length amount of consideration (the **arm's length amount**) that independent parties after real and independent bargaining would have agreed upon as the price for the identified transaction as part of the arm's length conditions.

Determination of identified transaction

(1B) A transaction reproducing a supply and acquisition under a transfer pricing arrangement is determined by—

(a) accurately delineating the transfer pricing arrangement using the approach given in the OECD transfer pricing guidelines, chapter I, section D.1; and

(b) identifying a transaction of supply and acquisition under the transfer pricing arrangement as delineated under paragraph (a).

No transaction or differing transaction

(1C) If the requirements of the OECD transfer pricing guidelines, paragraph 1.142, are met, the approach described in the OECD transfer pricing guidelines, chapter I, section D.2 must be used to treat a transfer pricing arrangement involving a supply and acquisition as instead involving—

(a) no supply and acquisition; or

(b) an identified transaction that differs from the supply and acquisition under the accurately delineated transfer pricing arrangement.

Available methods for calculating arm's length amount

(2) The arm's length amount of consideration for a supply and acquisition under a transfer pricing arrangement is zero, if there is no supply and acquisition under subsection (1C)(a), or is the amount calculated for the identified transaction under arm's length conditions by performing a comparability analysis as required by the OECD transfer pricing guidelines, chapter III, using any 1 or a combination of—

(a) the comparable uncontrolled price method:

(b) the resale price method:

(c) the cost plus method:

(d) the transactional profit split method:

(e) the transactional net margin method.

Criteria for choice and application of method

(3) The choice and application of a method or methods must be made having regard to each of the following factors:

(a) the degree of comparability between the transactions used for comparison and the transactions of the taxpayer under the transfer pricing arrangement:

(b) the completeness and accuracy of the data relied on:

(c) the reliability of all assumptions:

(d) the sensitivity of a result to possible deficiencies in the data and assumptions.

Initial determination by the taxpayer

[Repealed]

(4) *[Repealed]*

Commissioner's determination

[Repealed]

(5) *[Repealed]*

Amendment of assessment

(6) Despite the time bar, the Commissioner may amend a taxpayer's assessment for a tax year (the **assessed year**) in order to give effect to this section and to sections GC 6 to GC 12 and GC 14 to GC 19 at any time in the period of 7 tax years after the tax year (the **return year**) in which a return of income is made for the assessed year if, at any time in the period of 4 tax years after the return year, the Commissioner notifies the taxpayer or another taxpayer that a relevant tax audit or investigation affecting them has commenced and this subsection applies.

Further amendment of assessment

(7) Despite the time bar, at any time in the period of 7 tax years after the return year for an amendment (a **transfer pricing amendment**) that was made under subsection (6), the Commissioner may amend an assessment if such amendment is related to the transfer pricing amendment.

Defined in this Act: amount, arm's length amount, assessment, associated person, Commissioner, OECD transfer pricing guidelines, return of income, tax year, time bar, transfer pricing arrangement

Compare: 2004 No 35 s GD 13(6)–(9)

Section GC 13(1) heading: replaced, on 1 July 2018, by section 41(1) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(1): replaced, on 1 July 2018, by section 41(1) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(1B) heading: inserted, on 1 July 2018, by section 41(1) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(1B): inserted, on 1 July 2018, by section 41(1) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(1C) heading: inserted, on 1 July 2018, by section 41(1) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(1C): inserted, on 1 July 2018, by section 41(1) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(1C): amended (with effect on 20 January 2022), on 31 March 2023, by section 74 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section GC 13(2) heading: replaced, on 1 July 2018, by section 41(2) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(2): replaced, on 1 July 2018, by section 41(2) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(3)(a): replaced, on 1 July 2018, by section 41(3) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(4) heading: repealed, on 1 July 2018, pursuant to section 41(4) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(4): repealed, on 1 July 2018, by section 41(4) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(5) heading: repealed, on 1 July 2018, pursuant to section 41(4) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(5): repealed, on 1 July 2018, by section 41(4) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(6) heading: inserted, on 1 July 2018, by section 41(5) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(6): inserted, on 1 July 2018, by section 41(5) (and see section 41(7) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13(6): amended, on 1 April 2025, by section 69(1)(a) (and see section 69(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section GC 13(6): amended, on 1 April 2025, by section 69(1)(b) (and see section 69(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section GC 13(7) heading: inserted, on 1 April 2025, by section 69(2) (and see section 69(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section GC 13(7): inserted, on 1 April 2025, by section 69(2) (and see section 69(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section GC 13 list of defined terms **arm's length amount**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13 list of defined terms **assessment**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13 list of defined terms **associated person**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13 list of defined terms **OECD transfer pricing guidelines**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13 list of defined terms **return of income**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13 list of defined terms **tax year**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13 list of defined terms **time bar**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 13 list of defined terms **transfer pricing arrangement**: inserted, on 1 July 2018, by section 41(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

GC 14 Definitions for sections GC 6 to GC 13

In sections GC 6 to GC 13,—

acquisition—

(a) includes obtaining the availability of anything; but

(b) does not include the mere receipt or retention by a company of consideration for the issue of a share, unless the share is a fixed-rate share

amount includes zero

supply—

(a) includes making anything available; but

(b) does not include the mere payment, and subsequent continuing making available, by a person to a company of consideration for the issue of a share, unless the share is a fixed-rate share.

Defined in this Act: acquisition, amount, company, fixed-rate share, share, supply

Compare: 2004 No 35 s GD 13(13)

Cross-border related borrowing

Heading: inserted, on 1 July 2018, by section 42(1) (and see section 42(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

GC 15 Aspects of loan adjusted for application of sections

Adjustment of aspects of loan

(1) If a transfer pricing arrangement includes a financial arrangement that is a cross-border related borrowing under which a non-resident (the **lender**) provides funds to a person (the **borrower**), sections GC 7 to GC 14 are applied to the transfer pricing arrangement as if—

(a) the borrower had the credit rating required by—

(i) section GC 16, if the borrower is not an insuring or lending person under subsection (2):

(ii) section GC 17, if the borrower is an insuring or lending person under subsection (2); and

(b) conditions of the cross-border related borrowing were disregarded, as required by section GC 18.

Insuring or lending person

(2) A borrower is an insuring or lending person under this subsection if the borrower is—

(a) a member of the New Zealand banking group of a registered bank for the purposes of subpart FE (Interest apportionment on thin capitalisation):

(b) a licensed insurer under the Insurance (Prudential Supervision) Act 2010 or an associated person under that Act of a licensed insurer:

(c) a non-bank deposit taker under the Non-bank Deposit Takers Act 2013 or an associated person or related person under that Act of a non-bank deposit taker:

(d) a member of a group of persons that has a main business activity of providing funds to persons who are not associated persons of the members of the group:

(e) a person that—

(i) is a member of a group of persons (the **business group**) that has a main business activity other than the main business activity of a group of persons referred to in paragraphs (a) to (d); and

(ii) has a main business activity of providing funds to persons who are not associated persons of the members of the business group.

Defined in this Act: associated person, cross-border related borrowing, financial arrangement, non-resident, transfer pricing arrangement

Section GC 15: inserted, on 1 July 2018, by section 42(1) (and see section 42(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

GC 16 Credit rating of borrower: other than insuring or lending person

Adjustment of long-term issuer credit rating

(1) For the purposes of sections GC 7 to GC 14, a borrower that is not referred to as an insuring or lending person in section GC 15(2) has a long-term issuer credit rating for a loan given by this section.

Borrowers with default credit rating

(2) A borrower has for a loan the default credit rating given by subsection (8) if, on the most recent calculation date given for the loan by subsection (6), the borrower—

(a) does not elect to use a credit rating given by 1 of subsections (9) to (11) for the loan, in the first return of income that includes the loan; and

(b) is not required to use a credit rating given by subsection (9) or (10).

Borrowers with restricted credit rating

(3) A borrower has the restricted credit rating given by subsection (9) if the borrower, or a non-resident that controls the borrower and has no other business activity, is controlled by a group of persons (a **co-ordinated group**) that is a non-resident owning body or is a group of persons that act in concert and are each described in section FE 2(1)(a) to (db) (When this subpart applies) and—

(a) on the most recent calculation date given for the loan by subsection (6) (the **latest calculation date**), the co-ordinated group does not include a person who has an ownership interest in the borrower, determined under sections FE 38 to FE 41 (which give the measurement of ownership interests in companies), of 50% or more; and

(b) the borrower has debt under cross-border related borrowings including the loan, of $10 million or more; and

(c) the borrower's New Zealand group under subpart FE (Interest apportionment on thin capitalisation) has a debt percentage under section FE 12(3) (Calculation of debt percentages) of 40% or more or has a debt percentage equal to zero, or, for each lender on the latest calculation date,—

(i) there is no ultimate owner having an ownership interest in the lender, determined under sections FE 38 to FE 41, of 50% or more that is resident in the same country or territory as the lender; and

(ii) under the tax law of the country or territory in which the lender is resident, income from the borrower's cross-border related borrowings is, and would be for a company having the usual tax status of a company, subject to taxation at a rate of less than 15%; and

(d) the borrower does not elect to use the optional credit rating given by subsection (11) for the loan, in the first return of income that includes the loan.

Borrowers with group credit rating

(4) A borrower has the group credit rating given by subsection (10) if the borrower is not controlled by a co-ordinated group referred to in subsection (3) or, on the most recent calculation date given for the loan by subsection (6) (the **latest calculation date**), is controlled by a co-ordinated group that includes a person who has an ownership interest in the borrower, determined under sections FE 38 to FE 41, of 50% or more, and—

(a) the borrower has debt under cross-border related borrowings including the loan, of $10 million or more; and

(b) the borrower's New Zealand group under subpart FE has a debt percentage under section FE 12(3) that is 40% or more, or has a debt percentage equal to zero, and the borrower does not show that the debt percentage is less than 110% of the debt percentage of the borrower's worldwide group under subpart FE, or, for each lender on the latest calculation date,—

(i) there is no ultimate owner having an ownership interest in the lender, determined under sections FE 38 to FE 41, of 50% or more that is resident in the same country or territory as the lender; and

(ii) under the tax law of the country or territory in which the lender is resident, income from the borrower's cross-border related borrowings is, and would be for a company having the usual tax status of a company, subject to taxation at a rate of less than 15%; and

(c) the borrower does not elect to use the optional credit rating given by subsection (11), for the loan, in the first return of income that includes the loan.

Borrowers with optional credit rating for some loans

(5) A borrower has for a loan the optional credit rating given by subsection (11) if the borrower chooses to use the rate given by that subsection in the first return of income that includes the loan and uses the rate for an amount of related-party debt that is less than or equal to 4 times the total value of the long-term senior debt, that is not related-party debt, for which the borrower or a member of the borrower's New Zealand group has the credit rating.

Calculation dates for loan

(6) A calculation date under subsections (2) to (4) for a borrower for a loan is a date—

(a) that is the day before the first income year of the borrower beginning on or after 1 July 2018, if the borrower enters the loan before that income year and does not use an earlier date under paragraph (d):

(b) that is the day on which the borrower enters the loan, if that day is on or after the beginning of the first income year of the borrower beginning on or after 1 July 2018:

(c) on or after the beginning of the first income year of the borrower beginning on or after 1 July 2018, on which the loan is renewed, extended, or renegotiated:

(d) that is the last day before 1 July 2018 on which the loan is entered, renewed, extended, or renegotiated, if the borrower treats the date as a calculation date in the return of income provided for the first income year beginning on or after 1 July 2018.

Approximate calculation if calculation date not balance date

(7) If a calculation date under subsection (6) is not a measurement date under section FE 8 (Measurement dates) for which the borrower measures the amounts of total group debt and total group assets, and follows a measurement date for which the borrower has made such measurements, the debt percentage may be calculated by making appropriate adjustments to the debt percentage calculated for the most recent measurement date.

Default credit rating

(8) The credit rating of a borrower under this subsection is the credit rating that the borrower has for long-term senior unsecured debt or, if the borrower does not have such a credit rating, the credit rating for long-term senior unsecured debt that the borrower would have under section GC 13 in the absence of this section and section GC 15.

Restricted credit rating

(9) The credit rating of a borrower under this subsection is the higher of—

(a) BBB−, or an equivalent rating, given for the borrower by a rating agency approved by the Reserve Bank of New Zealand under section 86 of the Non-bank Deposit Takers Act 2013:

(b) the credit rating that the borrower would have if the borrower's New Zealand group under subpart FE had a debt percentage equal to the lesser of 40% and the debt percentage of the New Zealand group.

Group credit rating

(10) The credit rating of a borrower under this subsection is the higher of—

(a) the credit rating, for debt that is long-term senior unsecured debt and not related-party debt or between associated non-residents, of the member, of the borrower's worldwide group under subpart FE, that has the most such debt, reduced by,—

(i) if the member has a credit rating lower than BBB+, the division (the **notch**) that is the smallest division within the credit rating category or is the division between credit rating categories:

(ii) if the member has a credit rating of BBB+ or higher, 2 notches:

(ab) if no member of the borrower's worldwide group under subpart FE has long-term senior unsecured debt, the credit rating of the member of the

borrower's worldwide group with the highest credit rating, which may be determined without considering the credit ratings of members that are reasonably considered to be unlikely to have the highest credit rating, reduced by,—

(i) if the member has a credit rating lower than BBB+, 1 notch:

(ii) if the member has a credit rating of BBB+ or higher, 2 notches:

(b) the credit rating for long-term senior unsecured debt that the borrower would have under section GC 13 in the absence of this section and section GC 15.

Optional credit rating

(11) The credit rating of a borrower under this subsection is—

(a) the credit rating of the borrower, or a member of the borrower's New Zealand group, for existing long-term senior debt that is not related-party debt, if the borrower or member has such a credit rating; or

(b) the credit rating corresponding to the rate of interest incurred by the borrower, or a member of the borrower's New Zealand group, for existing long-term senior debt that is not related-party debt.

Defined in this Act: cross-border related borrowing, financial arrangement, generally accepted accounting practice, loan, net loss, non-resident owning body, ownership interest, quarter, related-party debt, return of income, ultimate owner

Section GC 16: inserted, on 1 July 2018, by section 42(1) (and see section 42(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 16(3)(c): amended (with effect on 1 July 2018), on 30 March 2021, by section 81(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 16(4)(b): amended (with effect on 1 July 2018), on 30 March 2021, by section 81(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 16(5): amended (with effect on 1 July 2018), on 23 March 2020, by section 130(1) (and see section 130(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section GC 16(10)(a): amended (with effect on 1 July 2018), on 18 March 2019, by section 206(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GC 16(10)(ab): replaced (with effect on 1 July 2018), on 30 March 2021, by section 81(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 16(11)(a): amended (with effect on 1 July 2018), on 18 March 2019, by section 206(3)(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GC 16(11)(b): amended (with effect on 1 July 2018), on 18 March 2019, by section 206(3)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

GC 17 Credit rating of borrower: insuring or lending person

For the purposes of sections GC 7 to GC 14, a borrower that is referred to as an insuring or lending person in section GC 15(2) has a credit rating for a cross-border related borrowing that is equal to—

(a) the credit rating for long-term senior unsecured debt of the member of the borrower's worldwide group, under subpart FE (Interest apportionment on thin capitalisation), having the greatest long-term senior unsecured debt that is not related-party debt or between associated non-residents, if the borrower has debt under cross-border related borrowings including the loan of $10 million or more on the most recent calculation date given for the loan by section GC 16(4); or

(ab) if no member of the borrower's worldwide group under subpart FE has long-term senior unsecured debt, the credit rating of the member of the borrower's worldwide group with the highest credit rating, which may be determined without considering the credit ratings of members that are reasonably considered to be unlikely to have the highest credit rating; or

(b) the credit rating for long-term senior unsecured debt that the borrower would have under section GC 13 in the absence of this section and section GC 15, if the borrower has debt under cross-border related borrowings including the loan of less than $10 million on the most recent calculation date; or

(c) the optional credit rating given for the borrower by section GC 16(11), if the borrower chooses to use the rate given by that subsection and uses the rate for an amount of related-party debt that is less than or equal to 4 times the total value of the long-term senior debt, that is not related-party debt, for which the borrower or a member of the borrower's New Zealand group has the credit rating.

Defined in this Act: cross-border related borrowing, loan

Section GC 17: inserted, on 1 July 2018, by section 42(1) (and see section 42(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 17(a): amended (with effect on 1 July 2018), on 18 March 2019, by section 207(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GC 17(ab): inserted (with effect on 1 July 2018), on 18 March 2019, by section 207(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section GC 17(c): amended (with effect on 1 July 2018), on 18 March 2019, by section 207(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

GC 18 Loan features disregarded by rules for transfer pricing arrangements

When this section applies

(1) This section applies when sections GC 7 to GC 14 are applied to a borrower and a transfer pricing arrangement including a financial arrangement (the **loan**) that is a cross-border related borrowing, as referred to in section GC 15(1).

General rule

(2) A feature of the loan is disregarded, or adjusted as required by this section, for the purposes of applying sections GC 7 to GC 14 if—

(a) the borrower has debt under cross-border related borrowings, including the loan, of $10 million or more on the most recent calculation date given for the loan by section GC 16(4); and

(b) the feature may increase the rate of interest payable by the borrower under the loan and—

(i) is referred to in subsection (3); and

(ii) is not included in an exception under subsections (9) and (10).

Loan features disregarded or adjusted if no exception

(3) A feature of a financial arrangement that is a cross-border related borrowing may be disregarded or adjusted under this section if the feature—

(a) allows the reduction of a liability for interest or principal by a provision of value other than payment of an amount of money:

(b) allows a liability to pay interest to be deferred for a period of more than 12 months:

(c) provides for a change in the rate of interest payable that is contingent on an event within the control of the borrower or the lender:

(d) excludes the exercise of a lender's usual rights to enforce the payment of interest or repayment of principal:

(e) provides that a liability to pay interest or repay principal is contingent on an event within the control of the borrower or the lender:

(f) provides that the term of the loan from when the financial arrangement is entered is more than 5 years:

(g) provides that the borrower's obligations under the loan are subordinate to other financial arrangements of the borrower.

Term of loan

(4) A term of more than 5 years for a cross-border related borrowing (the **borrowing**) may be adjusted under subsection (8) if—

(a) the borrower is referred to as an insuring or lending person in section GC 15(2)(a), (b), or (c), or is associated with such a person, and the exception in subsection (10) does not apply:

(b) the borrower is not referred to as an insuring or lending person in section GC 15(2)(a), (b), or (c), and is not associated with such a person and, for the borrowing, either or both—

(i) the term of the borrowing is more than the period that is the weighted average of the terms of the financial arrangements included in the total group debt of the borrower's worldwide group under subpart FE (Interest apportionment on thin capitalisation):

(ii) the amount of the borrower's cross-border related borrowing, including the borrowing, is more than the amount that is 4 times the total value of the financial arrangements included in the total group debt of the borrower's worldwide group under subpart FE.

Quantities affecting adjustment to term

(5) Whether an adjustment is required under subsection (8), and the amount of a required adjustment, is found for the date (the **calculation date**) on which the loan is entered or renewed or extended using—

(a) the figure (the **threshold term**) calculated using the formula in subsection (6) for financial arrangements having a term of more than 5 years—

(i) included in the total group debt of the borrower's worldwide group under subpart FE; or

(ii) between members of the borrower's New Zealand group under subpart FE and persons other than associated persons excluding cross-border related borrowing:

(b) the value of the financial arrangements used in calculating the threshold term, expressed as a fraction (the **threshold fraction**) of—

(i) the total group debt of the borrower's worldwide group, if the threshold term is calculated under paragraph (a)(i); or

(ii) the total value of loans to members of the borrower's New Zealand group by persons other than associated persons excluding cross-border related borrowing, if the threshold term is calculated under paragraph (a)(ii).

Threshold term

(6) The threshold term for the purposes of subsection (5)(a) is the total of amounts, each of which is calculated using the formula—

$$\text{term} \times \text{term debt} \div \text{long-term debt}.$$

Definition of items in formula

(7) In the formula,—

(a) **term** is the period of the loan term, calculated from the most recent date on which each loan is entered or renewed or extended:

(b) **term debt** is the total value on the calculation date of the principal amounts of loans with the loan term:

(c) **long-term debt** is—

(i) the total group debt having a term of more than 5 years of the borrower's worldwide group, if the threshold term is calculated for financial arrangements described in subsection (5)(a)(i); or

(ii) the total value of loans having a term of more than 5 years to members of the borrower's New Zealand group by persons other than associated persons excluding cross-border related borrowing, if the threshold term is calculated for financial arrangements described in subsection (5)(a)(ii).

Term of loan: adjustment

(8) The term of a loan is adjusted to equal—

(a) the threshold term under subsection (5)(a), if—

(i) the term of the loan exceeds the threshold term; and

(ii) the total value of loans that are cross-border related borrowing or are to members of the borrower's New Zealand group by associated persons, and having a term of more than 5 years, expressed as a proportion of the total value of loans that are cross-border related borrowing or are to members of the borrower's New Zealand group by associated persons, does not exceed the threshold fraction under subsection (5)(b); or

(b) 5 years, if when the loan is included, the total value of loans that are cross-border related borrowing or are to members of the borrower's New Zealand group by associated persons, and having a term of more than 5 years,—

(i) expressed as a proportion of the total value of loans that are cross-border related borrowing or are to members of the borrower's New Zealand group by associated persons, exceeds the threshold fraction under subsection (5)(b):

(ii) is more than 4 times the total value of financial arrangements with the feature that are included in total group debt of the borrower's worldwide group, when the threshold fraction is determined under subsection (5)(b)(i):

(iii) is more than 4 times the total value of financial arrangements with the feature that are included in the debt that is financial arrangements between members of the borrower's New Zealand group and persons other than associated persons excluding cross-border related borrowing, when the threshold fraction is determined under subsection (5)(b)(ii).

Exceptions for features reflecting other borrowing

(9) For a borrower that is not referred to as an insuring or lending person in section GC 15(2)(a), (b), or (c) and a feature of a financial arrangement other than the term of a loan, the feature is not disregarded or adjusted if—

(a) the feature corresponds to a feature of financial arrangements with a total value that is a fraction (the **feature fraction**) of the total value of financial arrangements—

(i) included in the total group debt of the borrower's worldwide group under subpart FE; or

(ii) between members of the borrower's New Zealand group under subpart FE and persons other than associated persons excluding cross-border related borrowing; and

(b) the feature is included in financial arrangements, between members of the borrower's New Zealand group under subpart FE and associated persons or that are cross-border related borrowing, having a total value when the loan is included that,—

(i) as a fraction of the total value of financial arrangements between the members of the borrower's New Zealand group and associated persons, is less than or equal to the feature fraction; and

(ii) if the feature fraction is determined under paragraph (a)(i), is less than or equal to 4 times the total value of financial arrangements with the feature that are included in total group debt of the borrower's worldwide group; and

(iii) if the feature fraction is determined under paragraph (a)(ii), is less than or equal to 4 times the total value of financial arrangements with the feature that are included in the debt that is financial arrangements between members of the borrower's New Zealand group and persons other than associated persons excluding cross-border related borrowing.

Exceptions for borrowing required for some insuring or lending persons

(10) For a borrower that is referred to as an insuring or lending person in section GC 15(2)(a), (b), or (c) or is associated with such a person, a feature of a financial arrangement is not disregarded or adjusted if,—

(a) for a borrower referred to in section GC 15(2)(a), the feature reflects a requirement, applicable when the financial arrangement is entered, for an arrangement to be recognised by the Reserve Bank of New Zealand as regulatory capital for a member of the New Zealand banking group of a registered bank:

(b) for a borrower who is associated with a person (the **banking associate**) referred to in section GC 15(2)(a),—

(i) the financial arrangement (the **funding arrangement**) is entered for the purpose of providing funds for a financial arrangement or excepted financial arrangement (the **funded arrangement**), to be entered by the banking associate to satisfy regulatory capital requirements; and

(ii) the features of the funding arrangement reflect the features of the funded arrangement; and

(iii) the feature reflects a feature of the funded arrangement that meets the requirements of paragraph (a):

(c) for a borrower referred to in section GC 15(2)(b), the feature reflects solvency capital requirements that relate to features of loans and are imposed, when the financial arrangement is entered, on a licensed insurer as a condition of licence under the Insurance (Prudential Supervision) Act 2010:

(d) for a borrower who is associated with a person (the **insuring associate**) referred to in section GC 15(2)(b),—

(i) the financial arrangement (the **funding arrangement**) is entered for the purpose of providing funds for a financial arrangement (the **funded arrangement**), to be entered by the insuring associate to satisfy solvency capital requirements; and

(ii) the features of the funding arrangement reflect the features of the funded arrangement; and

(iii) the feature reflects a feature of the funded arrangement that meets the requirements of paragraph (c):

(e) for a borrower referred to in section GC 15(2)(c), the feature reflects minimum capital ratio requirements that relate to features of loans and are imposed, when the financial arrangement is entered, on a non-bank deposit taker by the non-bank deposit taker's trust deed and regulations 8 and 10 of the Deposit Takers (Credit Ratings, Capital Ratios, and Related Party Exposures) Regulations 2010:

(f) for a borrower who is associated with a person (the **deposit taker associate**) referred to in section GC 15(2)(c),—

(i) the financial arrangement (the **funding arrangement**) is entered for the purpose of providing funds for a financial arrangement (the **funded arrangement**), to be entered by the deposit taker associate to satisfy minimum capital ratio requirements; and

(ii) the features of the funding arrangement reflect the features of the funded arrangement; and

(iii) the feature reflects a feature of the funded arrangement that meets the requirements of paragraph (e).

Defined in this Act: associated, associated person, cross-border related borrowing, financial arrangement, interest, loan, New Zealand banking group, payment, transfer pricing arrangement

Section GC 18: inserted, on 1 July 2018, by section 42(1) (and see section 42(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section GC 18(4): replaced (with effect on 1 July 2018), on 30 March 2021, by section 82(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(4)(b)(ii): amended (with effect on 1 July 2018), on 30 March 2022, by section 114 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section GC 18(5)(a)(i): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(5)(a)(ii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(3) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(5)(b)(ii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(4) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(7)(c)(ii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(5) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(8)(a)(ii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(6) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(8)(a)(ii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(7) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(8)(b): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(8) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(8)(b): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(9) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(8)(b)(i): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(10) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(8)(b)(iii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(11) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(9)(a)(ii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(12) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(9)(b): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(13) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 18(9)(b)(iii): amended (with effect on 1 July 2018), on 30 March 2021, by section 82(14) (and see section 82(15) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

GC 19 Sections GC 15 to GC 18 and financial arrangements entered before application period

If a person enters a financial arrangement before the first income year of the person beginning on or after 1 July 2018, this subpart applies to the person and the financial arrangement for the income years beginning on or after 1 July 2018 as if the aspects of the financial arrangement were adjusted by sections GC 15 to GC 18 as at the date that is the last day before 1 July 2018 on which the loan is entered, renewed, extended, or renegotiated.

Defined in this Act: financial arrangement, income year, loan, return of income

Section GC 19: inserted, on 1 July 2018, by section 42(1) (and see section 42(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Purchase price allocation

Heading: inserted, on 1 July 2021, by section 83(1) (and see section 83(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

GC 20 Effect of purchase price allocation agreement

When this section applies

(1) This section applies when—

(a) for consideration, a person (**person A**) disposes (the **disposal**), to another person (**person B**), items of property (the **purchased property**) that, for person A or for person B, fall into 2 or more of the following classes (the **classes of purchased property**)—

(i) trading stock, other than timber or a right to take timber:

(ii) timber or a right to take timber:

(iii) depreciable property, other than buildings:

(iv) buildings that are depreciable property:

(v) financial arrangements:

(vi) purchased property for which the disposal does not give rise to assessable income for person A or deductions for person B; and

(b) person A and person B have agreed, and recorded in a document, amounts of the total consideration allocated to any of the classes of purchased property before the earlier of—

(i) the day person A files a return of income in relation to their tax position for the purchased property:

(ii) the day person B files a return of income in relation to their tax position for the purchased property.

Agreed amount enforced, at market

(2) A class of purchased property—

(a) is treated as disposed of and acquired for the relevant allocated amount; or

(b) may be treated by the Commissioner as disposed of and acquired for an amount that reflects the relative market value of the class of purchased property, proportional to the other classes of purchased property, if the Commissioner considers the allocated amount does not reflect that value.

Exception: trading stock disposed of at below market value to associate

(2B) Subsection (2) does not apply to a class of purchased property described in subsection (1)(a)(i) or (ii) if—

(a) person A and person B are associated persons at the time of the disposal; and

(b) the allocated amount for the class of purchased property is less than the total market value of the items of purchased property in the class of purchased property at the time of the disposal.

Exception: low value depreciable property

(3) Subsection (2)(b) does not apply to an item of purchased property that is an item of depreciable property, if—

(a) the original cost of the item for person A is less than $10,000; and

(b) the total allocated amount for the item and for any identical property is less than $1 million; and

(c) the allocated amount for the item is—

(i) no greater than its original cost for person A; and

(ii) no less than its tax book value as described in section GC 21(13)(c).

Defined in this Act: adjusted tax value, associated person, Commissioner, deduction, depreciable property, depreciation loss, dispose, financial arrangement, income, return of income, revenue account property, tax position, trading stock

Section GC 20: inserted, on 1 July 2021, by section 83(1) (and see section 83(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 20(2B) heading: inserted, on 1 April 2024, by section 83(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section GC 20(2B): inserted, on 1 April 2024, by section 83(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section GC 20 list of defined terms **associated person**: inserted, on 1 April 2024, by section 83(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

GC 21 Purchase price allocation required: no agreement

When this section applies

(1) This section applies when—

(a) for consideration, a person (**person A**) disposes (the **disposal**), to another person (**person B**), items of property (the **purchased property**) that, for person A or for person B, fall into 2 or more of the following classes (the **classes of purchased property**) and the relevant person uses different income tax treatments for 2 or more of the classes of purchased property:

(i) trading stock, other than timber or a right to take timber:

(ii) timber or a right to take timber:

(iii) depreciable property, other than buildings:

(iv) buildings that are depreciable property:

(v) financial arrangements:

(vi) purchased property for which the disposal does not give rise to assessable income for person A or deductions for person B; and

(b) person A and person B have not agreed, and have not recorded in a document, amounts of the total consideration allocated to any of the classes of purchased property before the earlier of—

(i) the day person A files a return of income in relation to their tax position for the purchased property:

(ii) the day person B files a return of income in relation to their tax position for the purchased property.

When this section does not apply

(2) This section does not apply if—

(a) the total consideration for the purchased property in the disposal is less than $1 million; or

(b) the only purchased property in the disposal is residential land together with its chattels, and the total consideration for them is less than $7.5 million.

Allocated amount: person A

(3) If subsection (1)(a) applies for person A, person A may notify both the Commissioner and person B of the amounts (the **allocated amounts**) allocated by person A to the classes of purchased property within 3 months of the change in ownership of the purchased property. An allocated amount must reflect the greater of—

(a) the relative market value of the relevant class of purchased property proportional to the other classes of purchased property; and

(b) person A's tax book value for the relevant class of property described in subsection (1)(a)(i) to (v).

Allocated amount: person A: excess allocation

(4) If the total amounts that would be allocated by subsection (3) exceed the consideration payable for all of the classes of purchased property, then the excess is applied—

(a) first, to reduce any amount allocated to the class of property described in subsection (1)(a)(vi):

(b) second, to reduce, pro rata, any amounts allocated to the classes of property described in subsection (1)(a)(i) to (v).

Allocated amount: person B

(5) If person A does not notify person B as provided for in subsection (3), person B may notify the Commissioner and person A of the amounts (the **allocated amounts**) allocated by person B to the classes of purchased property within 6 months of the change in ownership of the purchased property. An allocated amount must reflect the relative market value of the relevant class of purchased property proportional to the other classes of purchased property.

Non-compliance

(6) If person A and person B do not notify the relevant people in accordance with subsection (3) or (5), the Commissioner may allocate, to the relevant classes of purchased property (the **allocated amounts**),—

(a) the amounts allocated by person A to the classes of purchased property:

(b) the amounts allocated by person B to the classes of purchased property:

(c) amounts that reflect the relative market value of the relevant class of purchased property, proportional to the other classes of purchased property.

Allocated amounts enforced, at market

(7) A class of purchased property is treated as disposed of and acquired for the relevant allocated amount provided by subsections (3) to (6).

No deduction until allocation

(8) Person B's deductions in relation to consideration for purchased property are not allocated to an income year, and are not included in person B's annual total deductions for any tax year, except to the extent provided by this section.

Allocation when allocation notice timely

(9) Person B's deductions in relation to consideration for purchased property are allocated to income years in accordance with section BD 4 (Allocation of deductions to particular income years), if allocation notification occurs in the income year that the purchased property is disposed of (the **purchase year**) or if the deductions are not pre-allocation deductions.

Allocation when allocation notice not timely

(10) If subsections (1)(a) and (5) apply to person B and if allocation notification occurs in an income year after the purchase year, then pre-allocation deductions are allocated to the earliest year (the **allocation year**) for which person B's return of income is not filed or due at the time of allocation notification. The allocation year may correspond to the purchase year, but the allocation year must not be earlier than the purchase year. *Example:* the purchase year for purchased property is 2025–26. 2027–28 is the income year that allocation notification occurs. At the time of allocation notification, person B's return of income for 2026–27 is not filed or due. Consequently, pre-allocation deductions are allocated to the 2026–27 income year.

Exception: low value depreciable property

(11) Subsection (6)(c) does not apply to an item of purchased property that is an item of depreciable property, if—

(a) the original cost of the item for person A is less than $10,000; and

(b) the total allocated amount for the item and for any identical property is less than $1 million; and

(c) the allocated amount for the item is—

(i) no greater than its original cost for person A; and

(ii) no less than its tax book value.

Exception: trading stock disposed of at below market value to associate

(11B) Subsection (7) does not apply to a class of purchased property described in subsection (1)(a)(i) or (ii) if—

(a) person A and person B are associated persons at the time of the disposal; and

(b) the relevant allocated amount provided by subsections (3) to (6) for the class of purchased property is less than the total market value of the items of purchased property in the class of purchased property at the time of the disposal.

Relationship with subject matter

(12) This section overrides a provision of this Act that expressly requires the use of the market value for purchased property, to the extent to which subsection (7) treats the relevant class of purchased property as disposed of and acquired for an amount that is provided by this section.

Definitions

(13) In this section and section GC 20,—

(a) **allocation notification** means the earliest of the following:

(i) the time when person B's notification of person B's allocation is provided to the Commissioner in the form prescribed by the Commissioner:

(ii) the time when the Commissioner's notification of the Commissioner's allocation under subsection (6) is provided to person B:

(b) **pre-allocation deduction** means person B's deductions in relation to consideration for purchased property that, ignoring this section, would be allocated to an income year before the income year that allocation notification occurs:

(c) **tax book value**, for a class of property, means the total amount that person A uses or would use, for purchased property in the class of property, in calculating person A's tax position for their income year in which the change in ownership of the purchased property occurs. The tax book value is adjusted, part-year, for a change in ownership that occurs part-year. *Example:* the tax book value of a financial arrangement is the consideration that would give an amount of income or expenditure under section EW 31 (Base price adjustment formula) equal to the income or expenditure that person A would have for the purchased property in the year of disposal for the period before the change in ownership of the purchased property (the **part-year period**) using the relevant spreading method for the purchased property for the part-year period, pro rata.

Defined in this Act: adjusted tax value, associated person, Commissioner, deduction, diminished value, depreciable property, depreciation loss, dispose, financial arrangement, income, residential land, return of income, revenue account property, tax position, trading stock

Section GC 21: inserted, on 1 July 2021, by section 83(1) (and see section 83(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section GC 21(11B) heading: inserted, on 1 April 2024, by section 84(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section GC 21(11B): inserted, on 1 April 2024, by section 84(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section GC 21 list of defined terms **associated person**: inserted, on 1 April 2024, by section 84(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Subpart GZ—Terminating provisions

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GZ 1 Limitation on section GB 20: petroleum and mineral mining arrangements

Section GB 20 (Arrangements involving petroleum and mineral mining) does not apply to an arrangement if—

(a) the petroleum mining asset was disposed of before 1 July 1992:

(b) the petroleum exploration expenditure was incurred before 1 July 1992:

(c) the farm-out arrangement was entered into before 16 December 1991.

Defined in this Act: arrangement, dispose, farm-out arrangement, petroleum exploration expenditure, petroleum mining asset

Compare: 2004 No 35 s GD 12(1)

Section GZ 1 heading: amended, on 1 April 2014, by section 81(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section GZ 1: amended, on 1 April 2014, by section 81(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section GZ 1 list of defined terms **petroleum exploration expenditure**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section GZ 1 list of defined terms **petroleum mining expenditure**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

GZ 2 Arrangements involving cancellation of conduit tax relief credits

[Repealed]

Section GZ 2: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 72(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section GZ 2(1)(b): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 71(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section GZ 2 list of defined terms **CTR group member**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 71(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section GZ 2 list of defined terms **resident in New Zealand**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 71(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

GZ 3 Donations of trading stock for relief of Canterbury earthquakes

[Repealed]

Section GZ 3: repealed, on 1 April 2024, by section 85 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

GZ 4 Disposals of trading stock to donee organisations or public authorities

[Repealed]

Section GZ 4: repealed, on 1 April 2024, by section 85 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

GZ 5 Disposals of trading stock to non-associates

[Repealed]

Section GZ 5: repealed, on 1 April 2024, by section 85 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Part H
Taxation of certain entities

Subpart HA—Qualifying companies (QC)

Subpart HA heading: amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

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Introductory provisions

HA 1 What this subpart does

Distributing profits and attributing tax losses

(1) The rules in this subpart allow a company to choose, for taxation purposes,—

(a) to have a distribution of profits to shareholders imputed or, to the extent not imputed, distributed as exempt income; and

(b) *[Repealed]*

Requirements for qualifying companies

(2) A qualifying company must meet the requirements of sections HA 5 to HA 9, and must maintain the conditions set out in section HA 4.

Requirements for loss-attributing qualifying companies

[Repealed]

(3) *[Repealed]*

Income year or part-year

(4) In this subpart, a reference to an income year includes a reference to part of an income year.

Elections required

(5) For a company to be a qualifying company, all the directors of the company, and every shareholder in the company with legal capacity, must sign an election referred to in section HA 5. An exception applies for a minority shareholder in the situation described in section HA 29.

Shareholder's personal liability

(6) A shareholder who makes an election referred to in subsection (5) must agree to take personal liability to the extent described in section HA 8.

Defined in this Act: company, director, exempt income, income year, pay, qualifying company, share, shareholder, tax, tax loss

Compare: 2004 No 35 ss HG 1(c), (d), HG 3(1), HG 4(1), HG 14

Section HA 1(1)(a): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 57(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HA 1(1)(b): repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 70(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 1(3) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HA 1(3): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HA 1(5): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HA 1 list of defined terms **exempt income**: inserted (with effect on 1 April 2008), on 7 September 2010, by section 57(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HA 1 list of defined terms **loss-attributing qualifying company**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

HA 2 Meaning of qualifying company

In this Act, a **qualifying company** means a company other than a unit trust that, for the whole of an income year, meets the requirements of sections HA 5 to HA 9.

Defined in this Act: company, income year, qualifying company, unit trust

Compare: 2004 No 35 s OB 3(1)

HA 3 Meaning of loss-attributing qualifying company

[Repealed]

Section HA 3: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 71(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 4 Conditions applying

Becoming and continuing as qualifying company

(1) The requirements of sections HA 5 to HA 9 are preconditions of, and ongoing conditions for, qualifying companies. For a company to become and to continue as a qualifying company, the requirements of those sections must be met.

Losing status

(2) Section HA 11 applies in relation to a failure to maintain the requirements and avoidance arrangements.

Avoidance

(3) Section GB 6 (Arrangements involving qualifying companies) may apply to treat a company as not being a qualifying company.

Defined in this Act: arrangement, company, qualifying company

Compare: 2004 No 35 ss HG 7, HG 14(d)

Section HA 4(1): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HA 4(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 82(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HA 4 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Qualifying company status

HA 5 Elections to become qualifying company

Making elections

(1) A company that meets the requirements of sections HA 6 to HA 9 may be a qualifying company only if all the directors of the company and every shareholder in the company with legal capacity, choose, before the start of the grandparenting income year, that the company is to become a qualifying company. Every director and every shareholder with legal capacity must sign a notice of election and give it to the Commissioner.

Extension of time in some cases

(1B) An election is treated as made before the start of the grandparenting income year for the purposes of subsection (1), if the relevant persons choose before the end of the time allowed by section 37 of the Tax Administration Act 1994 for providing a return for the company's first income year, and—

(a) that income year is—

(i) the grandparenting income year; and

(ii) nominated under section HA 30(3); and

(b) the company has not previously been required to provide a return of income.

Elections remaining in effect

(2) The elections referred to in subsection (1) must remain in effect and must not have been revoked before the end of the relevant income year.

Director at time

(3) For the purposes of an election, a person is considered a director of a company if they hold the office at the time the notice is provided.

Elections

(4) The elections referred to in this section are dealt with in sections HA 28 to HA 39.

Meaning of grandparenting income year

(5) In this section, **grandparenting income year** means the income year before the first income year that starts on or after 1 April 2011.

Defined in this Act: Commissioner, company, director, grandparenting income year, income year, notice, qualifying company, shareholder

Compare: 2004 No 35 ss HG 3(1), HG 4(1), HG 14(a), (b), OB 3(1)(f)

Section HA 5(1): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HA 5(1): amended (with effect on 1 April 2010), on 21 December 2010 (applying for income years beginning on or after 1 April 2010), by section 72(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 5(1B) heading: inserted (with effect on 1 April 2010), on 21 December 2010 (applying for income years beginning on or after 1 April 2010), by section 72(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 5(1B): inserted (with effect on 1 April 2010), on 21 December 2010 (applying for income years beginning on or after 1 April 2010), by section 72(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 5(5) heading: added (with effect on 1 April 2010), on 21 December 2010 (applying for income years beginning on or after 1 April 2010), by section 72(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 5(5): added (with effect on 1 April 2010), on 21 December 2010 (applying for income years beginning on or after 1 April 2010), by section 72(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 5 list of defined terms **grandparenting income year**: inserted (with effect on 1 April 2010), on 21 December 2010, by section 72(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 5 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

HA 6 Corporate requirements

Requirements

(1) A qualifying company must, in an income year,—

(a) have 5 or fewer shareholders who meet the requirements of section HA 7; or

(b) be a flat-owning company.

Exclusions

(2) A company is not eligible to be a qualifying company if, at any time in an income year, it is—

(a) a company that is not resident in New Zealand; or

(b) a company that is resident in New Zealand but is treated under and for the purposes of a double tax agreement, as not resident in New Zealand; or

(c) *[Repealed]*

Exclusion: loss of continuity

(3) A company is not eligible to be a qualifying company unless, at all times in an income year, a group of persons holds for the QC continuity period, minimum QC interests in the company that add up to at least 50%.

Exception for close relatives

(4) For the purposes of subsection (3), a share transferred by a transferor to a close relative is treated as being held by a single notional person for the company from the time that the transferor acquired the share. A share subsequently transferred to a close relative of a subsequent transferor is similarly treated as held by the same single notional person.

Some definitions

(5) In this section—

minimum QC interest, for a person and the QC continuity period, means the lowest voting interest or market value interest they have in the company during the QC continuity period

QC continuity period means the period starting on the day that the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters)

Act 2017 receives the Royal assent and ending on the last day in the income year.

Defined in this Act: close relative, company, double tax agreement, flat-owning company, income year, market value interest, minimum QC interest, QC continuity period, qualifying company, resident in New Zealand, shareholder, voting interest

Compare: 2004 No 35 ss HG 1(a), (b), OB 1 "foreign company", OB 3(1)(a), (b), (g)

Section HA 6(2)(c): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HA 6(3) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 123(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6(3): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 123(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6(4) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 123(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6(4): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 123(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6(5) heading: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 123(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6(5): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 123(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6 list of defined terms **close relative**: inserted, on 1 April 2017, by section 123(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HA 6 list of defined terms **market value interest**: inserted, on 1 April 2017, by section 123(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6 list of defined terms **minimum QC interest**: inserted, on 1 April 2017, by section 123(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6 list of defined terms **QC continuity period**: inserted, on 1 April 2017, by section 123(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 6 list of defined terms **voting interest**: inserted, on 1 April 2017, by section 123(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HA 7 Shareholding requirements

Natural persons, certain trustees, and qualifying companies

(1) A shareholder in a qualifying company must be 1 of the following:

(a) a natural person; or

(b) a trustee of a trust, but only if subsection (2) applies in relation to dividends derived by the trustee; or

(c) another qualifying company.

Dividends derived by trustees

(2) For the purposes of subsection (1)(b), all dividends that the trustee of a trust derives from a qualifying company in an income year must be beneficiary income of 1 or more persons who are not trustees or companies other than qualifying companies. However, this subsection does not apply to non-cash dividends other than taxable bonus issues.

Special shareholding rules

(3) When the shares in a qualifying company that has 5 or fewer shareholders are held by relatives, other companies, and trustees, the following special rules apply:

(a) if a shareholder in a qualifying company is connected within the first degree of relationship to another shareholder in the company by either blood relationship, marriage, civil union or de facto relationship, they are treated as a single shareholder, and this treatment continues while they remain a shareholder in the company despite any later death or dissolution:

(b) shares in a qualifying company that are held by another company are treated as held by the shareholders in that other company:

(c) if a shareholder in a qualifying company is a trustee, the shareholders are counted, without the trustee, as the larger of the following:

(i) the group who signed the election as shareholder; or

(ii) the group who derived beneficiary income from dividends from the qualifying company in the period between the first day of the 1991–92 income year and the time of counting.

Shareholder continuity requirements

(4) For the application of shareholder continuity requirements to the memorandum accounts of qualifying companies, *see* section OA 8(3B) (Shareholder continuity requirements).

Defined in this Act: beneficiary income, company, dividend, income year, memorandum account, non-cash dividend, qualifying company, relative, share, shareholder, taxable bonus issue, trustee

Compare: 2004 No 35 s OB 3(1)(c), (3)

Section HA 7(1)(a): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HA 7(3)(a): amended, on 1 April 2023, by section 75 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HA 7(4) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 251(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 7(4): added (with effect on 1 April 2008), on 6 October 2009, by section 251(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 7 list of defined terms **memorandum account**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 251(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HA 7B Grandparenting requirement

A qualifying company must have been a qualifying company at the end of the income year before the first income year that starts on or after 1 April 2011 and must not have amalgamated, on or after the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 receives the Royal assent, with another company that is not a qualifying company.

Defined in this Act: amalgamation, income year, qualifying company

Section HA 7B: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 73(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 7B: amended, on 2 November 2012, by section 75(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HA 7B list of defined terms **amalgamation**: inserted, on 2 November 2012, by section 75(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HA 8 Shareholders' personal liability

Agreement required for election

(1) A person making an election as shareholder as described in section HA 5 must agree for each income year in which the election is in effect, to take personal liability on the basis of their effective interest in the company—

(a) for their share of the company's income tax liability for the income year; and

(b) if the company has made an election as shareholder in another company, for any income tax payable in relation to that other company for the income year.

Trustee shareholders

(2) A person making an election as trustee under section HA 28 must agree to take personal liability under subsection (1), modified as follows:

(a) the trustee together with 1 or more beneficiaries who have legal capacity must make the election; and

(b) the personal liability as trustee is limited to the extent of the net assets of the trust; and

(c) if the election is made for a majority shareholding under section HA 29, the personal liability includes the effective interests of the minority shareholding.

Majority shareholders

(3) One or more persons whose effective interests in a company at a particular time add up to 50% or more, may make an election under section HA 29, agreeing

to take personal liability described in subsection (1) in relation to the effective interests in the company of the minority shareholding.

Beneficiaries

(4) In subsection (1), the person includes a beneficiary who makes an election under section HA 28 or a person who assumes liability on their behalf.

Nature of liability

(5) In sections HA 13 to HA 27, when more than 1 person agrees to take personal liability as described in subsection (3) for a percentage of an income tax liability or for income tax payable in an income year, the liability is joint and several.

Defined in this Act: company, effective interest, income tax, income tax liability, income year, pay, shareholder, trustee

Compare: 2004 No 35 s HG 4(1)–(3)

HA 8B No CFC income interests or FIF direct income interests of 10% or more

A qualifying company must not have—

(a) income interests in a CFC:

(b) interests in a FIF that are a direct income interest of 10% or more.

Defined in this Act: CFC, direct income interest, FIF, income interest, qualifying company

Section HA 8B: inserted (with effect on 30 June 2009), on 6 October 2009, by section 252(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 8B(b): amended (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 73(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section HA 8B list of defined terms **attributing interest**: repealed (with effect on 30 June 2009), on 2 November 2012, by section 76 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HA 9 Limit on foreign non-dividend income

Dollar limit

(1) The foreign non-dividend income of a qualifying company in an income year must be no more than $10,000 after subtracting the lesser of—

(a) any income under section CC 3 (Financial arrangements); or

(b) 10% of the gross income of the company for the income year.

Change in threshold

(2) The Governor-General may make an Order in Council increasing the sum set out in subsection (1). The order may apply—

(a) from the start of the income year in which it is made; or

(b) to amounts of income derived after the date on which the order is made.

Secondary legislation

(3) An Order in Council under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, foreign non-dividend income, gross, income, income year, qualifying company

Compare: 2004 No 35 s OB 3(1)(d), (4)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section HA 9(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 253(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 9(3) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section HA 9(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

HA 10 Nature of LAQC shares

[Repealed]

Section HA 10: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 74(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 11 When requirements no longer met: qualifying companies

When this section applies

(1) This section applies when, through changed circumstances, a qualifying company no longer meets the requirements of sections HA 5 to HA 9.

Status at end

(2) The company's status as a qualifying company is ended, whether or not it is, or could be, known at the time the circumstances arise that the company no longer meets the requirements.

Qualifying companies

(3) The company's status as a qualifying company is treated as ended from the start of the income year in which the change of circumstances occurs. Subsection (6) overrides this subsection.

LAQCs

[Repealed]

(4) *[Repealed]*

Distribution of dividends

(5) Despite subsection (1), a company's status as a qualifying company is not ended merely because it does not comply with section HA 7(2) when—

(a) all dividends that can, under general law, be distributed by the trustee are beneficiary income of a beneficiary other than—

(i) a trustee beneficiary; or

(ii) a beneficiary that is a company other than a qualifying company; and

(b) some of the dividends derived by the trustee from the qualifying company have vested or have been distributed as beneficiary income of a beneficiary other than—

(i) a trustee beneficiary; or

(ii) a beneficiary that is a company other than a qualifying company.

Deferring date

(6) On an application by a qualifying company, the Commissioner may defer the date on which the company's status ends to the start of a later income year if—

(a) the company did not know, and could not reasonably be expected to have known, at the time the circumstances arose that it no longer met the requirements; and

(b) in the circumstances, it would be an unduly harsh or inappropriate outcome.

Examples for subsection (6)(a)

(7) Examples of the circumstances that may apply for the purposes of subsection (6)(a) are a reasonable expectation or belief that—

(a) the company would continue to meet the requirements through an extension under section HA 34, HA 35, or HA 37; or

(b) an amount of foreign non-dividend income that the company derives would not breach the threshold in section HA 9; or

(c) the dividends referred to in section HA 7(2) would be distributed as beneficiary income.

Examples for subsection (6)(b)

(8) Examples of the circumstances that may apply for the purposes of subsection (6)(b) are—

(a) the length of time between the start of the income year and the date of the change in circumstances:

(b) the length of time between the date of the change in circumstances and the date when the company knew, or could reasonably be expected to have known, that the requirements were not met:

(c) the kinds of transactions that the company made during the periods of time described in paragraphs (a) and (b).

Defined in this Act: amount, apply, beneficiary income, Commissioner, company, dividend, foreign non-dividend income, income year, qualifying company, trustee

Compare: 2004 No 35 ss HG 7, HG 18, OB 3(3A)

Section HA 11 heading: substituted (with effect on 1 April 2008), on 7 September 2010, by section 59(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HA 11(4) heading: repealed (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), pursuant to section 59(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HA 11(4): repealed (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 59(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HA 11(5): substituted (with effect on 1 April 2008), on 6 October 2009, by section 254(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 11 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HA 11 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

HA 11B When requirements no longer met: LAQCs

[Repealed]

Section HA 11B: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

HA 12 Avoidance arrangements

[Repealed]

Section HA 12: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Treatment of profits, dividends, and tax losses

HA 13 Qualifying companies' distributions

A distribution that is a transfer of company value to a shareholder of a qualifying company must be treated in the way set out in sections HA 14 to HA 18.

Defined in this Act: qualifying company, shareholder, transfer of company value

Compare: 2004 No 35 s HG 1(c)

Section HA 13: amended, on 23 March 2020, by section 131(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HA 13 list of defined terms **transfer of company value**: inserted, on 23 March 2020, by section 131(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HA 13 list of defined terms **transfer of value**: repealed, on 23 March 2020, by section 131(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HA 14 Dividends paid by qualifying companies

When this section applies

(1) This section applies when a qualifying company pays a dividend to a person resident in New Zealand.

General treatment

(2) The dividend is exempt income of the person under section CW 15 (Dividends paid by qualifying companies) to the extent to which it is more than a fully imputed distribution.

When shareholder has non-standard balance date

(3) If the person has a non-standard balance date and the dividend is derived after the end of the tax year but before their balance date, the dividend is allocated to the day after the balance date.

No resident passive income

(4) The dividend does not constitute resident passive income.

Defined in this Act: dividend, exempt income, fully imputed, non-standard balance date, pay, qualifying company, resident in New Zealand, resident passive income, shareholder, tax year

Compare: 2004 No 35 ss HG 9(1), HG 13(1)

Section HA 14(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 255(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 14 list of defined terms **fully imputed**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 255(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HA 15 Fully imputed distributions

When this section applies

(1) This section applies when a qualifying company with an imputation credit account pays a dividend. However, this section does not apply to a non-cash dividend other than a taxable bonus issue.

Calculating amount of fully imputed distribution

(2) The amount of a fully imputed distribution is calculated using the formula—

attached imputation credit ÷ tax rate.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **attached imputation credit** is the amount determined under subsection (4), and the amount is zero if no imputation credit is attached:

(b) *[Repealed]*

(c) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) at the time the shareholder derives the dividend,

modified as applicable by section OZ 14 (Dividends from qualifying companies).

ICA companies

(4) A qualifying company that is an imputation credit account (ICA) company is treated as having attached an imputation credit to the dividend. The amount of the imputation credit is the lesser of—

(a) the maximum imputation credit that may be attached to the dividend under section OA 18 (Calculation of maximum permitted ratios) modified as applicable by section OZ 14; and

(b) an amount calculated using the formula in subsection (6).

FDPA companies

[Repealed]

(5) *[Repealed]*

Formula

(6) The formula referred to in subsection (4) is—

attached credits × amount of dividend ÷ amount paid before credits attached.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **attached credits** is the balance in the company's imputation credit account on the last day of the tax year in which the dividend is paid before a debit is made for any imputation credits that are attached:

(b) **amount of the dividend** is the amount before any imputation credits are attached:

(c) **amount paid before credits attached** is the total amount of dividends, excluding non-cash dividends other than taxable bonus issues, paid by the company during the tax year before any imputation credits are attached.

Relationship with imputation rules

(8) An imputation credit may not be attached to a dividend by a qualifying company except under this section.

Relationship with sections HA 14 and HA 16

(9) If part of the dividend is exempt income under sections HA 14 and HA 16, an imputation credit is treated as attached to the part that is not exempt income.

Defined in this Act: amount, dividend, exempt income, ICA company, imputation credit, imputation credit account, imputation rules, income tax, income year, non-cash dividend, pay, qualifying company, resident in New Zealand, shareholder, taxable bonus issue, tax year

Compare: 2004 No 35 s HG 13(1)–(4)

Section HA 15(1): amended, on 1 April 2017, by section 124(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 256(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 15(2) formula: replaced, on 1 April 2017, by section 124(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(3)(b): repealed, on 1 April 2017, by section 124(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(3)(c): amended, on 1 April 2008, by section 409(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section HA 15(3)(c): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section HA 15(4)(a): amended, on 1 April 2008, by section 409(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section HA 15(5) heading: repealed, on 1 April 2017, pursuant to section 124(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(5): repealed, on 1 April 2017, by section 124(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(6): amended, on 1 April 2017, by section 124(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(7): replaced, on 1 April 2017, by section 124(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(8) heading: replaced, on 1 April 2017, by section 124(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(8): replaced, on 1 April 2017, by section 124(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15(9) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 256(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 15(9): substituted (with effect on 1 April 2008), on 6 October 2009, by section 256(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 15(9): amended, on 1 April 2017, by section 124(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15 list of defined terms **FDP**: repealed, on 1 April 2017, by section 124(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 124(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 124(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15 list of defined terms **FDP rules**: repealed, on 1 April 2017, by section 124(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 15 list of defined terms **FDPA company**: repealed, on 1 April 2017, by section 124(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HA 16 Dividends paid by qualifying companies to trustee shareholders

When this section applies

(1) This section applies when a dividend referred to in section HA 14(2) is derived by a trustee to the extent to which the dividend is exempt income of the trustee under section CW 15(1) (Dividends paid by qualifying companies).

Exempt income

(2) To the extent to which the dividend is also beneficiary income of a beneficiary resident in New Zealand, the dividend is exempt income of the beneficiary under section CW 15(2).

Defined in this Act: dividend, exempt income, resident in New Zealand, trustee

Compare: 2004 No 35 s HG 13(1)(a)(i), (1A)

Section HA 16: substituted (with effect on 1 April 2008), on 6 October 2009, by section 257(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HA 17 Dividends derived by qualifying companies

What this section applies to

(1) This section applies to a dividend—

(a) that is derived by a qualifying company; and

(b) to which section CW 10 (Dividend within New Zealand wholly-owned group) applies.

Dividend not exempt income

(2) The dividend is not exempt income under section CW 10, except to the extent to which section CW 9 (Dividend derived by company from overseas) applies to it.

Defined in this Act: company, dividend, exempt income, qualifying company

Compare: 2004 No 35 ss HG 10(a), HG 13(1)(aa)

Section HA 17(1)(a): amended, on 30 March 2017 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 125(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 17(1)(b): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 74(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section HA 17(2): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 74(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

HA 18 Treatment of dividends when qualifying company status ends

When this section applies

(1) This section applies when a company's status as a qualifying company ends under section HA 11(1).

Dividends distributed in tax year

(2) Section HA 15 applies to a dividend distributed in the period of a tax year from the first day to the day before the date on which the status ends. References in that section to a tax year should be read as references to that period of the year.

Group companies: imputation credit accounts

(3) On the day before the date on which the status ends, the company's imputation credit account is debited under section OB 41 (ICA debit for loss of shareholder continuity) by the lesser of—

(a) the balance of the credit account on that day after any credits are attached under section HA 15; and

(b) the largest debit to the credit account that would have arisen before that day if section OB 41 had applied.

Group companies: FDP account

[Repealed]

(4) *[Repealed]*

Defined in this Act: company, dividend, imputation credit account, qualifying company, tax year

Compare: 2004 No 35 s HG 13(6)

Section HA 18(4) heading: repealed, on 1 April 2017, pursuant to section 126(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 18(4): repealed, on 1 April 2017, by section 126(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 18 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 126(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HA 19 Credit accounts and dividend statements

When this section applies

(1) This section applies when a qualifying company pays a dividend that is treated either as a fully imputed distribution under section HA 15 or as exempt income under sections HA 14 and HA 16.

Credit accounts

(2) For the purposes of sections OB 30 to OB 59 (which relate to imputation debits), if an imputation credit is attached to the dividend, the amount of the credit is debited to the company's imputation account. The debit arises on the day the company pays the dividend.

Dividend statements

(3) For all dividends, whether or not credits have been attached, the company must complete the following statements detailing the extent to which the dividends are assessable income or exempt income:

(a) a company dividend statement under section 25G of the Tax Administration Act 1994; and

(b) a shareholder dividend statement under section 29 of that Act.

Date for completing statements

(4) The company must complete the statements in subsection (3) by 31 May after the end of the tax year in which the dividends were paid.

Non-cash dividends

(5) In addition to the information required in a shareholder dividend statement, if a shareholder asks the company to include in the statement the amount of a non-cash dividend that the company has paid them in the tax year, the company must provide the information.

Defined in this Act: amount, ask, assessable income, company dividend statement, dividend, exempt income, fully imputed, imputation credit, imputation credit account, non-cash dividend, pay, qualifying company, shareholder, shareholder dividend statement, tax year

Compare: 2004 No 35 s HG 13(5)

Section HA 19(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 258(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 19(2): replaced, on 1 April 2017, by section 127(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 19(3)(a): amended, on 1 April 2020, by section 112 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HA 19 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HA 19 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 127(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 19 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 127(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 19 list of defined terms **fully imputed**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 258(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HA 20 Attribution of tax losses

[Repealed]

Section HA 20: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 74(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 21 Loss balances not carried forward

In an income year in which a company that is not a qualifying company becomes a qualifying company, subparts IA (General rules for tax losses) and IQ (Attributed controlled foreign company net losses and foreign investment

fund net losses) do not apply to carry forward a loss balance of the company to the income year or to later income years.

Defined in this Act: company, income year, loss balance, qualifying company

Compare: 2004 No 35 s HG 11(3)

Section HA 21: amended (with effect on 1 April 2008), on 7 December 2009, by section 42 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

HA 22 Group companies using tax losses

When this section applies

(1) This section applies if a qualifying company is in the same group of companies as a company with a tax loss (**company A**).

When tax losses available

(2) The amount of company A's tax loss is available to the qualifying company to use under section IA 3(2) (Using tax losses in tax year) only if—

(a) company A is also a qualifying company; and

(b) the requirements of section IC 5 (Company B using company A's tax loss) are met.

Defined in this Act: amount, company, group of companies, qualifying company, tax loss

Compare: 2004 No 35 s HG 10(b)

HA 23 Treatment of tax losses on amalgamation

If a company that is not a qualifying company amalgamates with a qualifying company and ends its existence on the amalgamation, subpart IA (General rules for tax losses) does not apply to carry forward the amalgamating company's loss balance from earlier income years either to the income year of the amalgamation or to later income years.

Defined in this Act: amalgamating company, amalgamation, company, income year, loss balance, qualifying company, tax loss

Compare: 2004 No 35 s HG 11(3A)

Special tax matters for loss-attributing qualifying companies

[Repealed]

Heading: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 74(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 24 Treatment of tax losses other than certain foreign losses

[Repealed]

Section HA 24: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 74(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 24(1): replaced (with effect on 1 April 2008), on 30 March 2017, by section 128(1) (and see section 128(4) and (5)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 24(3)(a): amended (with effect on 1 April 2008), on 30 March 2017, by section 128(2) (and see section 128(4) and (5)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 24 list of defined terms **net mining loss**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 128(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HA 25 Treatment of certain foreign losses

[Repealed]

Section HA 25: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 74(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 26 Attribution when balance dates differ

[Repealed]

Section HA 26: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 74(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 27 Attribution when loss results in reduction in value of shares

[Repealed]

Section HA 27: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 74(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Elections: qualifying companies

HA 28 Elections by trustee shareholders

If a shareholder referred to in section HA 5 is acting as trustee, they must make an election together with—

(a) 1 or more beneficiaries of the trust who are natural persons with legal capacity; or

(b) if no beneficiary has legal capacity, a natural person, who may also be the trustee, who assumes liability on behalf of beneficiaries.

Defined in this Act: shareholder, trustee

Compare: 2004 No 35 s HG 4(2)(a)

HA 29 Elections by majority shareholders

When this section applies

(1) This section applies when 1 or more shareholders (the **majority**) in a company have, at the time of making an election, effective interests in the company of 50% or more, and the effective interest of 1 or more other shareholders (the **minority**) is less than 50%.

Majority assuming minority's liability

(2) The majority may sign a notice of election advising the Commissioner that the company is to become a qualifying company. The notice has effect only if the majority agree to an extension of their personal liability under section HA 8(3).

Minority treated as making election

(3) The minority is treated as having made an election under section HA 5 in relation to their shareholding in the company at the time the election is made.

Election additional

(4) An election under this section may be made in addition to any other election a shareholder may make or have made under section HA 5.

Defined in this Act: Commissioner, company, effective interest, notice, qualifying company, shareholder

Compare: 2004 No 35 s HG 4(3)

HA 30 When elections take effect

When election takes effect

(1) In a notice of election made under section HA 5, an income year later than the year of notice may be nominated as the year in which the election is to take effect and, if so, the election takes effect at the start of that income year. If no income year is nominated in the notice, the election takes effect at the start of the income year after the year of notice.

Shareholder's election after company becomes qualifying company

(2) If a shareholder makes an election when the company is already a qualifying company, the election takes effect when the Commissioner receives it.

Company's first income year

(3) Despite subsection (1), if the company has not previously been required to provide a return of income, the first income year of the company may be nominated as the year in which the election is to take effect, subject to section HA 5(1B). The Commissioner must be advised of this decision in the notice of election to be received within the time allowed by section 37 of the Tax Administration Act 1994 for providing a return for the company's first income year.

Election in effect until revoked

(4) An election remains in effect until revoked.

Defined in this Act: Commissioner, company, income year, notice, qualifying company, return of income, shareholder

Compare: 2004 No 35 ss HG 3(2), (3), HG 4(4)

Section HA 30(3): amended (with effect on 1 April 2010), on 21 December 2010 (applying for income years beginning on or after 1 April 2010), by section 75(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 31 Revocation of directors' elections

Revoking election

(1) An election by directors under section HA 5 may be revoked only by a resolution of the board of directors. The board must advise the Commissioner of the resolution by providing a notice of revocation.

When revocation takes effect

(2) The revocation of an election takes effect at the later of—

(a) the start of the income year that the board nominates in the notice of registration; or

(b) the start of the income year in which the notice of revocation is received by the Commissioner.

Defined in this Act: Commissioner, director, income year, notice

Compare: 2004 No 35 s HG 3(4), (5)

Section HA 31(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 121(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

HA 32 Revocation of shareholders' elections: by notice

Notice

(1) A person who, as a shareholder in a company, has made an election under section HA 5, may revoke it by notifying both the company and the Commissioner.

When revocation takes effect

(2) In the notice, the person may nominate an income year later than the year of notice as the income year in which revocation takes effect, and the revocation takes effect at the start of that income year. If no income year is nominated, it takes effect at the start of the income year in which the Commissioner receives the notice.

Measuring effective interests

(3) For measuring the effective interest in the company, as defined in section HA 43 and measured under section HA 44, of the person revoking the election, the revocation takes effect—

(a) when both the company and the Commissioner have received the notice; or

(b) on a later date nominated in the notice.

Periods of grace and Commissioner's power to defer

(4) Sections HA 11(6) and HA 34 to HA 37 override this section.

Defined in this Act: Commissioner, company, effective interest, income year, notice, notify, shareholder

Compare: 2004 No 35 s HG 5(1)

HA 33 Revocation of shareholders' elections: by event

Event

(1) An election by a person as shareholder under section HA 5 is revoked if an event described in the following paragraphs occurs:

(a) the person dies:

(b) the person disposes of all of their shares, unless they dispose of them to an existing shareholder in the company for whom an election exists:

(c) if section HA 28(b) applies, or section HA 29 applies and the election is made in accordance with section HA 28(b), a beneficiary acquires legal capacity:

(d) if section HA 29 applies,—

(i) the effective interests of a minority shareholder increase to 50% or more; or

(ii) the total effective interests of the majority shareholder or shareholders fall below 50%:

(e) for an election made jointly by 2 or more persons, 1 person revokes the election or is treated as having revoked the election.

When revocation by event takes effect

(2) The revocation of an election under this section takes effect at the start of the income year in which the event occurred.

Periods of grace and Commissioner's power to defer

(3) Sections HA 11(6) and HA 34 to HA 37 override this section.

Defined in this Act: Commissioner, company, effective interest, income year, share, shareholder

Compare: 2004 No 35 s HG 5(2)

Section HA 33(1)(c): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 60(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

HA 33B Transitional rules for look-through companies, partnerships, and sole traderships

LTC election

(1) All elections by shareholders under section HA 5 are revoked if, for the company and the relevant shareholders, a LTC election has been received by the Commissioner under section HB 13(3)(c) and (4) (LTC elections) for the first or second income year that starts on or after 1 April 2011.

When revocation takes effect

(2) The revocation of the elections under subsection (1) takes effect at the beginning of the relevant income year.

Notice of intention

(3) All elections by shareholders under section HA 5 are revoked if, for the company and the relevant shareholders, a notice of intention has been received by the Commissioner for the first or second income year that starts on or after 1 April 2011 under section HZ 4B(7)(a) or HZ 4D(4)(a) (which relate to transitions to partnerships and sole traderships).

When revocation takes effect

(4) The revocation of the elections under subsection (3) takes effect at the beginning of the relevant income year.

Defined in this Act: Commissioner, company, income year, notice, shareholder

Section HA 33B: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 76(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HA 33B list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HA 34 Period of grace following death of shareholder

12-month period

(1) Despite section HA 33(1)(a), a company's status as a qualifying company does not end because a shareholder or another person has died if, within 12 months of the death of the person, the company meets the requirements of sections HA 5 to HA 9.

Extension of time

(2) The Commissioner may extend the 12-month period referred to in subsection (1) on the application of the company, the personal representative of the deceased person, or a person who is entitled as a shareholder to make an election under section HA 5.

Defined in this Act: apply, Commissioner, company, qualifying company, shareholder

Compare: 2004 No 35 s HG 6(1)

Section HA 34 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HA 35 Period of grace following revocation of election

When this section applies

(1) This section applies when a company has been a qualifying company but no longer meets the requirement of section HA 5 through revocation of a shareholder's election under section HA 32 or HA 33. But this section does not apply when—

(a) the revocation is brought about by the death of a person; or

(b) a joint election is revoked.

Revocation by notice

(2) When section HA 32 applies, the company's status as a qualifying company does not end if, within 63 days of the date on which the company received the notice of revocation, a person other than the shareholder who revoked the election makes an election relating to the whole of the relevant shareholding.

Revocation by event

(3) When section HA 33 applies, the company's status as a qualifying company does not end if, within 63 days of the date when the event that gave rise

to the revocation occurred, an election relating to the whole of the relevant shareholding is made or is in effect.

Extension of time

(4) In subsections (2) and (3), the Commissioner may extend the 63-day period on the application of the company or a person who is entitled to make an election under section HA 5.

Defined in this Act: apply, Commissioner, company, notice, qualifying company, shareholder

Compare: 2004 No 35 s HG 6(2)(a), (b)

Section HA 35 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HA 36 Period of grace following revocation of joint election

When this section applies

(1) This section applies when a company has been a qualifying company, but an election that shareholders have made jointly has been revoked through an event described in section HA 33.

Cause of revocation

(2) The company's status as a qualifying company does not end if, within the relevant period in section HA 34(1) or HA 35(2) and (3), an election relating to the whole of the relevant shareholding is made.

Defined in this Act: company, qualifying company, shareholder

Compare: 2004 No 35 s HG 6(2)(c)

HA 37 Period of grace for new shareholder

When this section applies

(1) This section applies when a company has been a qualifying company but fails to meet the requirement of section HA 5 when—

(a) a person other than an existing shareholder acquires shares in the company; or

(b) an existing shareholder acquires legal capacity.

Period for making election

(2) The company's status as a qualifying company does not end if, within 63 days of the date on which either the shares were acquired or the shareholder acquired legal capacity, an election relating to the whole of the relevant shareholding is made.

Extension of time

(3) The Commissioner may extend the 63-day period in subsection (2) on the application of the company, the new shareholder, the existing shareholder, or a person who is entitled to make an election as shareholder under section HA 5.

Defined in this Act: apply, Commissioner, company, qualifying company, share, shareholder

Compare: 2004 No 35 s HG 6(3)

Section HA 37 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Elections: loss-attributing qualifying companies

[Repealed]

Heading: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 77(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 38 Elections by directors and shareholders required

[Repealed]

Section HA 38: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 77(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HA 39 Revocation of elections

[Repealed]

Section HA 39: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 77(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Qualifying company election tax

HA 40 Liability for qualifying company election tax

Payment of tax

(1) A company that becomes a qualifying company must pay a qualifying company election tax in relation to the change in status, of an amount calculated under section HA 41. The date for payment is set out in section HA 42.

Payment on amalgamation

(2) If a company that is not a qualifying company amalgamates with a qualifying company and ends its existence on the amalgamation, the amalgamated company must pay a qualifying company election tax under subsection (1).

Defined in this Act: amalgamated company, amalgamation, amount, company, pay, qualifying company, qualifying company election tax

Compare: 2004 No 35 s HG 11(1), (1A)

HA 41 Calculating qualifying company election tax

Formula

(1) The amount of qualifying company election tax that a company must pay under section HA 40 is calculated using the formula—

(dividends + balances − assessable income − (balances ÷ tax rate)) × tax rate.

Definition of items in formula

(2) The items in the formula are defined in subsections (3) to (6).

Dividends

(3) **Dividends** is the sum of the amounts that would be dividends if the company—

(a) disposed of all its property, other than cash, to an unrelated person at market value for cash; and

(b) met all its liabilities at market value, excluding income tax payable through disposing of the property or meeting the liabilities; and

(c) was liquidated, with the amount of cash remaining being distributed to its shareholders without imputation credits attached.

Balances

(4) **Balances** is the sum of the following amounts:

(a) the balance in the company's imputation credit account:

(b) *[Repealed]*

(c) an amount of income tax payable for an earlier income year but not paid before the relevant date, less refunds due for the earlier income year but paid after the relevant date.

(d) *[Repealed]*

Assessable income

(5) **Assessable income** is the total assessable income that the company would derive by taking the actions described in subsection (3)(a) and (b) less the amount of any deduction that the company would have for taking those actions.

Tax rate

(6) **Tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the relevant income year of the company.

Relevant date

(7) In subsections (3) to (5), the relevant date for measuring items in the formula is the date just before the company became a qualifying company or, as applicable, at the time the company ended its existence.

Income tax and refund

(8) For the purposes of subsection (4)(c),—

(a) income tax payable is income tax that would, when paid, give rise to a credit in the company's imputation credit account under sections OB 4 to OB 29 (which relate to imputation credits):

(b) a refund of income tax due is the amount that would, when paid, give rise to a debit to the company's imputation credit account under section OB 30 to OB 59 (which relate to imputation debits):

(c) if the company pays income tax with a purpose or intention of reducing the amount of election tax, the amount of credit in the imputation credit

account is reduced by the amount of the credit arising from the company's action, unless that purpose is merely incidental.

Defined in this Act: amount, assessable income, company, deduction, dividend, imputation credit, imputation credit account, income tax, income year, liquidation, pay, qualifying company, qualifying company election tax, shareholder

Compare: 2004 No 35 s HG 11(1B), (2), (4)

Section HA 41(3)(c): amended, on 1 April 2017, by section 129(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 41(4)(b): repealed, on 1 April 2017, by section 129(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 41(4)(c): amended (with effect on 30 June 2009), on 6 October 2009, by section 259(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 41(4)(d): repealed (with effect on 30 June 2009), on 6 October 2009, by section 259(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 41(6): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section HA 41(8)(c): substituted (with effect on 30 June 2009), on 6 October 2009, by section 259(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 41 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 259(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HA 41 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 129(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HA 41 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 129(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HA 42 Paying qualifying company election tax

A company must pay a qualifying company election tax under section HA 40 to the Commissioner no later than the company's terminal tax date for the tax year corresponding to the income year in which the company chooses to become a qualifying company.

Defined in this Act: Commissioner, company, income year, pay, qualifying company, qualifying company election tax, terminal tax date

Compare: 2004 No 35 s HG 12

Effective interests in qualifying companies

HA 43 Meaning of effective interest

What this section does

(1) This section defines an **effective interest** in a company, which is the measure of a person's liability under section HA 8.

Effective interest

(2) **Effective interest** for a person and a company, at a particular time or for an income year, means—

(a) the person's voting interest in the company at the time or for the income year, unless paragraph (b) applies:

(b) if there is a market value circumstance for the company at the time or at some time during the income year, the average of—

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

(ii) the person's market value interest in the company at the time or for the income year.

Defined in this Act: company, effective interest, income year, market value circumstance, market value interest, voting interest

Compare: 2004 No 35 s OB 1 "effective interest"

HA 44 Measuring effective interests

Subpart YC

(1) A person's voting interest and market value interest in a company is measured under subpart YC (Measurement of company ownership). If the person is a company, the voting interest and market value interest are measured at a particular time or for an income year under those sections as if—

(a) the person were not a company; and

(b) sections YC 4 and YC 6 (which relate to corporate shareholders and certain excluded securities) did not apply.

If interests vary during income year

(2) If a person's voting interest or market value interest varies during an income year, the measure of their effective interest is the weighted average of their voting interest or market value interest, as applicable, for the income year.

If election made during income year

(3) If a shareholder makes an election under section HA 5 after the start of the income year, their voting interest and market value interest is measured from the earliest day in the income year when they became a shareholder in the company, even if the day is earlier than the date of the election.

Shareholders' interests after revocation

(4) A person who revokes an election under section HA 32 or HA 33 is treated as having no voting interest and no market value interest for the period of the income year after the revocation takes effect unless they make a later election for the same income year. In this subsection, the person is a trustee when an election is made under section HA 28 by a person other than the trustee.

When majority shareholders' liabilities excluded

(5) If a majority shareholder has made an election and agreed under sections HA 8 and HA 29 to take personal liability to the extent of a minority shareholder's effective interest in the company, any effective interest for which the minority shareholder has agreed to be personally liable under section HA 8 is excluded in measuring the majority shareholder's effective interest.

Minority shareholder's liability after revocation

(6) If a majority shareholder's election is revoked under section HA 32(1) or HA 33(1)(d), the effective interest of the minority shareholder for which the majority shareholder is liable is treated as zero for the part of the income year that follows the day on which the revocation takes effect.

Defined in this Act: company, effective interest, income year, market value interest, shareholder, trustee, voting interest

Compare: 2004 No 35 s HG 2

Section HA 44(1): amended, on 2 November 2012, by section 77 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Subpart HB—Look-through companies

Subpart HB: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

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HB 1 Look-through companies are transparent

When this section applies

(1) This section applies for the purposes of this Act, other than the PAYE rules, the FBT rules, the NRWT rules, the RWT rules, the ESCT rules, and the RSCT rules, for a person in their capacity of owner of an effective look-through interest for a look-through company (the **LTC**), for an income year, if—

(a) for the LTC, an LTC election described in section HB 13(1) and (2) has been received by the Commissioner under section HB 13(3) and (4) for the income year; and

(b) the LTC meets the requirements in the definition of **look-through company** at all times in the income year; and

(c) the election has not been revoked for the income year by an owner of a look-through interest for the LTC by notice received by the Commissioner before the start of the income year.

When this section applies: Commissioner's discretion as to revocation

(2) A revocation notice that is received by the Commissioner after the start of the income year is treated as received before the start of the income year if the Commissioner decides that exceptional circumstances are the sole cause of the lateness.

When this section applies: revocation ignored

(3) An owner's revocation notice for the income year is ignored for the purposes of this section and section HB 13(4)(a) if the owner stops having a look-through interest in the LTC and the new owner reverses the revocation notice before the start of the income year by notice to the Commissioner.

Look-through for effective look-through interest

(4) For a person, unless the context requires otherwise,—

(a) the person is treated as carrying on an activity carried on by the LTC, and having a status, intention, and purpose of the LTC, and the LTC is treated as not carrying on the activity or having the status, intention, or purpose:

(b) the person is treated as holding property that the LTC holds, in proportion to the person's effective look-through interest, and the LTC is treated as not holding the property:

(c) the person is treated as being party to an arrangement to which the LTC is a party, in proportion to the person's effective look-through interest, and the LTC is treated as not being a party to the arrangement:

(d) the person is treated as doing a thing and being entitled to a thing that the LTC does or is entitled to, in proportion to the person's effective look-through interest, and the LTC is treated as not doing the thing or being entitled to the thing.

Effective look-through interest

(5) For the purposes of this section, **effective look-through interest** means for a person and an LTC, treating the LTC as a company for the purposes of this subsection,—

(a) a person's average daily look-through interest for the company for the income year, if there is no market value circumstance for the LTC and paragraph (b) does not apply:

(b) a person's look-through interest for the relevant time of look-through under subsection (4), if there is no market value circumstance for the LTC, and—

(i) the assessable income of the LTC, ignoring this subpart, is or will be $3,000,000 or more in a 12-month period including the relevant time of look-through, and the Commissioner has notified the LTC that look-through interests for the relevant time of look-through under subsection (4) must be used under this section:

(ii) all persons with look-through interests have agreed to use their look-through interests for the relevant time of look-through:

(c) if there is a market value circumstance for the LTC and paragraph (d) does not apply, the average of the following 2 amounts:

(i) a person's average daily look-through interest for the income year:

(ii) a person's average daily market value interest for the income year:

(d) if there is a market value circumstance for the LTC, and the assessable income and notification requirements described in paragraph (b)(i) are met, the average of the following 2 amounts:

(i) a person's look-through interest for the time of look-through under subsection (4):

(ii) a person's market value interest for the time of look-through under subsection (4).

Elections and methods

(6) Inland Revenue Act elections and methods relating to an LTC are chosen by the company ignoring subsection (4), and then subsection (4) applies so that the elections and methods are those of an owner of an effective look-through interest for the look-through company.

Defined in this Act: arrangement, assessable income, Commissioner, company, effective look-through interest, ESCT rules, FBT rules, income year, look-through company, look-through interest, market value circumstance, market value interest, notice, notify, NRWT rules, PAYE rules, RSCT rules, RWT rules

Section HB 1: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HB 1(6) heading: inserted (with effect on 1 April 2011), on 2 November 2012, by section 78 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 1(6): inserted (with effect on 1 April 2011), on 2 November 2012, by section 78 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 1 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HB 1 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HB 2 Previous income and expenditure or loss

Despite a person who has an effective look-through interest for a look-through company (the **LTC**) not having an interest at the relevant time, the person may be treated as deriving income or incurring an expenditure or loss which the LTC derived or incurred ignoring section HB 1, or would have derived or incurred ignoring section HB 1 if it had not ceased to exist. This section does not allow 2 deductions for 1 expenditure or loss, and may apply to income derived before the LTC becomes a look-through company.

Defined in this Act: effective look-through interest, income, income year, look-through company

Section HB 2: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 3 Loss balances extinguished

Despite sections HB 1 and HB 2, a loss balance under Part I (Treatment of tax losses) is cancelled if the loss balance arose in relation to an income year when a company was not a look-through company, or when a company that amalgamates with a look-through company was not a look-through company.

Defined in this Act: amalgamation, company, income year, look-through company, loss balance

Section HB 3: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 4 General provisions relating to disposals

Relationship between disposal under this section, disposal safe harbours, and subpart FB

(1) This section overrides sections HB 5 to HB 9. This section does not apply, and sections HB 5 to HB 9 do not apply, for disposals of owners' interests under transactions to which subpart FB (Transfers of relationship property) applies or is treated as applying.

Election for specified livestock disposed of to new owner

(2) Section HB 10 applies for an entering owner if the entering owner furnishes a return of income that applies the section.

Permanent cessation

(3) A person is treated as disposing of all of their owner's interests for a look-through company to a single third party for a payment equal to the interests'

market value, if the look-through company ceases to exist as an entity through liquidation, court order, or otherwise.

Capital reduction

(4) A person is treated as disposing of all of their owner's interests for a look-through company to a single third party for a payment equal to the interests' market value to the extent to which an owner's capital is reduced by a cancellation or a buy-back by the look-through company that is not pro rata for all owners.

Receipt upon permanent cessation

(5) Anything received by an owner in relation to permanent cessation or capital reduction, as described in subsection (3) or (4), is ignored.

Cessation due to revocation or otherwise

(6) A person is treated as disposing of all of their owner's interests for a look-through company to a single third party for a payment equal to the interests' market value, if the look-through company ceases to be a look-through company because of a revocation or otherwise, but excluding cessation as described in subsection (3). The company is treated as acquiring all of the person's interests immediately after the cessation, from the third party, for a payment equal to the interests' market value, and for the purposes of section CB 15 (Transactions between associated persons), the person disposing of, and the company acquiring, the interests are treated as associated persons.

Market value of debts owed

(7) In this section the market value of an owner's interest in a financial arrangement as debtor must take into account the amount of any adjustment for credit impairment.

Defined in this Act: associated person, dispose, financial arrangement, look-through company, owner's interests, pay, return of income

Section HB 4: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HB 4(7) heading: inserted, on 1 April 2017, by section 130(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HB 4(7): inserted, on 1 April 2017, by section 130(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HB 4 list of defined terms **financial arrangement**: inserted, on 1 April 2017, by section 130(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HB 5 Disposal of owner's interests

When this section applies

(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner's interests (the **current interests**) for a look-through company, if the amount calculated using the formula is less than zero—

disposal payment + previous payments
− (gross tax value − liabilities) − $50,000.

Definition of items in formula

(2) In the formula,—

(a) **disposal payment** is the total amount of consideration paid or payable to the exiting owner for the current interests:

(b) **previous payments** is the total amount of consideration paid or payable to the exiting owner for other disposals of some or all of their owner's interests (the **other interests**) that have occurred in the year before the disposal of the current interests:

(c) **gross tax value** is the total of—

(i) the value under this Act of the current interests and other interests at the time the relevant interest is disposed of, to the extent to which the interests are revenue account property or depreciable property or financial arrangements:

(ii) the market value of the current interests and other interests at the time the relevant interest is disposed of, to the extent to which the interests are not revenue account property or depreciable property or financial arrangements:

(d) **liabilities** is the amount of liabilities under generally accepted accounting practice at the time the relevant interest is disposed of, calculated by reference to the exiting owner's ownership share for the relevant interest.

Exiting owner: excluded payment

(3) The disposal payment described in subsection (2)(a) is excluded income of the exiting owner.

Exiting owner: no deduction

(4) The exiting owner is denied a deduction in relation to the current interests for the income year in which the disposal of the interests occurs and later income years to the extent to which the entering owner is allowed a deduction because of subsection (6).

Entering owner: no deduction

(5) An entering owner is denied a deduction for the disposal payment described in subsection (2)(a).

Entering owner: stepping in

(6) For the purposes of calculating the income and deductions of an entering owner for the part of the income year after the disposal of the interests occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had originally acquired and held the current interests, not the exiting owner. However, this subsection does not apply to a deduction carried forward under section HB 12.

Relationship with section HB 4

(7) Section HB 4 overrides this section.

Defined in this Act: deduction, depreciable property, dispose, entering owner, excluded income, financial arrangement, income tax liability, look-through company, owner's interests, pay, return of income, revenue account property, year

Section HB 5: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 6 Disposal of trading stock

When this section applies

(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner's interests for a look-through company, to the extent to which those interests include trading stock that is not livestock, and, for the income year of disposal, the total turnover of the look-through company, ignoring section HB 1, is $3,000,000 or less.

Exiting owner: excluded payment

(2) The amount of consideration paid or payable to the exiting owner for the trading stock is excluded income of the exiting owner.

Exiting owner: no deduction

(3) The exiting owner is denied a deduction in relation to the trading stock for the income year in which the disposal of the trading stock occurs and later income years, to the extent to which the entering owner is allowed a deduction because of subsection (5).

Entering owner: no deduction

(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the trading stock.

Entering owner: stepping in

(5) For the purposes of calculating the income tax liability of an entering owner, the entering owner is treated as if they had acquired and held the trading stock, not the exiting owner.

Relationship with section HB 4

(6) Section HB 4 overrides this section.

Defined in this Act: deduction, dispose, entering owner, excluded income, income tax liability, income year, look-through company, owner's interests, pay, trading stock, turnover

Section HB 6: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 7 Disposal of depreciable property

When this section applies

(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner's interests for a look-through company, to the extent to which those interests include an item of depreciable property that is not depreciable intangible property, and the total cost of the item when it was first acquired by the look-through company (whether or not it was at that time a look-through company) is $200,000 or less.

Exiting owner: excluded payment

(2) The amount of consideration paid or payable to the exiting owner for the depreciable property is excluded income of the exiting owner.

Exiting owner: no deduction

(3) The exiting owner is denied a deduction in relation to the depreciable property for the income year in which the disposal of the depreciable property occurs and later income years, to the extent to which the entering owner is allowed a deduction because of subsection (5).

Entering owner: no deduction

(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the depreciable property.

Entering owner: stepping in

(5) For the purposes of calculating the income tax liability of an entering owner for the part of the income year after the disposal of the depreciable property occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had originally acquired and held the depreciable property, not the exiting owner.

Relationship with section HB 4

(6) Section HB 4 overrides this section.

Defined in this Act: acquire, amount, deduction, depreciable intangible property, depreciable property, dispose, entering owner, excluded income, income tax liability, income year, look-through company, owner's interests, pay

Section HB 7: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 8 Disposal of financial arrangements and certain excepted financial arrangements

When this section applies

(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner's interests for a look-through company, to the extent to which those interests include a financial arrangement or an excepted financial

arrangement described in section EW 5(10) (What is an excepted financial arrangement?) and, ignoring section HB 1,—

(a) the purpose for which the financial arrangement or excepted financial arrangement was entered into was necessary and incidental to the business of the look-through company; and

(b) the look-through company does not have a business of holding financial arrangements.

Exiting owner: excluded payment

(2) The amount of consideration paid or payable to the exiting owner for the relevant financial arrangement or excepted financial arrangement is excluded income of the exiting owner. The exiting owner is, for the relevant financial arrangement, a party that is not required to calculate a base price adjustment, despite section EW 29 (When calculation of base price adjustment required).

Exiting owner: no deduction

(3) The exiting owner is denied a deduction in relation to the relevant financial arrangement or excepted financial arrangement for the income year in which the disposal of the financial arrangement or excepted financial arrangement occurs and later income years.

Entering owner: no deduction

(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the relevant financial arrangement or excepted financial arrangement.

Entering owner: stepping in

(5) For the purposes of calculating the income tax liability of an entering owner for the part of the income year after the disposal of the relevant financial arrangement or excepted financial arrangement occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had acquired and held the financial arrangement or excepted financial arrangement, not the exiting owner.

Relationship with section HB 4

(6) Section HB 4 overrides this section.

Defined in this Act: business, deduction, dispose, entering owner, excepted financial arrangement, excluded income, financial arrangement, income tax liability, income year, look-through company, owner's interests, pay

Section HB 8: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HB 8(1)(b): amended (with effect on 1 April 2011), on 2 November 2012, by section 79 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HB 9 Disposal of short-term agreements for sale and purchase

When this section applies

(1) This section applies when a person (the **exiting owner**) disposes of some or all of their owner's interests for a look-through company, to the extent to which those interests include a short-term agreement for sale and purchase.

Exiting owner: excluded payment

(2) The amount of consideration paid or payable to the exiting owner for the short-term agreement for sale and purchase is excluded income of the exiting owner.

Exiting owner: no deduction

(3) The exiting owner is denied a deduction in relation to the short-term agreement for sale and purchase, to the extent to which the entering owner is allowed a deduction because of subsection (5).

Entering owner: no deduction

(4) The entering owner is denied a deduction for the amount of consideration paid or payable to the exiting owner for the short-term agreement for sale and purchase.

Entering owner: stepping in

(5) For the purposes of calculating the income tax liability of an entering owner for the part of the income year after the disposal of the short-term agreement for sale and purchase occurs and later income years (the **post-disposal periods**), the entering owner is treated for the post-disposal periods as if they had originally acquired and held the short-term agreement for sale and purchase, not the exiting owner.

Relationship with section HB 4

(6) Section HB 4 overrides this section.

Defined in this Act: deduction, dispose, entering owner, excluded income, income tax liability, income year, look-through company, owner's interests, pay, short-term agreement for sale and purchase

Section HB 9: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 10 Disposal of livestock

When this section applies

(1) This section applies when a person disposes of some or all of their owner's interests to an entering owner and section HB 4(2) applies, to the extent to which those interests include specified livestock and that specified livestock includes female breeding livestock and, for the income year, the owners use—

(a) the national standard cost scheme for specified livestock, described in section EC 22 (National standard cost scheme); or

(b) the cost price method for specified livestock, described in section EC 25 (Cost price, replacement price, or market value).

Entering owner's cost base

(2) Section EC 26B (Entering partners' cost base) may apply to the entering owner for the purposes of determining the value of the specified livestock at the end of an income year for the purposes of section EC 2 (Valuation of livestock), treating the entering owner as an entering partner and making other necessary modifications to section EC 26B to give effect to the purpose of this section (for example, references in section EC 26B to "partners" should be modified to references to "owners" and references to "section HG 10" should be modified to references to "section HB 10").

Defined in this Act: amount, cost price, dispose, entering owner, entering partner, income year, look-through company, national standard cost scheme, owner's interests, specified livestock

Section HB 10: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 11 Limitation on deductions by persons with interests in look-through companies

When this section applies

(1) This section applies for a look-through company (the **LTC**) and an income year when,—

(a) but for this section, a deduction by virtue of section HB 1 or HB 12(2) or (3) would be allowed to a person who has an effective look-through interest for the LTC; and

(b) the LTC is a partner in a partnership that includes another look-through company, or the LTC is a member of a joint venture described in section HG 1 (Joint venturers) that includes another LTC.

No deduction

(2) The person is denied the deduction for an income year to the extent to which their look-through company deduction for the income year is greater than the amount (the **owner's basis**) calculated using the formula in subsection (3) at the end of the income year.

Owner's basis

(3) For the purposes of subsection (2), the amount that is the owner's basis is calculated using the following formula:

investments − distributions + income − deductions − disallowed amount.

Definition of items in formula

(4) The items in the formula are defined in subsections (5) to (9).

Investments

(5) **Investments** is the total of—

(a) the market value of a person's shares in the LTC at the time that the person acquires or subscribes for them:

(b) amounts that the LTC is debtor for in relation to the person, including a loan to the LTC and a credit balance in a current account:

(c) the secured amounts, if not accounted for under paragraph (b) by the person or another person.

Distributions

(6) **Distributions** is the market value of distributions to the person from the LTC, including loans made to the person from the LTC and payments to which section DC 3B (Payments to working owners) does not apply.

Income

(7) **Income** is the total of—

(a) income that the person has by virtue of section HB 1 in the income year and previous income years:

(ab) if the person has FIF income or a FIF loss, an amount under subsection (7B):

(b) capital gain amounts under section CD 44(7)(a) (Available capital distribution amount) that the person would have by virtue of section HB 1 in the income year and previous income years, if the person were treated as a company for the purposes of section CD 44(7)(a), unless the gain is accounted for under paragraph (a):

(c) assessable income that the person has in previous income years from goods and services they contributed to the LTC, if the income is not accounted for under subsection (5) or paragraph (a) or (b) of this subsection.

Formula

(7B) The amount described in subsection (7)(ab) is given by the following formula, but if the calculation returns a negative number, the amount is zero:

dividend − FIF amount.

Definition of items in formula

(7C) In the formula,—

(a) **dividend** is the amount that would, under section HB 1, be the person's proportion of the dividend paid by a FIF to the LTC, if section CD 36(1) were ignored:

(b) **FIF amount** is—

(i) zero, if subparagraph (ii) does not apply:

(ii) the amount that is the person's FIF income, for the relevant income year and FIF, if the person has such an amount.

Deductions

(8) **Deductions** is the total of—

(a) expenditure or loss in previous income years, to the extent to which the expenditure or loss is incurred by virtue of section HB 1 in the person deriving income by virtue of section HB 1, excluding any deductions denied in those previous years under this section:

(b) capital loss amounts under section CD 44(9) that the person would have by virtue of section HB 1 in the income year and previous income years, if the person is treated as a company for the purposes of section CD 44(9), unless the loss is accounted for under paragraph (a):

(c) deductions that the person is allowed in previous income years in relation to assessable income described in subsection (7)(c), if the deduction is not accounted for under subsection (6) or paragraph (a) or (b) of this subsection.

Disallowed amount

(9) **Disallowed amount** is the amount of investments, as defined in subsection (5), made by the person within 60 days of the end of the income year, if those investments are or will be distributed or reduced within 60 days of the end of the income year, but an amount of investment made by the person within 60 days of the end of the income year is not a disallowed amount if the total amount distributed or reduced within 60 days of the end of the income year is $10,000 or less.

Exclusion

(10) This section does not deny a person (the **exiting person**) a deduction that is equal to or less than the amount of net income that the exiting person has for the amount paid or payable to the exiting person for the disposal of their owner's interests, ignoring other transactions.

Relationship with subject matter

(11) This section is modified by section HZ 4C (Qualifying companies: transition into look-through companies).

Some definitions

(12) In this section,—

guarantor means—

(a) a person (**person A**) who has an effective look-through interest for the LTC, if—

(i) person A, ignoring section HB 1, secures the relevant debt by guarantee or indemnity:

(ii) an owner's associate of person A secures the relevant debt by guarantee or indemnity:

(b) a person who is not described in paragraph (a)(i) and (ii) but who secures the relevant debt by guarantee or indemnity, if person A or an owner's associate also secures the relevant debt as described in paragraph (a)(i) or (ii)

look-through company deduction means, for the person and the income year, the amount of the deductions that the person would be allowed if they were treated as having only income and deductions arising from the application of this subpart

owner's associate means a person who does not have an effective look-through interest for the LTC and who is—

(a) a relative of a person who has an effective look-through interest for the LTC:

(b) a trustee who is associated in their capacity of trustee, with a person who has an effective look-through interest for the LTC

recourse property means property to which a creditor has recourse, to enforce a guarantee or indemnity for the relevant debt, if the guarantee or indemnity expressly provides recourse to only that property

secured amounts means, for the person, the lesser of the following applicable amounts:

(a) the amount of the look-through company's debt ignoring section HB 1 (the **secured debt**) for which the person is a guarantor, divided by the total number of guarantors for the secured debt:

(b) the market value of the recourse property for the secured debt to the extent of the interest that the person and their owner's associates have in it, net of higher-ranking calls whether actual, future or contingent, divided by the total number of guarantors described in paragraph (a) of the definition of **guarantor** who have an interest in the recourse property or have an owner's associate with an interest in the recourse property.

Defined in this Act: amount, assessable income, associated person, company, deduction, dispose, dividend, effective look-through interest, FIF, FIF income, FIF loss, guarantor, income, income year, loan, look-through company, look-through company deduction, loss, net income, net loss, owner's associate, owner's interests, partner, partnership, pay, recourse property, secured amounts, share

Section HB 11: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HB 11(1): replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 131(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HB 11(5)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HB 11(5)(c): amended (with effect on 1 April 2011), on 2 November 2012, by section 80(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(7)(a): replaced (with effect on 1 April 2011), on 2 November 2012, by section 80(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(7)(ab): inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(7B) heading: inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(7B): inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(7C) heading: inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(7C): inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(12) heading: replaced (with effect on 1 April 2011), on 2 November 2012, by section 80(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11(12): replaced (with effect on 1 April 2011), on 2 November 2012, by section 80(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11 list of defined terms **FIF loss**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11 list of defined terms **guarantor**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11 list of defined terms **owner's associate**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 11 list of defined terms **partner**: inserted, on 1 April 2017, by section 131(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HB 11 list of defined terms **partnership**: inserted, on 1 April 2017, by section 131(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HB 11 list of defined terms **recourse property**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 80(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HB 12 Limitation on deductions by owners of look-through companies: carry-forward

When this section applies

(1) This section applies when, for an income year, a person is denied a deduction under section HB 11.

Carry-forward: conditional on continued existence of look-through company and holding of effective look-through interest

(2) The person is allowed a deduction, for an amount for which the person is denied a deduction under section HB 11, for the income year (the **later year**) after the income year for which it is denied under section HB 11, unless—

(a) the look-through company ceases to be a look-through company in the later year:

(b) the person ceases to have an effective look-through interest in the later year.

Carry-forward: resumption

(3) If a person would have been allowed a deduction for an amount but for the application of subsection (2)(a) or (b) for the later year, they are allowed a deduction for the amount for the first income year after the later year in which either they resume an effective look-through interest for the look-through company, or the relevant company resumes being a look-through company. However, the amount of that deduction is reduced by the total amount allowed as a deduction under subsections (4) and (5).

Exception for deductions against continuing company dividends

(4) Despite subsection (2), the person is allowed a deduction for the later year for an amount (the **protected amount**) for which they would have been allowed a deduction but for the application of subsection (2)(a) or (b) for the later year to the extent to which the protected amount is equal to or lesser than the dividends received by the person from the company for the later year.

Further deductions against continuing company dividends

(5) For an income year after the later year, an amount equal to the protected amount reduced by the total of deductions allowed in income years before the income year under subsection (4) and this subsection, is allowed as a deduction for the person to the extent to which the amount is equal to or less than the dividends received by the person from the company for the income year.

Relationship with subject matter

(6) A deduction allowed under this section, other than under subsection (4) or (5), is subject to section HB 11, to the extent to which that section applies to the deduction and the relevant person.

Defined in this Act: amount, deduction, dividend, effective look-through interest, income year, look-through company

Section HB 12: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HB 13 LTC elections

LTC elections

(1) For the purposes of section HB 1, an LTC election (the **election**) is a notice that—

(a) is signed and dated by a director of the company that becomes a look-through company (the **LTC**) or other agent with appropriate authority; and

(b) is in the form prescribed by the Commissioner; and

(c) specifies an income year beginning on or after 1 April 2011 for which it may first operate; and

(d) has attached to it notices—

(i) signed and dated by all persons who, on the date of signing the election, own look-through interests in the LTC; and

(ii) evidence unanimous agreement of the owners in choosing to apply section HB 1.

Legal incapacities

(2) If a person owns a look-through interest in the LTC, and either they are under 18 years old with a guardian or a contract they enter into could be unenforceable, cancelled, void, or voidable due to any legal incapacity other than age, the notice requirement in subsection (1)(d) is modified so as to require a guardian, person with power of attorney, or other legal representative to sign and date the notice, instead of the person.

Time of receipt of LTC elections

(3) For the purposes of section HB 1, the election—

(a) must be received by the Commissioner before the start of the income year specified in the election; or

(b) in the case of a company that has not previously been required to file a return of income for a year before the income year specified in the election, must be received by the Commissioner on or before the last day for filing the return of income required by section 42B of the Tax Administration Act 1994 for the year specified in the election; or

(c) in the case of a company that was a qualifying company that first becomes a look-through company for the first or second income year that starts on or after 1 April 2011, must be received by the Commissioner within 6 months of the start of the relevant transitional income year described in section HZ 4C(1) (Qualifying companies: transition into look-through companies).

Income year for which LTC elections are treated as received

(4) For the purposes of section HB 1, the election is treated as received for the first relevant income year described in subsection (3) and for each income year after that one, except it is treated as not received by the Commissioner for an income year (the **income year**) and subsequent income years if—

(a) the election has been revoked for the income year under section HB 1:

(b) the LTC does not meet the requirements in the definition of **look-through company** at all times in the income year:

(c) the income year is 1 of the 2 income years straight after an income year for which either the LTC ceases to be a look-through company or the relevant election for the LTC is revoked.

Commissioner's discretion as to LTC elections

(5) An election that is late or does not have each person signing and dating as required by subsection (1)(a) and (d) is treated as an election that has been received by the Commissioner for the income year under subsection (3) but subject to subsection (4), if all relevant persons sign and date it during the income year it may first operate, and the Commissioner decides that exceptional circumstances are the sole cause of the lateness or failure to sign and date.

Valuation transfer

(6) An entity that ceases to be a company upon becoming an LTC is treated as having, as an LTC, the same status, intention, purpose, and tax book timings and values it had as a company for its assets, liabilities, and associated legal rights and obligations.

Defined in this Act: Commissioner, company, director, income year, look-through company, look-through interest, notice, qualifying company, return of income

Section HB 13: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011, and for the purposes of the Commissioner receiving LTC elections, on and after 21 December 2010), by section 78(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HB 13(2): amended, on 2 June 2016, by section 48 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HB 13(3)(b): amended (with effect on 1 April 2011), on 28 March 2024, by section 86(1) (and see section 86(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HB 13(5): amended (with effect on 1 April 2011), on 2 November 2012, by section 81 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HB 13(6) heading: inserted (with effect on 1 April 2011), on 30 March 2017, by section 132 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HB 13(6): inserted (with effect on 1 April 2011), on 30 March 2017, by section 132 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HB 13(6): amended (with effect on 1 April 2011), on 31 March 2023, by section 76 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Subpart HC—Trusts

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Introductory provisions

HC 1 What this subpart does

What this subpart does

(1) This subpart, together with the trust rules,—

(a) provides for the taxation of distributions from trusts, for this purpose defining—

(i) beneficiary income:

(ii) a taxable distribution:

(b) provides for the taxation of trustee income:

(c) classifies trusts into the following 3 categories for the purposes of determining the treatment of distributions that are not beneficiary income:

(i) complying trusts:

(ii) foreign trusts:

(iii) non-complying trusts:

(d) determines who is a settlor, and sets out their income tax liability:

(e) sets out the treatment of trusts settled by persons becoming resident in New Zealand.

Excluded: certain funds and distributions

(2) The trust rules do not apply to—

(a) a unit trust:

(b) a group investment fund to the extent to which it is treated as a company under this Act:

(c) a Maori authority:

(d) a distribution under section HZ 1 (Distributions from trusts of pre-1989 tax reserves).

Disclosure requirements: non-resident trustees

(3) Section 59 of the Tax Administration Act 1994 requires the disclosure of a settlement on a trust with a non-resident trustee.

Avoidance arrangements

(4) Section GB 22 (Arrangements involving trust beneficiary income) may apply to treat a beneficiary as receiving property, or enjoying services or benefits, in fact received, or enjoyed, by another person.

Superannuation funds entering trust rules

(5) A superannuation scheme that is treated as a company because it is a unit trust and then becomes a superannuation fund is treated as—

(a) liquidated under section CD 12 (Superannuation schemes entering trust rules) immediately before the date on which it becomes a superannuation fund; and

(b) no longer a company.

Defined in this Act: arrangement, beneficiary income, company, complying trust, distribution, foreign trust, group investment fund, income tax liability, liquidation, Maori authority, non-complying trust, non-resident, resident in New Zealand, settlement, settlor, superannuation fund, superannuation scheme, taxable distribution, trust rules, trustee, trustee income, unit trust

Compare: 2004 No 35 ss GC 14, HH 1(8), (9), HH 3(6), HH 4(8), Income Tax Amendment Act 1988 (No 5) s 9

HC 2 Obligations of joint trustees for calculating income and providing returns

What this section applies to

(1) This section applies for the purposes of the obligations imposed by section BB 2 (Main obligations) on 2 or more persons who derive income jointly as trustees of a trust.

Single person

(2) The trustees of the trust are treated in that capacity as if they were a notional single person and are jointly and severally liable to satisfy the obligations imposed by section BB 2 on the notional single person.

Residence

(3) If no election under section HC 33 is made for the trust, the notional single person referred to in subsection (2) is—

(a) a New Zealand resident when 1 or more of the trustees is resident in New Zealand:

(b) a non-resident when none of the trustees is resident in New Zealand.

Defined in this Act: income, income tax liability, New Zealand resident, non-resident, resident in New Zealand, return of income, tax year, taxable income, trustee

Compare: 2004 No 35 s HD 1(1)(a)

Section HC 2(2): replaced, on 23 March 2020, by section 132(1) (and see section 132(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 2(3) heading: inserted, on 23 March 2020, by section 132(2) (and see section 132(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 2(3): inserted, on 23 March 2020, by section 132(2) (and see section 132(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 2 list of defined terms **New Zealand resident**: inserted, on 23 March 2020, by section 132(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 2 list of defined terms **non-resident**: inserted, on 23 March 2020, by section 132(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 2 list of defined terms **resident in New Zealand**: inserted, on 23 March 2020, by section 132(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HC 3 Multiple settlements

For the purposes of this subpart, if a settlement is made on a trust and further settlements are made on the same terms, a trustee of the trust may treat all the settlements as 1 trust.

Defined in this Act: settlement, trustee

Compare: 2004 No 35 s HH 1A

HC 4 Corpus of trust

Meaning of corpus

(1) In the trust rules, **corpus** for a trust means the settlement value under subsection (1B) of property settled on the trust that is not excluded by subsection (2).

Settlement value of settled property

(1B) For property meeting the requirements of subsection (1), the value under this subsection (the **settlement value**) of the property settled on a trust is—

(a) the market value of the property determined at the time of the settlement of the property, for a single settlement on the trust; or

(b) the total of the amounts determined under paragraph (a) for each settlement of property, if the trustee treats the settlements in the way permitted by section HC 3.

Settlements excluded from corpus

(2) Corpus does not include an amount equal to the market value of the property settlements described in subsections (3) to (5).

Settlements on other trusts

(3) A property settlement by a trustee of another trust is excluded from corpus to the extent to which the property—

(a) is not first distributed to a beneficiary, resident in New Zealand, of the other trust; and

(b) if it were first distributed to a beneficiary, resident in New Zealand, of the other trust, the property would be beneficiary income or a taxable distribution to that beneficiary.

Deductions

(4) A property settlement for which the settlor is allowed a deduction is excluded from corpus.

Income or dividend

(5) A property settlement is excluded from corpus if, but for the fact of the settlement,—

(a) it would be income of the settlor; or

(b) *[Repealed]*

(c) it would fall under paragraph (a) if the settlor were resident in New Zealand at the time of the settlement.

Defined in this Act: amount, beneficiary income, corpus, deduction, distribution, dividend, income, resident in New Zealand, settlement, settlor, taxable distribution, trust rules, trustee

Compare: 2004 No 35 s OB 1 "corpus"

Section HC 4(1) heading: replaced, on 23 March 2020, by section 133 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 4(1): replaced, on 23 March 2020, by section 133 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 4(1B) heading: inserted, on 23 March 2020, by section 133 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 4(1B): inserted, on 23 March 2020, by section 133 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 4(3): replaced, on 1 April 2024, by section 87(1) (and see section 87(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 4(5)(b): repealed (with effect on 30 June 2009), on 6 October 2009, by section 260(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HC 4(5)(c): substituted (with effect on 30 June 2009), on 6 October 2009, by section 260(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HC 4 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 260(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Trust income

HC 5 Amounts derived by trustees

Either beneficiary or trustee income

(1) An amount of income derived in an income year by a trustee of a trust is either—

(a) beneficiary income under section HC 6; or

(b) trustee income under section HC 7.

Statutory amounts treated as derived

(2) For the purposes of subsection (1) and sections HC 6 and HC 7, if the trustee is treated as having an amount of income in the income year under a provision in this Act and the amount is not derived under ordinary concepts, then the amount is treated as derived in the income year.

Defined in this Act: amount, beneficiary income, income, income year, trustee, trustee income

Compare: 2004 No 35 s OB 1 "beneficiary income", "trustee income"

HC 6 Beneficiary income

Meaning

(1) An amount of income derived in an income year by a trustee of a trust is **beneficiary income** to the extent to which—

(a) it vests absolutely in interest in a beneficiary of the trust in the income year; or

(b) it is paid to a beneficiary of the trust in the income year or by the date after the end of the income year referred to in subsection (1B).

Date by which income must be allocated

(1B) The date referred to in subsection (1)(b) is the later of the following:

(a) a date that falls within 6 months of the end of the income year; or

(b) the earlier of—

(i) the date on which the trustee files the return of income for the income year; or

(ii) the date by which the trustee must file a return for the income year under section 37 of the Tax Administration Act 1994.

(1C) Beneficiary income includes an RWT substitution payment made to a beneficiary under section RE 2(7) (Resident passive income) to the extent to which the payment meets the requirements of subsection (1) or is paid on a date referred to in subsection (1B).

Exclusions

(2) Beneficiary income does not include—

(a) an amount of income derived by a trustee of a trust in an income year in which the trust is a superannuation fund; or

(ab) an amount of income derived by a trustee of a trust in an income year in which the trust is an approved unit trust referred to in clause 2 of the Income Tax Act (Exempt Unit Trusts) Order 1990; or

(b) an amount of income derived by a trustee that is income to which sections CC 3(2) (Financial arrangements) and EW 50 (Income when debt forgiven to trustee) apply; or

(c) an amount by which a tax credit of a beneficiary for resident withholding tax is reduced under section LB 3(6) (Tax credits for resident withholding tax); or

(d) an amount of a tax credit of a beneficiary allocated under section LB 3(5).

Deriving beneficiary income in same year

(3) When an amount derived by a trustee in an income year is also beneficiary income, the beneficiary is treated as having derived the income in the same tax year as that corresponding to the trustee's income year.

Deriving beneficiary income in same year as trustee

[Repealed]

(4) *[Repealed]*

Defined in this Act: amount, beneficiary income, income, income year, pay, return of income, superannuation fund, tax year, trustee

Compare: 2004 No 35 ss OB 1 "beneficiary income", OF 2(3)

Section HC 6(1)(b): substituted (with effect on 1 April 2009), on 7 December 2009, by section 43(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6(1B) heading: inserted (with effect on 1 April 2009), on 7 December 2009, by section 43(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6(1B): inserted (with effect on 1 April 2009), on 7 December 2009, by section 43(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6(1C): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 114(1) (and see section 114(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 6(2)(ab): inserted, on 30 March 2021, by section 85(1) (and see section 85(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 6(2)(b): amended, on 29 March 2018 (with effect on 1 April 2008), by section 114(2) (and see section 114(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 6(2)(c): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 114(2) (and see section 114(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 6(2)(d): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 114(2) (and see section 114(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 6(3) heading: substituted (with effect on 1 April 2009), on 7 December 2009, by section 43(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6(3): substituted (with effect on 1 April 2009), on 7 December 2009, by section 43(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6(4) heading: repealed (with effect on 1 April 2009), on 7 December 2009, by section 43(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6(4): repealed (with effect on 1 April 2009), on 7 December 2009, by section 43(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6 list of defined terms **non-standard income year**: repealed (with effect on 1 April 2009), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 6 list of defined terms **return of income**: inserted (with effect on 1 April 2009), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

HC 7 Trustee income

Meaning

(1) To the extent to which it is not beneficiary income, an amount of income derived by a trustee of a trust is **trustee income**.

Minors' beneficiary income

(2) An amount of beneficiary income to which section HC 35 applies that is derived in an income year by a person who is a minor is—

(a) treated as trustee income for the purposes of who pays the tax and who provides the return of income; and

(b) subject to the basic rate of income tax set out in schedule 1, part A, clause 3.

Close companies' beneficiary income

(2B) An amount of beneficiary income to which section HC 38 applies is—

(a) treated as trustee income for the purposes of who pays the tax and who provides the return of income; and

(b) subject to the basic rate of income tax set out in schedule 1, part A, clause 3.

Exclusions from corpus

(3) The trustee of a trust has, from a property settlement that is referred to in section HC 4(3) to (5) and made in an income year, an amount of trustee income for the income year equal to the market value of the property settlement reduced by the amount of the market value that the trustee treats as beneficiary income, or as a taxable distribution made by the trustee, in the income year.

Defined in this Act: amount, beneficiary income, corpus, income, income year, minor, pay, return of income, settlement, tax, taxable distribution, trustee, trustee income

Compare: 2004 No 35 ss HH 1(7), HH 3A(1)(a), OB 1 "trustee income"

Section HC 7(2): replaced, on 1 April 2024, by section 88(1) (and see section 88(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 7(2B) heading: inserted, on 1 April 2024, by section 88(2) (and see section 88(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 7(2B): inserted, on 1 April 2024, by section 88(2) (and see section 88(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 7(3): replaced (with effect on 1 April 2008), on 23 March 2020, by section 134(1) (and see section 134(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 7 list of defined terms **tax**: inserted, on 1 April 2024, by section 88(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 7 list of defined terms **taxable distribution**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 134(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HC 8 Amounts received after person's death

When this section applies

(1) This section applies when a trustee of an estate of a deceased person receives an amount in an income year that is not income that the person derived during their lifetime, but would have been included in the person's income had they been alive when it was received.

Reportable income received within 28 days after person's death

(1B) The trustee may treat an amount of reportable income received by the trustee within the period of 28 days starting with the date of the person's death as if it were income that was derived by the person before being received by the trustee.

Income

(2) An amount not treated as being derived by the person under subsection (1B) is treated under section CV 12 (Trustees: amounts received after person's death) as income derived by the trustee in the income year.

Defined in this Act: amount, income, income year, reportable income, trustee

Compare: 2004 No 35 s HH 8

Section HC 8(1B) heading: inserted (with effect on 1 April 2022), on 31 March 2023, by section 77(1) (and see section 77(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 8(1B): inserted (with effect on 1 April 2022), on 31 March 2023, by section 77(1) (and see section 77(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 8(2): amended (with effect on 1 April 2022), on 31 March 2023, by section 77(2) (and see section 77(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 8 list of defined terms **reportable income**: inserted (with effect on 1 April 2022), on 31 March 2023, by section 77(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

HC 8B Income in income year of person's death and following 3 income years

When this section applies

(1) This section applies to a trustee of an estate of a deceased person for the income year in which the person died and the subsequent 3 income years.

Basic rate of tax for trustee

(2) For an income year in which the trustee derives income, the basic rate of income tax for the trustee on each dollar of the trustee's taxable income is set out in schedule 1, part A, clause 6B (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Defined in this Act: income, income tax, income year, taxable income, trustee

Section HC 8B: inserted, on 1 April 2024, by section 89(1) (and see section 89(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 8B heading: amended (with effect on 1 April 2024), on 29 March 2025, by section 70(1) (and see section 70(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 8B(2): amended (with effect on 1 April 2024), on 29 March 2025, by section 70(2) (and see section 70(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 8B list of defined terms **income**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 70(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 8B list of defined terms **trustee income**: repealed (with effect on 1 April 2024), on 29 March 2025, by section 70(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Classification of trusts

HC 9 Classifying trusts

A trust is classified at the time it makes a distribution as—

(a) a complying trust under section HC 10:

(b) a foreign trust under section HC 11:

(c) a non-complying trust under section HC 12.

Defined in this Act: complying trust, distribution, foreign trust, non-complying trust

HC 10 Complying trusts

Requirements for complying trusts

(1) A trust is a **complying trust** in relation to a distribution if—

(a) the following requirements are met for the life of the trust up to the time of distribution:

(i) no trustee income derived includes an amount of non-resident passive income, or non-residents' foreign-sourced income, or exempt income under section CW 54 (Foreign-sourced amounts derived by trustees); and

(ii) the tax obligations relating to the trustee's income tax liability have been satisfied for every tax year; or

(ab) the requirements of paragraph (a) are not met and—

(i) a person makes an election meeting the requirements of section HC 30(2) and the requirements of subsection (2) are met; or

(ii) a person makes an election meeting the requirements of section HC 33(1) and for all income years beginning on or after the date on which the election applies to the trust and before the time of distribution, the trustee's tax obligations relating to the trustee's income tax liability for the trustee income, determined consistently with section HC 33(1C), are satisfied; or

(ac) the requirements of paragraph (a) are not met and the distribution meets the requirements of section HC 30(4)(ab); or

(b) it is a superannuation fund.

Foreign trust choosing to become complying trust

(2) A foreign trust may become a complying trust to the extent set out in section HC 30 by—

(a) an election being made under section HC 30(2)—

(i) before the time of distribution; and

(ii) by the election expiry date given by section HC 30(5) for section HC 30(2); and

(b) the requirements of subsection (1)(a) are met for trustee income derived after the election date.

Life of trust

(3) The life of the trust referred to in subsection (1)(a) includes every income year from the start of the income year in which a settlement was first made on the trust up to the time of the distribution.

Complying trusts: meeting requirements

(4) For the purposes of subsection (1)(a) and (ab), section HC 29(6) does not apply in determining whether the requirements are met.

Defined in this Act: amount, complying trust, distribution, exempt income, foreign-sourced amount, foreign trust, income tax liability, income year, non-resident passive income, non-residents' foreign-sourced income, resident in New Zealand, settlement, settlor, superannuation fund, tax year, trustee, trustee income

Compare: 2004 No 35 ss HH 2(2), HH 4(5) proviso, OB 1 "foreign trust", "qualifying trust"

Section HC 10(1)(ab): replaced, on 23 March 2020, by section 135(1) (and see section 135(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 10(1)(ac): inserted (with effect on 23 March 2020), on 30 March 2021, by section 86(1) (and see section 86(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 10(2)(a)(ii): replaced, on 18 March 2019, by section 208 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 10(3): amended, on 23 March 2020, by section 135(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 10(4): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 185(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

HC 11 Foreign trusts

A trust is a **foreign trust** at a moment in time if no settlor is resident in New Zealand at any time in the period that—

(a) starts on the later of 17 December 1987 and the date on which a settlement was first made on the trust; and

(b) ends with the moment in time.

Defined in this Act: foreign trust, resident in New Zealand, settlement, settlor

Compare: 2004 No 35 s OB 1 "foreign trust"

Section HC 11: amended, on 21 February 2017, by section 5(a) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 11(b): amended, on 21 February 2017, by section 5(b) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

HC 12 Non-complying trusts

A trust is a **non-complying trust** in relation to a distribution if it is neither a complying trust nor a foreign trust.

Defined in this Act: complying trust, distribution, foreign trust, non-complying trust

Compare: 2004 No 35 s OB 1 "non-qualifying trust"

HC 13 Charitable trusts

[Repealed]

Section HC 13: repealed, on 29 March 2024, by section 90 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Distributions from trusts

HC 14 Distributions from trusts

Transfers of value

(1) A trustee makes a **distribution** when the trustee transfers value to a person because the person is a beneficiary of the trust.

Transfers to other trusts included

(2) Despite subsection (1), a settlement for the benefit of a beneficiary is treated as a transfer of value only—

(a) if the amount or the property being settled would have been beneficiary income of, or a taxable distribution to, a beneficiary, had it been distributed at the time to a beneficiary resident in New Zealand; or

(b) when sections EW 50 or EZ 39 (which relate to forgiveness of debt) applies, if the property being settled is an amount forgiven and treated as

paid as described in section EW 44(1) or (2) (Consideration when debt forgiven for natural love and affection) or EZ 39(1).

Payment of interest

(2B) If a trustee pays to a beneficiary interest on an amount owed to the beneficiary, the payment is not a distribution by the trustee except to the extent to which the interest exceeds the amount given by the rate that is the greater of the market rate and the prescribed rate of interest.

When distribution made

(3) A distribution is made when what is transferred—

(a) vests absolutely in interest in the person; or

(b) is paid to the person.

Manner of distribution

(4) A distribution may be made directly or indirectly, or by 1 transaction or a number of transactions, whether related, connected, or otherwise.

Nil value of beneficiary relationship

(5) The fact that a person is, or will become, a beneficiary of a trust does not constitute the giving or receiving of value.

Defined in this Act: amount, beneficiary income, distribution, interest, pay, prescribed rate of interest, resident in New Zealand, settlement, taxable distribution, transfer of value, trustee

Compare: 2004 No 35 s OB 1 "distribution"

Section HC 14(2B) heading: inserted, on 23 March 2020, by section 136(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 14(2B) heading: amended, on 30 March 2025, by section 71 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 14(2B): inserted, on 23 March 2020, by section 136(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 14 list of defined terms **interest**: inserted, on 23 March 2020, by section 136(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 14 list of defined terms **prescribed rate of interest**: inserted, on 23 March 2020, by section 136(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HC 15 Taxable distributions from non-complying and foreign trusts

When subsection (2) applies

(1) Subsection (2) applies for a trust that is a non-complying trust at the time a distribution to a beneficiary is made.

Taxable distributions: non-complying trusts

(2) The distribution is a **taxable distribution** to the extent to which it is not a distribution of—

(a) beneficiary income; or

(b) a part of the corpus of the trust; or

(c) a payment or a transaction that represents a distribution of the corpus of the trust.

When subsection (4) applies

(3) Subsection (4) applies for a trust that is a foreign trust at the time a distribution to a beneficiary is made.

Taxable distributions: foreign trusts

(4) The distribution is a **taxable distribution** to the extent to which it is not a distribution of—

(a) beneficiary income; or

(b) a part of the corpus of the trust; or

(c) a profit from the realisation of a capital asset or another capital gain; or

(cb) a foreign superannuation withdrawal; or

(cc) a pension; or

(d) a payment or a transaction that represents a distribution of either the corpus of the trust referred to in paragraph (b) or a capital gain referred to in paragraph (c).

Determining amount of gain

(5) For the purposes of subsection (4)(c),—

(a) the profit or other capital gain does not include a gain that must be taken into account for the purposes of determining an income tax liability:

(ab) if the trustee is not a trustee of a trust referred to in paragraph (ac), the profit or other capital gain does not include an amount of capital gain (the **gain amount**) that is derived by the trustee through a transaction or a series of transactions if—

(i) the transaction or series of transactions is between the trustee and an associated person who is not a natural person or corporate trustee; and

(ii) the gain amount is greater than the capital gain that the trustee would derive from a transaction at market value:

(ac) if the trustee is a trustee of a trust, for which a CFC is a settlor and no person is treated as a settlor under section HC 28(3) or (4), the profit or other capital gain does not include an amount of capital gain that is derived by the trustee through a transaction or a series of transactions between the trustee and an associated person:

(b) the amount of the profit is determined after subtracting any capital loss that the trustee incurs in the income year in which the amount was derived.

Certain capital gains for trustee of foreign trust

(5B) For a foreign trust, profit described in subsection (5)(ab) or (ac) is income of the trustee for the purposes of section HC 16.

Source of income from capital gain

(5C) The source of a capital gain that is included in a taxable distribution is determined for the trustee under section YD 4 (Classes of income treated as having New Zealand source) as if the capital gain were an amount of income.

Source of capital loss

(5D) The source of a capital loss for the trustee is given by subsection (5C), applied as if the capital loss were a capital gain included in a taxable distribution.

Amounts not subject to ordering rule

(6) To the extent to which a distribution is made from a trust that is not a complying trust by disposing of property at less than market value or providing financial assistance or services to a beneficiary at less than market value, the distribution is a taxable distribution and is not subject to the ordering rule in section HC 16.

Inadequate records

(7) If the records of a trust that is not a complying trust do not allow an accurate determination of the elements of a distribution under section HC 16, the distribution is a taxable distribution.

Defined in this Act: amount, associated person, beneficiary income, complying trust, corpus, distribution, financial assistance, foreign superannuation withdrawal, foreign trust, income, income tax liability, income year, non-complying trust, pay, superannuation fund, taxable distribution, trustee

Compare: 2004 No 35 ss HH 6(2)(c), (3), OB 1 "taxable distribution"

Section HC 15(4)(cb): inserted, on 1 April 2014, by section 83(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HC 15(4)(cc): inserted, on 1 April 2014, by section 83(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HC 15(5)(a): replaced, on 18 March 2019, by section 209(1) (and see section 209(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 15(5)(ab): inserted, on 18 March 2019, by section 209(1) (and see section 209(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 15(5)(ac): inserted, on 18 March 2019, by section 209(1) (and see section 209(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 15(5B) heading: inserted, on 18 March 2019, by section 209(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 15(5B): inserted, on 18 March 2019, by section 209(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 15(5C) heading: inserted, on 23 March 2020, by section 137(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 15(5C): inserted, on 23 March 2020, by section 137(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 15(5D) heading: inserted, on 23 March 2020, by section 137(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 15(5D): inserted, on 23 March 2020, by section 137(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 15(6): amended, on 23 March 2020, by section 137(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 15 list of defined terms **1973 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HC 15 list of defined terms **1988 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HC 15 list of defined terms **1990 version provisions**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HC 15 list of defined terms **financial assistance**: inserted, on 23 March 2020, by section 137(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 15 list of defined terms **foreign superannuation withdrawal**: inserted, on 1 April 2014, by section 83(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HC 15 list of defined terms **income**: inserted, on 23 March 2020, by section 137(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HC 16 Ordering rule for distributions from non-complying and foreign trusts

When this section applies

(1) This section applies for the purposes of the trust rules when a trustee of a non-complying trust or a foreign trust makes a distribution in an income year to a beneficiary. Subsections (6) and (7) override this subsection.

Order of elements of distribution

(2) The distribution is treated as consisting of the following elements in the following order:

(aa) first, an amount derived by the trustee that is beneficiary income of the beneficiary in the previous income year:

(a) second, an amount of income that the trustee derives in the income year:

(b) third, an amount of income, other than beneficiary income, that the trustee has derived in an earlier income year:

(c) fourth, an amount that the trustee derives in the income year from the realisation of a capital asset of the trust or another capital gain and that is not income under section HC 15(5B) for the purposes of this section:

(d) fifth, an amount that the trustee has derived in an earlier income year from the realisation of a capital asset of the trust or another capital gain:

(e) last, the corpus of the trust.

Order and elements

(3) In subsection (2),—

(a) an amount must not be treated as included in the distribution if the amount has been treated under this section as being included in an earlier or contemporaneous distribution from the trust:

(b) the paragraphs are applied in order, and the next paragraph applies only to the extent to which the amount of the distribution is more than the cumulative amounts described in that paragraph and the preceding paragraphs.

Deductions and capital losses subtracted

(4) For the purposes of subsection (2),—

(a) in paragraphs (a) and (b), the amount of income is determined after subtracting the amount of a deduction that is taken into account in the income year in the calculation of net or taxable income for the corresponding tax year:

(b) in paragraphs (c) and (d), the amount is determined after subtracting the amount of a capital loss that the trustee incurs in the income year.

Transactions that are not genuine

(5) In the determination of the elements of a distribution to a beneficiary (**beneficiary A**), no amount of income or capital gain derived by the trustee of the trust is treated as distributed to another beneficiary of the trust (**beneficiary B**) if the effect is that some or all of the distribution to beneficiary A would be treated as not being beneficiary income or a taxable distribution, unless the distribution to beneficiary B meets all the following requirements:

(a) it is a genuine transaction entered into and carried out in good faith; and

(b) *[Repealed]*

(c) it does not itself constitute a settlement.

Exclusions: terms of trust

(6) This section does not apply to the following distributions which are instead treated as consisting of the amount that reflects the terms of the trust or the terms of the exercise of the trustee's discretion:

(a) a distribution by the trustee of a complying trust which is treated as exempt income under section CW 53 (Distributions from complying trusts), unless an election to pay income tax on trustee income has been made for the purposes of section HZ 2 (Trusts that may become complying trusts); or

(b) a distribution from a non-discretionary trust—

(i) created by will or codicil, or by an order of court varying or modifying the provisions of a will or codicil; or

(ii) created on an intestacy or partial intestacy; or

(iii) on which no settlement has been made after 17 December 1987; or

(c) a distribution from a trust, other than a non-complying trust, that is settled by a natural person and for which an election is made under section HC 30(2).

Exclusions: taxable distributions

(7) This section does not apply to a distribution described in section HC 15(6).

Meaning of non-discretionary trust

(8) In this section, a **non-discretionary trust** is a trust in relation to which the trustee has no discretion as to the source, nature, and amount of distributions to beneficiaries, including but not limited to the classification of trust property as capital or income.

Defined in this Act: amount, beneficiary income, complying trust, corpus, deduction, distribution, exempt income, foreign trust, income, income tax, income year, net income, New Zealand resident, non-complying trust, non-discretionary trust, settlement, tax year, taxable distribution, taxable income, trust rules, trustee, trustee income

Compare: 2004 No 35 s HH 6(1), (2), (4)

Section HC 16(2)(aa): inserted, on 23 March 2020, by section 138(1) (and see section 138(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 16(2)(a): amended, on 23 March 2020, by section 138(2) (and see section 138(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 16(2)(b): amended, on 23 March 2020, by section 138(3) (and see section 138(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 16(2)(c): replaced, on 18 March 2019, by section 210(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 16(2)(c): amended, on 23 March 2020, by section 138(4) (and see section 138(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 16(2)(d): amended, on 23 March 2020, by section 138(5) (and see section 138(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 16(5): amended, on 23 March 2020, by section 138(6) (and see section 138(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 16(5)(b): repealed, on 23 March 2020, by section 138(7) (and see section 138(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 16(6)(c): replaced, on 18 March 2019, by section 210(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Tax treatment of amounts that beneficiaries derive from trusts

HC 17 Amounts derived as beneficiary income

Beneficiaries other than minors or close companies

(1) An amount that a person derives in an income year as beneficiary income is income of the person under section CV 13(a) (Amounts derived from trusts), except to the extent to which it is beneficiary income to which section HC 35 or HC 38 applies.

Minor beneficiaries

(2) Subsection (1) does not apply to beneficiary income derived by a minor. The beneficiary income is excluded income of the minor, and treated as trustee income under sections CX 58 (Amounts derived by minors from trusts) and HC 35.

Beneficiaries that are close companies

(3) Subsection (1) does not apply to beneficiary income derived by a close company to which section HC 38 applies. The beneficiary income is excluded income of the company under section CX 58B (Amounts derived by certain close companies from trusts) and treated as trustee income under section HC 38.

Defined in this Act: amount, beneficiary income, close company, excluded income, income year, minor, trustee income

Compare: 2004 No 35 ss HH 3(1), HH 3A(1)(b)

Section HC 17(1) heading: replaced, on 1 April 2024, by section 91(1) (and see section 91(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 17(1): amended, on 1 April 2024, by section 91(2) (and see section 91(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 17(3) heading: inserted, on 1 April 2024, by section 91(3) (and see section 91(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 17(3): inserted, on 1 April 2024, by section 91(3) (and see section 91(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 17 list of defined terms **close company**: inserted, on 1 April 2024, by section 91(4) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

HC 18 Taxable distributions from foreign trusts

An amount that a person derives in an income year as a taxable distribution from a foreign trust is income of the person under section CV 13(c) (Amounts derived from trusts).

Defined in this Act: amount, foreign trust, income, income year, taxable distribution

Compare: 2004 No 35 s HH 3(1)

Section HC 18: amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 82(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HC 19 Taxable distributions from non-complying trusts

Excluded income

(1) An amount that a person derives in an income year as a taxable distribution from a non-complying trust is excluded income of the person under section CX 59 (Taxable distributions from non-complying trusts).

Relationship with other provisions

(2) Despite subsection (1), section BF 1(b) (Other obligations) applies to impose income tax on the amount of the taxable distribution. Section HC 22 may apply to reduce the amount of the taxable distribution, and section HC 34 sets the rate of tax for the purposes of section BF 1(b).

Defined in this Act: amount, excluded income, income tax, income year, non-complying trust, taxable distribution

Compare: 2004 No 35 s HH 3(1), (4)

HC 20 Distributions from complying trusts

An amount that a person derives in an income year is exempt income of the person under section CW 53 (Distributions from complying trusts) if—

(a) the amount is a distribution from a complying trust other than a community trust; and

(b) the amount is not beneficiary income.

Defined in this Act: amount, beneficiary income, community trust, complying trust, distribution, exempt income, income year

Compare: 2004 No 35 s HH 3(5)

HC 21 Distributions from community trusts

What this section applies to

(1) This section applies when a community trust distributes an amount other than beneficiary income to a person.

Exclusion

(2) Subsection (1) does not apply to the extent to which the amount represents—

(a) income derived by the trustee in or before the 2003–04 income year:

(b) corpus of the trust:

(c) a capital gain of the trust:

(d) a distribution, settlement, or dividend made or paid to the trust in the 2004–05 or 2005–06 income year on the winding up of a trust or company, if—

(i) the community trust provided the corpus of the trust and the trust would have been run for charitable purposes but for the distribution, settlement, or dividend:

(ii) the company is wholly-owned by the community trust and would have been established and run exclusively for charitable purposes but for the distribution, settlement, or dividend.

Income

(3) Despite sections HC 15 and HC 20, the amount is income of the person under section CV 14 (Distributions from community trusts).

Defined in this Act: amount, beneficiary income, charitable purpose, community trust, company, corpus, distribution, dividend, income, income year, pay, settlement, trustee, trustee income

Compare: 2004 No 35 s HH 3(5A)

Section HC 21(3): amended (with effect on 1 April 2008), on 6 October 2009, by section 263(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HC 22 Use of tax losses to reduce taxable distributions from non-complying trusts

When this section applies

(1) This section applies in an income year when a person—

(a) has, for the corresponding tax year, a tax loss component or loss balance to which sections IA 2 to IA 10 (which relate to the use of tax losses) apply; and

(b) derives a taxable distribution from a non-complying trust to which section HC 19 applies.

Reducing taxable distribution

(2) The person may reduce the amount of the taxable distribution by an amount calculated using the formula—

tax loss × tax rate ÷ distribution rate.

Definition of items in formula

(3) In the formula,—

(a) **tax loss** is the amount of a tax loss component or loss balance that the person chooses to use:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 3 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(c) **distribution rate** is the basic rate of income tax set out in schedule 1, part A, clause 4.

Loss no longer available

(4) If a person takes an amount of a tax loss or a loss balance into account under this section, the amount cannot be subtracted from their net income for the corresponding tax year for the purposes of section IA 2(2) (Tax losses).

Defined in this Act: amount, income tax, income year, loss balance, net income, non-complying trust, tax loss, tax loss component, tax year, taxable distribution

Compare: 2004 No 35 s HH 3(4)

Section HC 22(3)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

HC 23 Temporary absences of beneficiaries

When this section applies

(1) This section applies when—

(a) a person who is a beneficiary of a trust and who is resident in New Zealand stops being resident; and

(b) within a period of 5 years from the date of the end of their residence, they become resident in New Zealand again.

Income derived during the period

(2) The person is treated as deriving income under section CV 15 (Amounts derived from trusts while person absent from New Zealand) to the extent to which they would have been treated as deriving an amount of beneficiary income or a taxable distribution from a foreign trust or a non-complying trust if they had remained in New Zealand for the period of their absence.

Allocation

(3) The amount is treated as derived on the day on which the person becomes resident in New Zealand again.

Defined in this Act: amount, beneficiary income, foreign trust, income, non-complying trust, resident in New Zealand, taxable distribution

Compare: 2004 No 35 s HH 3(3)

Tax treatment of trustee income

HC 24 Trustees' obligations

Liability as individual for trustee income

(1) A trustee must satisfy the income tax liability for their taxable income as if they were an individual beneficially entitled to the trustee income.

No tax credits

(2) In determining the income tax liability, the trustee is not entitled to have a tax credit under subparts LC and LD (which relate to tax credits for natural persons and for certain gifts).

Beneficiary income of minors

(3) Section HC 35 applies to treat beneficiary income derived by a minor as if it were trustee income.

Beneficiary income of certain close companies

(3B) Section HC 38 applies to treat beneficiary income derived by a close company that meets the requirements of the section as if it were trustee income.

Calculating trustees' deductions

(4) Section DV 9(2) (Trusts) applies for the purposes of calculating a trustee's deductions.

Superannuation funds

(5) Sections CX 40, and DV 1 to DV 4 (which relate to superannuation funds) override this section.

Defined in this Act: beneficiary income, close company, deduction, income tax liability, minor, tax credit, taxable income, trustee, trustee income

Compare: 2004 No 35 ss DV 9(2), HH 4(1), (2)

Section HC 24(2) heading: replaced (with effect on 1 April 2009), on 2 November 2012 (applying for the 2009–10 and later income years), by section 83(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HC 24(2): replaced (with effect on 1 April 2009), on 2 November 2012 (applying for the 2009–10 and later income years), by section 83(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HC 24(3B) heading: inserted, on 1 April 2024, by section 92(1) (and see section 92(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 24(3B): inserted, on 1 April 2024, by section 92(1) (and see section 92(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 24 list of defined terms **cash basis person**: repealed (with effect on 1 April 2009), on 30 March 2021, by section 87 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 24 list of defined terms **close company**: inserted, on 1 April 2024, by section 92(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

HC 25 Foreign-sourced amounts: non-resident trustees

When this section applies

(1) This section applies when a non-resident trustee derives, as trustee income, in an income year a foreign-sourced amount that would be assessable income if derived by a person resident in New Zealand.

Trustee income

(2) Despite section BD 1(4)(a), (b), and (5)(c) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income), the amount is assessable income of the trustee if, at any time in the income year,—

(a) a settlor of the trust is a New Zealand resident who is not a transitional resident; or

(b) the trust is a superannuation fund; or

(c) the trust is a testamentary trust or an inter vivos trust, of which—

(i) a trustee is resident in New Zealand; and

(ii) a settlor died resident in New Zealand (whether or not they died in the income year) or the last surviving settlor was resident in New Zealand when that settlor ceased to exist.

First exception

(3) Subsection (2) does not apply if—

(a) the trustee is resident outside New Zealand at all times in the income year; and

(b) no settlement has been made on the trust after 17 December 1987 and, if an election has been made under section HZ 2 (Trusts that may become complying trusts), the election has not been made by the trustee.

Second exception

(4) Subsection (2) does not apply if—

(a) the trustee is resident outside New Zealand at all times in the income year; and

(b) when a settlement has been made on the trust after 17 December 1987, it was made only by a settlor who is not resident in New Zealand—

(i) at the date of the settlement; and

(ii) at any time between 17 December 1987 and the date of settlement.

Extent to which subsections (3) and (4) apply

(5) Subsections (3) and (4) do not—

(a) affect a settlor's income tax liability under the trust rules:

(b) apply to determine whether the tax obligations in relation to the trustee's income tax liability are met for the purposes of section HC 10(1)(a)(ii) and meeting the requirements for a complying trust.

Treatment of non-resident trustee in other provisions

(6) For the purpose only of calculating the taxable income of a trustee referred to in subsection (2), and not otherwise, the trustee is treated as resident in New Zealand for the purposes of—

(a) sections EW 9 and EW 11 (which relate to financial arrangements):

(b) section LJ 2 (Tax credits for foreign income tax):

(c) section OE 1 (General rules for persons with branch equivalent tax accounts):

(d) the international tax rules.

Defined in this Act: amount, assessable income, complying trust, foreign-sourced amount, income, income tax liability, income year, international tax rules, New Zealand, New Zealand resident, non-resident, resident in New Zealand, settlement, settlor, superannuation fund, taxable income, transitional resident, trust rules, trustee

Compare: 2004 No 35 s HH 4(3), (3A), (6) provisos

Section HC 25(1): amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 84(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HC 25(2)(c)(ii): amended, on 23 March 2020, by section 139 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 25(6)(c): replaced, on 1 July 2012 (applying for income years beginning on or after that date), by section 75(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

HC 26 Foreign-sourced amounts: resident trustees

Exempt income

(1) A foreign-sourced amount that a New Zealand resident trustee derives in an income year, and is included in trustee income for the income year, is exempt income under section CW 54 (Foreign-sourced amounts derived by trustees) if—

(a) no settlor of the trust is at any time in the income year a New Zealand resident who is not a transitional resident or, if no settlor exists in the income year, the last surviving settlor was a non-resident when that settlor ceased to exist; and

(ab) no election under section HC 33 has been made for the trust; and

(b) the trust is not—

(i) a superannuation fund; or

(ii) a testamentary trust or an inter vivos trust of which a settlor died resident in New Zealand (whether or not they died in the income year); and

(c) for a trust for which a resident trustee applies for registration within the period (the **application period**) given by section 59C of the Tax Administration Act 1994 and that is registered by the end of the income year (the **post-deadline year**) beginning next after the end of the application period,—

(i) the trust has a trust deed or a will or other document that creates and governs the trust; and

(ii) the income year ends after the day on which the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 receives the Royal assent; and

(iii) for an income year that includes part of the application period or is the post-deadline year, the trust is registered before the end of

the post-deadline year and is not deregistered before the foreign-sourced amount is derived; and

(iv) for an income year beginning after the end of the post-deadline year, the trust is registered when the foreign-sourced amount is derived; and

(v) the trustee complies with the requirements under sections 22, 59B, 59C, and 59D of the Tax Administration Act 1994 that the trustee must meet during the income year; and

(d) for a trust to which paragraph (c) does not apply,—

(i) the trust has a trust deed or a will or other document that creates and governs the trust; and

(ii) the trust is registered at the beginning of the income year; and

(iii) the trust is registered when the foreign-sourced amount is derived; and

(iv) the trustee complies with the requirements under sections 22, 59B, 59C, and 59D of the Tax Administration Act 1994 that the trustee must meet during the income year; and

(e) the amount is not beneficiary income derived by a minor that is treated as if it were trustee income under section HC 35(2); and

(f) the amount is not beneficiary income derived by a close company that is treated as if it were trustee income under section HC 38(3).

Time for compliance with requirements

(1B) For a trustee to satisfy subsection (1)(c)(iii), (iv), or (v) or (d)(ii), (iii), or (iv) for an income year, the trustee must—

(a) comply in the income year with the requirements referred to in the subparagraph:

(b) satisfy the Commissioner that the trustee made reasonable efforts in the income year to comply with the requirements referred to in the subparagraph and to remedy the non-compliance.

When subsection (3) applies

[Repealed]

(2) *[Repealed]*

When knowledge offence committed

[Repealed]

(3) *[Repealed]*

Exception

[Repealed]

(4) *[Repealed]*

Defined in this Act: beneficiary income, close company, Commissioner, exempt income, foreign-sourced amount, foreign trust, income year, minor, New Zealand resident, non-resident, settlor, superannuation fund, transitional resident, trustee, trustee income

Compare: 2004 No 35 s HH 4(3B), (3BB), (3BC)

Section HC 26(1): amended (with effect on 1 April 2023), on 28 March 2024, by section 93 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 26(1): amended, on 23 March 2020, by section 140(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 26(1)(a): amended, on 23 March 2020, by section 140(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 26(1)(ab): inserted, on 23 March 2020, by section 140(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 26(1)(b)(ii): amended, on 21 February 2017, by section 6(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(1)(c): inserted, on 21 February 2017, by section 6(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(1)(c): amended, on 1 April 2023, by section 78(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 26(1)(c)(i): amended (with effect on 21 February 2017), on 31 March 2023, by section 78(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 26(1)(d): inserted, on 21 February 2017, by section 6(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(1)(d): amended, on 1 April 2023, by section 78(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 26(1)(d)(i): amended (with effect on 21 February 2017), on 31 March 2023, by section 78(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 26(1)(d)(iv): amended, on 23 March 2020, by section 140(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 26(1)(e): replaced, on 1 April 2025, by section 72(1) (and see section 72(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 26(1)(f): inserted, on 1 April 2025, by section 72(1) (and see section 72(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 26(1B) heading: inserted, on 21 February 2017, by section 6(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(1B): inserted, on 21 February 2017, by section 6(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(1B): amended, on 1 April 2023, by section 78(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 26(1B)(b): replaced, on 1 April 2023, by section 78(7) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 26(2) heading: repealed, on 21 February 2017, pursuant to section 6(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(2): repealed, on 21 February 2017, by section 6(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(3) heading: repealed, on 21 February 2017, pursuant to section 6(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(3): repealed, on 21 February 2017, by section 6(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(4) heading: repealed, on 21 February 2017, pursuant to section 6(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26(4): repealed, on 21 February 2017, by section 6(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HC 26 list of defined terms **beneficiary income**: inserted, on 23 March 2020, by section 140(6) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 26 list of defined terms **close company**: inserted, on 1 April 2025, by section 72(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 26 list of defined terms **minor**: inserted, on 23 March 2020, by section 140(6) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 26 list of defined terms **non-resident**: inserted, on 23 March 2020, by section 140(6) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 26 list of defined terms **trustee income**: inserted, on 23 March 2020, by section 140(6) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Settlors and their liabilities

HC 27 Who is a settlor?

When this section applies

[Repealed]

(1) *[Repealed]*

Meaning of settlor

(2) A **settlor** of a trust is a person who, at any time,—

(a) transfers value—

(i) to the trust; or

(ii) for the benefit of the trust; or

(iii) on terms of the trust:

(ab) provides, for less than market value, services to the trust or for the benefit of the trust that are more than incidental to the operation of the trust:

(b) provides financial assistance to the trust or for the benefit of the trust with an obligation to pay on demand, and the right to demand is not exercised or is deferred:

(bb) is a beneficiary of the trust who is owed money by the trustee and does not meet the requirements of subsection (6):

(c) is treated as a settlor under section HC 28.

Trusts for retirement benefits for employees

(3) Despite subsection (2), a person resident in New Zealand who makes a settlement on a trust as an employer for the benefit of 1 or more employees is not a settlor of the trust if the following circumstances apply:

(a) the trust is established or created mainly to provide retirement benefits to natural persons; and

(b) the trust is neither a foreign superannuation scheme nor a superannuation fund.

Employee share purchase agreements

[Repealed]

(3B) *[Repealed]*

Contributions to foreign superannuation scheme

(3C) Despite subsection (2), a person who makes a contribution to a trust that is a foreign superannuation scheme is not a settlor of the trust.

Resettlements

(3D) Despite subsection (2), a trustee of a trust (the **head-trust**) who is resident in New Zealand and settles an amount on a second trust (the **sub-trust**), or makes a distribution to, or on terms of, the sub-trust, is not a settlor of the sub-trust if, when the settlement or distribution is made on or to the sub-trust,—

(a) a settlor of the head-trust exists and each settlor of the head-trust is a non-resident; or

(b) no settlor of the head-trust exists and the last surviving settlor of the head-trust was a non-resident when that settlor ceased to exist.

Indirect settlement

(4) A person may make a transfer of value, or provision of financial assistance, referred to in subsection (2) directly or indirectly and by 1 transaction or a number of connected transactions.

Nil value of beneficiary relationship

(5) The fact that a person is, or will become, a beneficiary of a trust does not constitute the giving or receiving of value.

Beneficiaries owed money by trustee

(6) When a trustee of a trust owes an amount to a beneficiary of the trust, the beneficiary does not become a settlor of the trust under subsection (2) solely as a result of being owed the amount if—

(a) the amount owing at the end of the income year is not more than $25,000:

(b) the amount owing at the end of the income year is more than $25,000 and the trustee pays to the beneficiary, for each income year in which the amount is owing and by the date given for the income year by section HC 6(1B), interest on the amount at a rate equal to the prescribed rate of interest or the market rate.

Determining amount owed to beneficiary

(7) For the purposes of subsection (6), the amount of money owing to a beneficiary at the end of an income year is the amount of the debt at that time, adjusted to include the effect of transactions that are—

(a) made after the end of the income year and by the date given for the income year by section HC 6(1B); and

(b) included in the financial statements of the trust for the income year.

Defined in this Act: amount, assessable income, Commissioner, distribution, employee, employer, foreign superannuation scheme, income, income year, interest, non-resident, pay, prescribed rate of interest, resident in New Zealand, settlor, share, superannuation fund, transfer of value, trust rules, trustee

Compare: 2004 No 35 ss HH 1(10), OB 1 "settlor"

Section HC 27(1) heading: repealed (with effect on 1 April 2014), on 24 February 2016, pursuant to section 186(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 27(1): repealed (with effect on 1 April 2014), on 24 February 2016, by section 186(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 27(2)(ab): inserted (with effect on 1 April 2008), on 18 March 2019, by section 211(1) (and see section 211(5) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 27(2)(ab): amended, on 18 March 2019, by section 211(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 27(2)(bb): inserted (with effect on 1 April 2020), on 30 March 2021, by section 88(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 27(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 264(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HC 27(3B) heading: repealed, on 29 September 2018, pursuant to section 115(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 27(3B): repealed, on 29 September 2018, by section 115(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 27(3C) heading: inserted, on 1 April 2014, by section 84 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HC 27(3C): inserted, on 1 April 2014, by section 84 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HC 27(3D) heading: inserted, on 18 March 2019, by section 211(3) (and see section 211(6) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 27(3D): inserted, on 18 March 2019, by section 211(3) (and see section 211(6) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 27(4): replaced, on 23 March 2020, by section 141(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 27(6) heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 88(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 27(6): inserted, on 1 April 2020, by section 67(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section HC 27(6): amended, on 1 April 2020, by section 141(2)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 27(6)(a): replaced (with effect on 1 April 2020), on 30 March 2021, by section 88(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 27(6)(b): replaced, on 1 April 2020, by section 141(2)(c) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 27(6)(b): amended (with effect on 1 April 2020), on 30 March 2021, by section 88(4) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 27(7) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 88(5) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 27(7): inserted (with effect on 1 April 2020), on 30 March 2021, by section 88(5) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 27 list of defined terms **amount**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 27 list of defined terms **assessable income**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 27 list of defined terms **Commissioner**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 27 list of defined terms **consolidation rules**: repealed (with effect on 1 April 2014), on 24 February 2016, by section 186(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 27 list of defined terms **distribution**: inserted, on 18 March 2019, by section 211(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 27 list of defined terms **income**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 27 list of defined terms **income year**: inserted, on 1 April 2020, by section 67(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section HC 27 list of defined terms **interest**: inserted, on 1 April 2020, by section 67(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section HC 27 list of defined terms **non-resident**: inserted, on 18 March 2019, by section 211(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 27 list of defined terms **prescribed rate of interest**: inserted, on 23 March 2020, by section 141(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 27 list of defined terms **share**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HC 27 list of defined terms **share purchase agreement**: repealed, on 29 September 2018, by section 115(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 27 list of defined terms **trustee**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

HC 28 Activities treated as those of settlor

When this section applies

(1) This section applies for the purposes of the trust rules to describe certain activities of a person that result in the person being treated as a settlor.

Avoidance

(2) A person is treated as a settlor if, in relation to a trust,—

(a) they act, refrain from acting, or enter into a transaction or a series of transactions; and

(b) what is done or not done has the effect of defeating the intent and application of the trust rules.

Shareholders in controlled foreign companies

(3) A person is treated as a settlor of a trust if a controlled foreign company settles an amount on a trust and the person has a control interest of 10% or more in the CFC—

(a) at the time of the settlement:

(b) for the accounting period of the CFC in which the settlement occurs.

Shareholders in companies

(4) A person is treated as a settlor of a trust if—

(a) a company settles an amount on the trust; and

(b) the company would have been a CFC at the date of settlement if it had been a foreign company at the time; and

(c) the person would be treated as having a control interest of 10% or more in the company, if the company were a foreign company,—

(i) at the time of the settlement:

(ii) under section EX 1(3), for the accounting period of the company in which the settlement occurs.

Second trusts

(5) A person is treated as a settlor of a trust (the **sub-trust**) if—

(a) they are a settlor of a trust (the **head-trust**); and

(b) a trustee of the head-trust settles an amount on the subtrust, or makes a distribution to, or on terms of the subtrust.

Control over trustee or settlor

(6) A person is treated as a settlor of a trust if—

(a) they acquire, directly or indirectly, rights or powers in relation to a trustee or a settlor of the trust; and

(b) the acquisition has the purpose or effect of enabling them to require the trustee to treat them, or a nominee, as a beneficiary of the trust.

Defined in this Act: accounting period, amount, business, CFC, company, control interest, controlled foreign company, distribution, foreign company, nominee, settlement, settlor, shareholder, trust rules, trustee

Compare: 2004 No 35 ss HH 1(1)–(4), (8), (10), OB 1 "settlor"

Section HC 28(3): replaced, on 23 March 2020, by section 142(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 28(4)(c): replaced, on 23 March 2020, by section 142(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 28 list of defined terms **accounting period**: inserted, on 23 March 2020, by section 142(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 28 list of defined terms **controlled foreign company**: inserted, on 23 March 2020, by section 142(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HC 29 Settlors' liability to income tax

When this section applies

(1) This section applies to a person who makes a settlement to or for the benefit of a trust after 17 December 1987, and the settlor is resident in New Zealand in an income year. It applies whether or not they settled property on the trust on or before that date. Subsections (3) and (4) override this subsection.

Liable as agent

(2) If a trustee of the trust derives trustee income in the income year, the settlor is liable as agent of the trustee for income tax payable by the trustee. For a trust with more than 1 settlor, the liability is joint and several. However, this subsection does not apply to income tax that the trustee is liable for as agent under section HC 32.

Exclusion: resident trustee

(3) This section does not apply if the trust has a resident trustee for the full income year or, if the first settlement on the terms of the trust is made during the income year, from the day on which the settlement is made to the end of the income year.

Exclusion: trust types

(4) This section does not apply to the settlor of—

(a) a trust that is a tax charity; or

(b) a superannuation fund; or

(c) a trust to the extent to which trustee income is derived from the settlor's remitting an amount under a financial arrangement to which section EW 31 or EZ 38 (which relate to base price adjustments) applies.

Exclusion: settlor not resident at time of settlement

(5) This section does not apply if the settlor is a natural person who, unless they make an election under section HC 33,—

(a) is not resident in New Zealand at the time of any settlement on the trust; and

(b) had not after 17 December 1987 previously been resident in New Zealand.

Exclusion: other settlor more appropriately liable

(6) This section does not apply to the extent to which the settlor establishes, through full disclosure to the Commissioner of the settlements made, that another person who has settled property on the trust should be liable, having regard to the respective settlements made.

Limited effect of disclosure

(7) Subsection (6) does not apply to determine whether the tax obligations in relation to the trustee's income tax liability are met for the purposes of section HC 10(1)(a) and (ab) and meeting the requirements for a complying trust.

Defined in this Act: agent, amount, Commissioner, complying trust, financial arrangement, income tax, income tax liability, income year, pay, resident in New Zealand, settlement, settlor, superannuation fund, tax charity, trustee, trustee income

Compare: 2004 No 35 s HH 4(4), (5)

Section HC 29(4)(a): amended, on 29 March 2024, by section 94(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 29(7): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 187(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 29 list of defined terms **charitable trust**: repealed, on 29 March 2024, by section 94(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 29 list of defined terms **tax charity**: inserted, on 29 March 2024, by section 94(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Treatment of transition situations

HC 30 Treatment of foreign trusts when settlor becomes resident

What this section applies to

(1) This section applies for the purposes of section HC 15 and the definition of **taxable distribution** when—

(a) a settlor of a trust is a natural person who on a day (the **transition date**)—

(i) becomes resident in New Zealand and is not a transitional resident:

(ii) stops being a transitional resident and continues to be a New Zealand resident; and

(b) the trust would be a foreign trust in relation to a distribution if a distribution were made immediately before the settlor became resident.

Choosing to satisfy tax liability

(2) A settlor, trustee, or beneficiary of the trust may choose to satisfy the income tax liability of the trustee under section HC 33. They must make the election by the election expiry date.

Tax consequences of making election

(3) If an election under subsection (2) is made, the trust is treated as follows:

(a) as a foreign trust to the extent to which the distribution consists of an amount derived by the trustee before the date of the election and which does not give rise after the transition date to an income tax liability that is paid before the distribution is made:

(b) as a complying trust to the extent to which the distribution consists of an amount that is derived by the trustee—

(i) before the date of the election and gives rise on or after the transition date to an income tax liability that is paid before the distribution is made; or

(ii) on or after the date of the election, if the requirements of section HC 10(1)(a) are met for the trustee income derived on or after the date of the election:

(c) as a non-complying trust to the extent to which the distribution consists of an amount that would not be included in a distribution described in paragraphs (a) and (b).

Tax consequences when no election made

(4) If an election under subsection (2) is not made, the trust is treated as follows:

(a) as a foreign trust to the extent to which the distribution consists of an amount that is derived by the trustee before the election expiry date

and does not give rise on or after the transition date to an income tax liability:

(ab) as a complying trust to the extent to which the distribution consists of an amount derived by the trustee that gives rise on or after the transition date to an income tax liability meeting the requirements of subsection (4B) or section HC 10(1)(ab):

(b) as a non-complying trust to the extent to which the distribution consists of an amount derived by the trustee that gives rise on or after the transition date to an income tax liability that is not satisfied before the distribution is made.

Tax shortfall voluntarily disclosed

(4B) An income tax liability meets the requirements of this subsection if—

(a) the income tax liability is satisfied before the distribution is made, other than for the trust as a complying trust under an election under section HC 33; and

(b) the income tax liability gives rise to a tax shortfall for the trustee for an income year ending before the distribution is made; and

(c) where a shortfall penalty arises for the tax shortfall, the shortfall penalty is satisfied before the distribution is made.

Election expiry date

(5) In this section, the **election expiry date** is the day that is the first anniversary of the transition date.

Calculating income derived before election or election expiry date

(6) For the purposes of subsections (3) and (4), the amount derived in the part of the income year before the person makes the election, or before the election expiry date, as applicable, is at the option of the person either—

(a) the amount actually derived in the part year; or

(b) an amount calculated using the formula—

$$\text{amount derived in income year of election} \times \text{days before election date or election expiry date} \div 365.$$

Defined in this Act: amount, complying trust, distribution, election expiry date, foreign trust, income tax liability, income year, non-complying trust, resident in New Zealand, settlor, taxable distribution, transitional resident, trustee

Compare: 2004 No 35 s HH 2

Section HC 30(3)(a): amended, on 18 March 2019, by section 212(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 30(3)(b): replaced, on 18 March 2019, by section 212(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 30(3)(c): replaced, on 18 March 2019, by section 212(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 30(4)(a): replaced, on 18 March 2019, by section 212(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 30(4)(ab): inserted (with effect on 23 March 2020), on 30 March 2021, by section 89(1) (and see section 89(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 30(4)(ab): amended (with effect on 23 March 2020), on 30 March 2021, by section 89(2) (and see section 89(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 30(4)(b): replaced (with effect on 23 March 2020), on 30 March 2021, by section 89(1) (and see section 89(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 30(4B) heading: inserted (with effect on 23 March 2020), on 30 March 2021, by section 89(3) (and see section 89(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 30(4B): inserted (with effect on 23 March 2020), on 30 March 2021, by section 89(3) (and see section 89(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Valuation of property, trading stock, and financial arrangements

HC 31 When existing trusts come into tax base

When this section applies

(1) This section applies if, through a change in circumstances, an amount derived by a trustee of a trust on a day in an income year is assessable income when it would not have been assessable income had it been derived before that day. Examples of a change in circumstances are—

(a) a non-resident settlor becomes resident in New Zealand, *see* section HC 30.

(b) *[Repealed]*

When this section does not apply

(1B) This section does not apply if the relevant change in circumstances is a trust that is a tax charity failing to meet the requirements to derive exempt income under section CW 41 or CW 42 (which relate to charities). Instead, *see* sections HR 11 and HR 12 (which relate to non-exempt charities).

Person able to make choice

(2) The choice given in subsections (3) and (4) is to be made by the person who is liable to satisfy the income tax liability of the trustee.

Establishing cost of trust property

(3) For the purposes of this Act, the cost of premises, plant, equipment, and trading stock of the trust at the date of the change in circumstances is either—

(a) the historical cost of the property or trading stock less accumulated depreciation loss, or other value, no higher than market value, that the trustee used at that date for income tax purposes in a country or territory in which the trustee is liable to pay income tax on trustee income; or

(b) the value that would be used at that date under this Act, calculated as if the trustee income derived by the trustee had always been assessable income.

Consideration for financial arrangements

(4) For the purposes of this Act, the consideration for a financial arrangement of the trust at the date of the change in circumstances is either—

(a) the market value of the financial arrangement on that date; or

(b) the value calculated using the formula—

consideration paid to person + expenditure
− consideration paid by person − income.

Definition of items in formula

(5) In the formula,—

(a) **consideration paid to person** is the consideration that is paid to the person before the date:

(b) **expenditure** is the expenditure that would have been incurred under the financial arrangements rules before the date:

(c) **consideration paid by person** is the consideration that is paid by the person before the date:

(d) **income** is the income that would have been derived under the financial arrangements rules before the date.

Non-resident passive income

(6) For the purposes of subsections (1) and (3)(b), assessable income does not include an amount derived only as non-resident passive income.

Defined in this Act: amount, assessable income, business, consideration, depreciation loss, financial arrangement, financial arrangements rules, income, income tax, income tax liability, income year, non-resident, non-resident passive income, pay, resident in New Zealand, settlor, tax charity, trading stock, trustee, trustee income

Compare: 2004 No 35 s HH 5

Section HC 31(1)(a): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HC 31(1)(b): repealed (with effect on 14 April 2014), on 30 June 2014, by section 124(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section HC 31(1B) heading: inserted (with effect on 14 April 2014), on 30 June 2014, by section 124(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section HC 31(1B): inserted (with effect on 14 April 2014), on 30 June 2014, by section 124(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section HC 31(1B): amended, on 29 March 2024, by section 95(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 31 list of defined terms **charitable trust**: repealed, on 29 March 2024, by section 95(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 31 list of defined terms **tax charity**: inserted, on 29 March 2024, by section 95(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

HC 31B Value transfer by deferral, or non-exercise, of right to demand payment

When this section applies

(1) This section applies when a person (the **creditor**) provides financial assistance to or for the benefit of another person (the **debtor**) with an obligation (the **debtor obligation**) that the debtor could meet, if performance of the obligation were demanded immediately after the time of the provision, by paying an amount (the **debt amount**) and—

(a) the debtor does not pay to the creditor, for a period for which the debtor has the debtor obligation, interest on the debt amount at a rate equal to the prescribed rate of interest or the market rate; and

(b) the debtor obligation is not forgiven; and

(c) the right of the creditor to demand payment of the debt amount under the debtor obligation is not exercised or is deferred; and

(d) the non-exercise, or the deferral, results in a transfer of value by the creditor; and

(e) the transfer of value meets the requirements of—

(i) section HC 14 for the transfer of value to be a distribution made by a trustee:

(ii) section HC 27(2)(b) for the creditor to be a settlor of a trust.

When this section does not apply

(2) This section does not apply to a situation in the application of section HC 27(6) to the situation.

Valuation

(3) The value transferred by the creditor during a period for which the debtor obligation exists is the amount calculated for the debt amount, treated as a loan, using the formula—

benchmark interest – interest paid.

Definition of items in formula

(4) In the formula,—

(a) **benchmark interest** is the amount of interest that would have accrued on the debt amount that is unpaid during the period if the interest had been calculated on the daily balance of the loan at a rate that is equal to whichever the debtor chooses of the prescribed rate of interest and the market rate:

(b) **interest paid** is the total of—

(i) the amount of interest that accrues on the debt amount during the period:

(ii) the amount that would have accrued as interest on the debt amount during the period if the amount had not been included in a taxable distribution to the debtor:

(iii) for a period that includes the date on which the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 receives the Royal assent (the **transition date**), the amount that is benchmark interest for the part of the period that precedes the transition date.

Defined in this Act: distribution, interest, prescribed rate of interest, settlor, transfer of value, trustee

Section HC 31B: inserted, on 23 March 2020, by section 143 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Rate and payment of income tax

HC 32 Liability of trustee as agent

When this section applies

(1) This section applies in an income year when a beneficiary of a trust derives an amount of beneficiary income or a taxable distribution.

Exclusion

(2) Subsection (1) does not apply to a person who derives an amount from a community trust.

Agency

(3) In their capacity as agent, the trustee must satisfy the income tax liability of the beneficiary for their beneficiary income and taxable distributions derived.

Relationship to other provisions

(4) Section HD 4(b) (Treatment of principals) overrides this section.

Defined in this Act: agent, amount, beneficiary income, community trust, income tax liability, income year, taxable distribution, trustee

Compare: 2004 No 35 ss HH 3(2), HK 3(1A)

Section HC 32(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 265(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HC 33 Choosing to satisfy income tax liability of trustee

Election to satisfy tax liability

(1) A person who is a trustee, settlor, or beneficiary of a trust as described in subsection (2) may choose to satisfy the income tax liability of the trustee of the trust.

Trustee treated as making election

(1B) A trustee is treated as making an election under subsection (1), if—

(a) for the period beginning at the start of the income year in which a settlement is first made on the trust and ending before the date on which the trust ceases to be a complying trust as described in paragraph (b), the trust is a complying trust under section HC 10(1)(a); and

(b) the trust ceases to meet the requirement in section HC 10(1)(a)(i) in an income year (the **non-complying year**); and

(c) the trustee meets the tax obligations relating to the income tax liability referred to in subsection (2), for the non-complying year and notifies the Commissioner that the trust is a complying trust for the non-complying year,—

(i) for a trustee that is required to file a return of income for the non-complying year, in the return of income and by the due date for the return of income:

(ii) for a trustee that is not required to file a return of income for the non-complying year, by the due date for a return, by a trustee of a foreign exemption trust, required by section 59D of the Tax Administration Act 1994 for the non-complying year.

Status of person making election and settlor

(1C) From when an election by a person under subsection (1) applies under subsection (3), the tax obligations of the trustee of the trust arising from the trust are determined on the basis that—

(a) the trustee is a New Zealand resident; and

(b) the trust has a settlor who is a New Zealand resident.

Liability of person making election

(2) The person making the election—

(a) must satisfy the tax obligations of the trustee relating to the income tax liability of the trustee; and

(b) is not required to satisfy the income tax liability of the beneficiary that the trustee must satisfy as agent under section HC 32.

Application of election

(3) The election under subsection (1) applies—

(a) for an election to which section HC 30 applies, on and after the date on which the election is made; or

(b) for an election to which section HC 30 does not apply and that does not meet the requirements of subsection (1B), on and after whichever date (the **effective date**) the person making the election chooses of—

(i) the date of the election (the **electing date**):

(ii) the beginning of the income year (the **electing year**) that includes the electing date:

(iii) the beginning of an income year that is 4 years or less before the beginning of the electing year; or

(c) for an election to which section HC 30 does not apply and that meets the requirements of subsection (1B), on and after the beginning of the non-complying year referred to in subsection (1B)(b).

Period of election under subsection (1B)

(3B) An election meeting the requirements of subsection (1B) is effective until the beginning of an income year for which the trustee does not—

(a) meet the tax obligations of the trustee relating to the income tax liability of the trustee for the income year:

(b) notify the Commissioner that the trust is a complying trust for the income year in the way that would be required by subsection (1B)(c) for a non-complying year.

Time of providing election

(4) If the trustee of a trust is required to file a return of income for an income year, a person making an election under subsection (1) must notify the Commissioner of the election and provide to the Commissioner the information required by section 113F of the Tax Administration Act 1994 within the time allowed for filing a return of income for the income year. If section HC 30 applies, they must give notification by the election expiry date.

Effect on distributions

(5) For a trust (the **distributing trust**) and an election for which the tax treatment of the trust is not given by section HC 30(3),—

(a) a distribution made before the beginning of the electing year has the taxation consequences that it would have in the absence of the election:

(b) a distribution made after the beginning of the electing year from an amount derived by the trustee before the effective date is treated as being a distribution by a trust having the status, of foreign trust or non-complying trust or complying trust, that the distributing trust has when the amount is derived:

(c) a distribution made after the beginning of the electing year from an amount derived on or after the effective date is treated as being made by the trustee as trustee of—

(i) a complying trust, if the requirements of section HC 10(1)(ab) are met for the trustee income derived on or after the effective date:

(ii) a non-complying trust, if subparagraph (i) does not apply:

(d) for the purposes of paragraphs (b) and (c), the amount derived before the effective date by the trustee in an income year that includes, but does not begin with, the effective date is—

(i) the amount derived before the effective date in the income year, if the person making the election does not choose to rely on subparagraph (ii); or

(ii) a proportion of the amount derived in the income year equal to the proportion of the days in the income year that are before the effective date.

No liability for penalties from increased assessments in some circumstances

(6) When a person makes an election for a trust under section HC 33(1) with an effective date given by subsection (3)(b)(iii) and the election results in an increase in the assessed income tax liability of the trustee, or in the amount of resident withholding tax payable by the trustee, for an income year before the electing year, the person and the trustee are not liable for a penalty under Part 9 of the Tax Administration Act 1994 arising from the increase if the Commissioner accepts that the trustee's tax position for each income year beginning on or after the effective date and before the electing year is none of—

(a) an unacceptable tax position under section 141B of the Tax Administration Act 1994:

(b) an abusive tax position under section 141D of that Act:

(c) a tax position that causes the trustee to be liable to pay a shortfall penalty for evasion or a similar act under section 141E of that Act.

Defined in this Act: agent, Commissioner, complying trust, distribution, election expiry date, foreign trust, income, income tax, income tax liability, income year, New Zealand resident, non-complying trust, notify, pay, return of income, settlor, tax position, trustee

Compare: 2004 No 35 s HH 4(7)

Section HC 33(1): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 116(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HC 33(1): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 188(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33(1B) heading: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 188(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33(1B): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 188(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33(1B): amended, on 23 March 2020, by section 144(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(1B)(b): replaced, on 23 March 2020, by section 144(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(1B)(c): replaced, on 23 March 2020, by section 144(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(1B)(c)(ii): amended (with effect on 1 April 2023), on 29 March 2025, by section 73 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 33(1C) heading: inserted, on 23 March 2020, by section 144(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(1C): inserted, on 23 March 2020, by section 144(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 188(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33(2)(a): replaced, on 23 March 2020, by section 144(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(3): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 188(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33(3)(a): replaced, on 23 March 2020, by section 144(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(3)(b): replaced, on 23 March 2020, by section 144(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(3)(c): inserted, on 23 March 2020, by section 144(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(3B) heading: inserted, on 23 March 2020, by section 144(6) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(3B): inserted, on 23 March 2020, by section 144(6) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(4): amended, on 23 March 2020, by section 144(7) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(5) heading: inserted, on 23 March 2020, by section 144(8) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(5): inserted, on 23 March 2020, by section 144(8) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(5)(b): amended (with effect on 23 March 2020), on 30 March 2021, by section 90(1)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 33(5)(b): amended (with effect on 23 March 2020), on 30 March 2021, by section 90(1)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 33(5)(c): amended (with effect on 23 March 2020), on 30 March 2021, by section 90(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 33(5)(d)(ii): amended (with effect on 23 March 2020), on 30 March 2021, by section 90(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HC 33(6) heading: inserted, on 23 March 2020, by section 144(8) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33(6): inserted, on 23 March 2020, by section 144(8) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33 list of defined terms **complying trust**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 188(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33 list of defined terms **distribution**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 188(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33 list of defined terms **foreign trust**: inserted, on 23 March 2020, by section 144(9) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33 list of defined terms **income**: inserted, on 23 March 2020, by section 144(9) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33 list of defined terms **New Zealand resident**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 188(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HC 33 list of defined terms **non-complying trust**: inserted, on 23 March 2020, by section 144(9) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 33 list of defined terms **tax position**: inserted, on 23 March 2020, by section 144(9) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HC 34 Taxable distributions from non-complying trusts

Rate of tax

(1) Income tax is imposed on a taxable distribution derived by a person in an income year from a non-complying trust under section BF 1(b) (Other obligations) at the basic rate set out in schedule 1, part A, clause 4 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Due date

(2) The income tax is payable on the person's payment date for terminal tax under section RA 13 (Payment dates for terminal tax) for the corresponding tax year.

Defined in this Act: income tax, income year, non-complying trust, pay, taxable distribution, terminal tax

Compare: 2004 No 35 s HH 3(4)

Section HC 34(1): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

HC 35 Beneficiary income of minors

When this section applies

(1) This section applies when a person who is a minor derives an amount of beneficiary income from a trust in an income year. Subsection (4) and sections HC 36 and HC 37 override this subsection.

Treatment of amount derived

(2) The amount is—

(a) excluded income of the minor under section CX 58 (Amounts derived by minors from trusts); and

(b) treated as trustee income for the purposes of who pays the relevant tax and who provides the return of income; and

(c) subject to the basic rate of income tax set out in schedule 1, part A, clause 15.

Meaning of minor

(3) For the purposes of this section, and sections HC 36, HC 37, LE 4, and LF 2 (which relate to the treatment of tax credits of beneficiary minors), a **minor** is a natural person resident in New Zealand who is under 16 years of age on the trust's balance date for the income year.

Exclusions

(4) This section does not apply to—

(a) a minor who, for the income year, derives 1 or more of the following:

(i) beneficiary income from the trust of $1,000 or less:

(ii) a child disability allowance paid under the Social Security Act 2018:

(iii) a disability allowance paid under the Social Security Act 2018:

(b) beneficiary income derived from the trust if the trust is—

(i) settled in a way described in section HC 36:

(ii) a testamentary trust described in section HC 37:

(iii) a disabled beneficiary trust described in section HC 39:

(iv) a Maori authority:

(v) a group investment fund.

Relationship with other provisions

(5) This section overrides sections HC 5, HC 18 to HC 20, HC 22, HC 23, and HC 32.

Defined in this Act: amount, beneficiary income, excluded income, group investment fund, income year, Maori authority, minor, pay, resident in New Zealand, return of income, settlement, trustee, trustee income

Compare: 2004 No 35 ss HH 3A–HH 3C, HH 3E, HH 3F(2), (2A)

Section HC 35(2)(a): amended, on 29 March 2024, by section 96(1) (and see section 96(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 35(2)(b): replaced, on 29 March 2024, by section 96(2) (and see section 96(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 35(2)(c): inserted, on 29 March 2024, by section 96(2) (and see section 96(3) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 35(2)(c): amended (with effect on 1 April 2024), on 29 March 2025, by section 74(1) (and see section 74(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 35(4): replaced (with effect on 1 April 2024), on 29 March 2025, by section 74(2) (and see section 74(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HC 36 Trusts and minor beneficiary rule

Trusts excluded from application of minor beneficiary rule

(1) Section HC 35(2) does not apply to an amount of beneficiary income derived by a minor if all settlements on the trust meet the requirements of section HC 37(1) or were made by—

(a) a person who is neither a relative or a guardian of the minor, nor a person associated with a relative or a guardian; or

(b) a person who is a relative, guardian, or a person associated with a relative or guardian, if—

(i) the settlor is acting as agent of the minor and has received the property from a person other than a relative, guardian, or their associate:

(ii) the settlor is required by a court order to pay damages or compensation to the minor:

(iii) the minor is a protected person, as defined in section 8 of the Family Violence Act 2018, in relation to a protection order, and the settlement, whether made jointly with another person or not, is made before the protection order is made or during the time the order is in force.

When some settlements do not meet requirements

(2) Subsection (3) applies when more than 1 settlement is made on a trust, and 1 or more but not all settlements meet the requirements of subsection (1) or section HC 37(1).

Small additional settlements permitted

(3) Section HC 35(2) does not apply to an amount of beneficiary income derived by a minor if the only settlements that do not meet the requirements are made through—

(a) the disposal for less than market value of property whose total value is no more than $5,000 at the end of the trust's income year, valuing each settlement at the date of settlement; or

(b) providing financial assistance for less than market value in the form of a loan whose total value is no more than $1,000 on any day in the trust's income year.

Exclusion if significant services provided to trust

(4) Subsection (3) does not apply if services are provided to the trust by a relative, guardian, or associated person, unless those services are incidental to the operation of the trust. Examples of incidental services are bookkeeping, accounting, or trustee services.

Some definitions

(5) In this section,—

associated person or **person associated** does not include a person associated only under sections YB 4 and YB 5 (which relate to relatives who are treated as associated persons)

guardian has the meaning set out in section 15 of the Care of Children Act 2004, and persons are connected by guardianship if 1 is the guardian of the other, but guardian does not include a guardian appointed under—

(a) section 110(1)(a) to (d) of the Oranga Tamariki Act 1989; or

(b) section 31 of the Care of Children Act 2004; or

(c) section 53 of the Public Trust Office Act 1957 by a court order; or

(d) section 7(4) of the Adoption Act 1955

relative means a person referred to in paragraph (a) of the definition of **relative** in section YA 1 (Definitions) extended to include being in a marriage, civil union, or de facto relationship with a person connected to the other through guardianship.

Defined in this Act: agent, amount, associated person, beneficiary income, financial assistance, guardian, income year, loan, minor, pay, relative, settlement, settlor

Compare: 2004 No 35 ss HH 3C(1)(a)–(d), (2), (3), HH 3D, HH 3F(1), (2A)–(4)

Section HC 36(1): amended, on 18 March 2019, by section 213 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HC 36(1)(b)(iii): amended, on 1 July 2019, by section 259(1) of the Family Violence Act 2018 (2018 No 46).

Section HC 36(5) **associated person** or **person associated**: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 267(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HC 36(5) **financial assistance**: repealed, on 23 March 2020, by section 145 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HC 36(5) **guardian** paragraph (a): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section HC 36(5) **relative**: amended, on 1 April 2023, by section 79 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HC 36(5) **relative**: amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 267(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HC 37 Testamentary trusts and minor beneficiary rule

Testamentary trusts not subject to minor beneficiary rule

(1) Section HC 35(2) does not apply to an amount of beneficiary income derived by a minor if all the settlements on the trust meet the requirements of section HC 36(1) or were made under a will, codicil, intestacy, or court variation and—

(a) the minor is alive within 12 months of the date of the settlor's death; or

(b) the minor has a brother, sister, half-brother, or half-sister alive within 12 months of the date of the settlor's death.

Small additional settlements permitted

(2) Section HC 36(3) may apply to extend the application of this exemption.

Defined in this Act: amount, beneficiary income, minor, settlement, settlor

Compare: 2004 No 35 s HH 3C(1)(e)

Section HC 37(1): amended, on 18 March 2019, by section 214 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

HC 38 Beneficiary income of certain close companies

When this section applies

(1) This section applies when a close company derives an amount of beneficiary income from a trust (**trust A**) in an income year and a voting interest or market value interest in the close company is held, directly or indirectly, by 1 or more of the following:

(a) a settlor of trust A:

(b) the trustees of trust A:

(c) a person for whom a settlor of trust A has natural love and affection:

(d) the trustees of a trust (**trust B**), if a settlor of trust A has natural love and affection for a settlor or beneficiary of trust B.

When this section does not apply

(2) This section does not apply to—

(a) a close company that is a—

(i) Maori authority:

(ii) tax charity:

(iii) securitisation trust beneficiary:

(b) non-residents' foreign-sourced income derived by a close company of which all shareholders are non-resident.

Treatment of amount derived

(3) The amount is—

(a) excluded income of the close company under section CX 58B (Amounts derived by certain close companies from trusts); and

(b) treated as trustee income for the purposes of who pays the relevant tax and who provides the return of income; and

(c) subject to the basic rate of income tax set out in schedule 1, part A, clause 16.

Relationship with other provisions

(4) This section—

(a) overrides sections HC 5, HC 22, HC 23, and HC 32; and

(b) is overridden by section CW 10 (Dividend within New Zealand wholly-owned group).

Defined in this Act: amount, beneficiary income, close company, excluded income, income year, Maori authority, market value interest, non-resident, non-residents' foreign-sourced income, pay, return of income, securitisation trust beneficiary, settlor, shareholder, tax, tax charity, trustee, trustee income, voting interest

Section HC 38: inserted, on 1 April 2024, by section 97(1) (and see section 97(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HC 38(2): replaced (with effect on 1 April 2024), on 29 March 2025, by section 75(1) (and see section 75(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 38(3)(c): amended (with effect on 1 April 2024), on 29 March 2025, by section 75(2) (and see section 75(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 38 list of defined terms **non-resident**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 75(3) (and see section 75(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 38 list of defined terms **non-residents' foreign-sourced income**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 75(3) (and see section 75(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HC 38 list of defined terms **shareholder**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 75(3) (and see section 75(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HC 39 Trustee income: disabled beneficiary trusts

Basic rate of tax for trustee of disabled beneficiary trust

(1) When a trustee of a disabled beneficiary trust derives trustee income in an income year, the basic rate of income tax for the trustee on each dollar of the trustee's taxable income is set out in schedule 1, part A, clause 6B (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Definition of disabled beneficiary trust

(2) A **disabled beneficiary trust** is a trust—

(a) with 1 or more beneficiaries who are all disabled beneficiaries; and

(b) from which no person other than a disabled beneficiary may ever receive distributions, except on the dissolution of the trust if no disabled beneficiaries are alive.

Definition of disabled beneficiary

(3) A **disabled beneficiary**, for an income year, is a person who—

(a) derives for the income year, under the Social Security Act 2018, 1 or more of the following:

(i) a supported living payment on the ground of restricted work capacity:

(ii) a child disability allowance:

(iii) jobseeker support on the ground of health condition, injury, or disability:

(iv) a disability allowance; or

(b) satisfied 1 or more of paragraph (a)(i), (iii), or (iv) for the income year in which the person turned 65 years of age or the income year before that income year.

Defined in this Act: disabled beneficiary, disabled beneficiary trust, distribution, income year, taxable income, trustee, trustee income

Section HC 39: inserted, on 1 April 2024, by section 97(1) (and see section 97(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

HC 40 De minimis trust

A trust is a **de minimis trust** in an income year if the net income of the trustee for that income year, excluding any income treated as trustee income under section HC 35 or HC 38, is $10,000 or less.

Defined in this Act: de minimis trust, distribution, income, income year, net income, trustee, trustee income

Section HC 40: inserted, on 1 April 2024, by section 97(1) (and see section 97(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Subpart HD—Agents

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Introductory provisions

HD 1 What this subpart does

When this subpart applies

(1) This subpart sets out the circumstances in which a person is treated for the purposes of this Act and the Tax Administration Act 1994 as an agent of another person in relation to the tax obligations of that other person.

Provisions relating to agents

(2) The following provisions in other subparts of this Act set up certain agency relationships for income tax purposes, or provide certain tax consequences and requirements of an agency relationship:

- (a) section EY 49(5) (Non-resident life insurer becoming resident):
- (b) sections FM 34(2) (Nominated companies):
- (c) sections FN 6(3) (Nominated companies):
- (d) section HA 8 (Shareholders' personal liability):
- (e) section HC 29(3) (Settlors' liability to income tax):
- (f) section HC 32 (Liability of trustee as agent):
- (g) section LB 2 (Tax credits for provisional tax payments):

(h) section RA 9 (Treatment of amounts withheld as received):

(i) sections RE 4, RE 5, and RE 7 to RE 9 (which relate to requirements for agents or trustees to pay RWT):

(j) section RE 22 (When payment treated as non-resident passive income):

(k) section RF 4 (Non-resident passive income received by agents and others):

(l) section YA 1 (Definitions), the definition of **offered or entered into in New Zealand**.

Defined in this Act: agent, income tax, offered or entered into in New Zealand, tax

Compare: 2004 No 35 s HK 1(1)

HD 2 Joint liability of principal and agent for tax obligations

A principal and an agent are jointly and severally liable for the tax obligations relating to the agency, and the Commissioner may issue an assessment for the same tax to both an agent and their principal. The liability of 1 remains despite an assessment of the other.

Defined in this Act: agent, assessment, Commissioner, tax

Compare: 2004 No 35 ss HK 3(2), HK 7(1)

HD 3 Agents' duties and liabilities

When this section applies

(1) This section applies for the purposes of sections HD 8 to HD 27 in relation to all income derived by a principal through an agent.

Assessments, returns, and payment of tax

(2) The agent must—

(a) make the assessments that their principal is required to make; and

(b) provide all returns required of their principal under the Tax Administration Act 1994; and

(c) satisfy their principal's income tax liability.

Assessments, returns, and payments of tax by agents for Lloyd's of London

(2B) An agent described in section HD 17B(2) (Lloyd's of London: agents for life insurance)—

(a) is not subject to subsection (2) for income derived under section CR 3B (Lloyd's of London: income from life insurance premiums); and

(b) must meet the obligations described in section HR 13(3)(a) and (b) (Lloyd's of London: life insurance) but only to the extent described in section HD 17B(3).

Joint and several liability

(3) If 2 or more persons are liable as agents in relation to the same tax, the liability is joint and several.

Agent as separate person

(4) The agent is treated in that capacity as a separate person, and may claim in relation to the agency income only those tax credits or exemptions to which the principal is entitled.

Defined in this Act: agent, assessment, income, income tax liability, return of income, tax, tax credit

Compare: 2004 No 35 ss HK 1, HK 3(3), HK 7(1)

Section HD 3(1): amended, on 21 February 2017, by section 81(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HD 3(2B) heading: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 117(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HD 3(2B): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 117(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HD 3 list of defined terms **business**: repealed, on 21 February 2017, by section 81(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section HD 3 list of defined terms **New Zealand**: repealed, on 21 February 2017, by section 81(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

HD 4 Treatment of principals

Despite section HD 3,—

(a) a principal remains liable for their tax obligations, and is not released from them merely through the existence of the agency; and

(b) if the Commissioner agrees, the principal and the agent may decide that the principal is to undertake the duties set out in section HD 3(2).

Defined in this Act: agent, Commissioner, tax

Compare: 2004 No 35 s HK 3(1), (1A)

HD 5 Matters between principals and agents

Assessment as authority

(1) The Commissioner's assessment is, as between principal and agent, sufficient authority for the payment of tax by the agent.

Recovering payment

(2) On paying tax, an agent is entitled to be reimbursed by the principal, and may—

(a) recover the amount from the principal; or

(b) subtract the amount from money held by the agent that belongs or is payable to the principal.

Retaining funds

(3) For the purposes of paying tax in relation to which an agent is or may become liable, the agent may retain from money that belongs or is payable to the

principal an amount that is reasonably sufficient to pay the tax. This subsection applies at a time in an income year in which the tax is due or in a later income year.

Hardship

(4) The Commissioner may set a new due date for an agent to pay a tax liability if—

(a) the agent—

(i) is unable to pay the tax liability out of money that the agent holds that belongs to the principal; and

(ii) has not paid away an amount after being assessed in relation to the agency; and

(b) the enforcement of payment would cause hardship to the agent.

Defined in this Act: agent, amount, assessment, Commissioner, income year, pay, tax

Compare: 2004 No 35 ss HK 4–HK 6, HK 7(2)

HD 6 When relationship effectively that of principal and agent

If a person who is carrying on business in New Zealand is sufficiently under the control of another person in business, whether in New Zealand or elsewhere, so that the relationship between them is effectively that of principal and agent, the Commissioner may treat the first business as the principal's business carried on by the agent on behalf of the principal.

Defined in this Act: agent, business, Commissioner, New Zealand

Compare: 2004 No 35 s HK 8

Section HD 6 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HD 7 Rate and amount of tax

The rate of tax used to calculate an agent's income tax liability is determined by reference to the taxable income of the principal. The amount of income tax payable is the amount determined by the amount of agency income as a proportion of the taxable income of the principal.

Defined in this Act: agent, amount, income tax, income tax liability, pay, taxable income

Compare: 2004 No 35 s HK 2

Particular cases

HD 8 Circumstances giving rise to agency

For the purposes of this Act and the Tax Administration Act 1994, a person is treated as an agent in relation to the income of another person to the extent described in the circumstances set out in sections HD 9 to HD 15.

Defined in this Act: agent, income

HD 9 Guardians

A person (**person A**) is treated as an agent of another person (**person B**) if, as guardian, manager, or otherwise, person A receives, controls, or disposes of income that person B derives while under a legal disability.

Defined in this Act: agent, income

Compare: 2004 No 35 s HK 9

HD 10 Mortgagees in possession

A person (**person A**) is treated as an agent of another person (**person B**) if, as mortgagee in possession of land or other property, person A derives income from the land or property on behalf or for the benefit of person B as mortgagor.

Defined in this Act: agent, income, land

Compare: 2004 No 35 s HK 10

HD 11 Nominated companies

Consolidated groups

(1) A nominated company is treated under section FM 34(2) (Nominated companies) as the agent of a consolidated group, and of each company that is at the time a member of that group.

Imputation groups

(2) A nominated company is treated under section FN 6(3) (Nominated companies) as the agent of an imputation group, and of each company that is at the time a member of that group.

Defined in this Act: agent, company, consolidated group, imputation group, nominated company

Compare: 2004 No 35 ss FD 6(1), FDA 5(3)

HD 12 Trusts

Beneficiary income and taxable distributions

(1) If a beneficiary of a trust, other than a beneficiary of a community trust, derives an amount of beneficiary income or taxable distribution in a tax year, the trustee of the trust is treated under section HC 32 (Liability of trustee as agent) as the agent of the beneficiary.

Settlors

(2) If a trustee of a trust, other than a trust that is a tax charity, derives trustee income in a tax year, and a settlor of the trust is resident in New Zealand in the tax year, the settlor is treated under section HC 29 (Settlors' liability to income tax) as the agent of the trustee for income tax payable by the trustee (but not for income tax that the trustee is liable for as agent).

Defined in this Act: agent, amount, beneficiary income, community trust, income tax, pay, resident in New Zealand, settlor, tax charity, tax year, taxable distribution, trustee, trustee income

Compare: 2004 No 35 ss HH 3(2), HH 3A(2), HH 4(4)

Section HD 12(2): amended, on 29 March 2024, by section 98(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HD 12 list of defined terms **charitable trust**: repealed, on 29 March 2024, by section 98(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HD 12 list of defined terms **tax charity**: inserted, on 29 March 2024, by section 98(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

HD 13 Unit trusts

A trustee of a unit trust is treated as an agent of the unit trust in relation to income derived by the unit trust.

Defined in this Act: agent, income, trustee, unit trust

Compare: 2004 No 35 s HE 1

HD 13B AIM companies

When this section applies

(1) This section applies when a company—

(a) uses the AIM provisional tax method; and

(b) makes a provision that relates to expenditure on employment income for a shareholder-employee of the company; and

(c) makes a payment of tax for the shareholder-employee.

Agency

(2) The company is treated as agent for the shareholder-employee for the purposes of the definition of **residual income tax**.

Relationship with subject matter

(3) Section HD 2 does not apply to the agency, unless the agency does not arise only under this section.

Defined in this Act: company, employment income, pay, shareholder-employee, tax

Section HD 13B: inserted, on 1 April 2018, by section 118 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HD 14 Companies issuing debentures

Agency

(1) A company is treated as an agent of a person if—

(a) the company has issued a debenture; and

(b) the person, as a debenture holder, derives income from the debenture.

Excluded debentures

(2) Subsection (1) does not apply to a debenture if—

(a) it is a profit-related debenture to which section FA 2 (Recharacterisation of certain debentures) applies or a stapled debt security to which section FA 2B (Stapled debt securities) applies; or

(b) it is issued to a New Zealand resident, and the company provides the Commissioner with a certified list containing particulars of the debentures, the name and details of each person to whom a debenture has been issued, and details of the interest payments before an assessment is made in a tax year of the debenture holder.

Liability of persons named

(3) A person named as a debenture holder in the list referred to in subsection (2)(b) is liable for income tax on income derived from the debenture. Subsection (4) overrides this subsection.

Continuing liability until notification

(4) Despite section BB 2 (Main obligations), if a debenture holder disposes of a debenture, they remain liable for income tax unless they notify the Commissioner of the disposal before an assessment is made in a tax year that takes into account the income derived from the debentures. On notification, the subsequent holder is liable in relation to the debentures, and the liability of the transferor is ended.

Recovery of tax paid

(5) If a person who formerly held a debenture pays income tax on taxable income that takes into account income derived by a subsequent holder, the income tax is treated as paid on behalf of the subsequent holder to the extent of the liability of the subsequent holder, and the person may recover that amount from them.

Matters not taken into account

(6) For the purposes of subsection (1), it does not matter whether the debenture is charged on the company's property, nor whether a debenture holder is an absentee.

Defined in this Act: absentee, agent, assessment, Commissioner, company, debenture, debenture holder, income, income tax, interest, New Zealand resident, notify, pay, profit-related debenture, stapled debt security, tax, tax year, taxable income

Compare: 2004 No 35 ss HK 12, HK 13

Section HD 14(2)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 268(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HD 14(2)(a): amended, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the

Act does not apply to their debenture), by section 125(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section HD 14 list of defined terms **stapled debt security**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 268(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HD 15 Asset stripping of companies

When this section applies

(1) This section applies when—

(a) an arrangement has been entered into in relation to a company; and

(b) an effect of the arrangement is that the company cannot meet a tax liability (the **tax obligation**) whether existing at the time of the arrangement or arising after that time, for—

(i) income tax:

(ii) a civil penalty, as defined in section 3(1) of the Tax Administration Act 1994:

(iii) an amount payable under Part 7 of that Act; and

(c) it is reasonable to conclude that—

(i) a purpose of the arrangement is to have the effect described in paragraph (b); and

(ii) if a director of the company at the time of the arrangement made reasonable inquiries, they could have anticipated at the time that the income tax liability would, or would likely, be required to be met.

When this section does not apply

(2) This section does not apply to an arrangement if—

(a) the Commissioner is a party to the arrangement:

(b) the tax obligation is no more than an amount of income tax that arises as a direct result of the performance of the arrangement, and that obligation has been met:

(c) at the time of the arrangement, the company was under statutory management under the Banking (Prudential Supervision) Act 1989 or the Corporations (Investigation and Management) Act 1989.

Director's liability

(3) All persons who are directors of the company at the time the arrangement is entered into are treated as agents of the company in relation to the tax obligation, and the liability is joint and several. But a director has no liability if—

(a) they do not derive a benefit from the arrangement, and at the first reasonable opportunity after becoming aware of the arrangement, or the

aspects of the arrangement that cause this section to apply to it, they record formally their dissent in relation to the arrangement with the company and with the Commissioner; or

(b) they were not at the relevant time involved in the executive management of the company and had no knowledge of the arrangement, or the aspects of the arrangement that cause this section to apply to it.

Shareholder's liability

(4) A person who is a controlling shareholder or an interested shareholder at the time of the arrangement is treated as an agent of the company in relation to the tax obligation other than penalties and interest but, despite section HD 3(2), the liability is limited to the greater of—

(a) the market value of the person's direct and indirect shareholding in the company at the time of the arrangement; and

(b) the value of the benefit that the person derives from the arrangement.

Shareholder's liability for penalties and interest

(5) A person who is a controlling shareholder or an interested shareholder at the time of the arrangement is treated as an agent of the company in relation to penalties and interest in proportion to their liability for the tax obligation under subsection (4).

Company liquidations

(6) In order to give effect to this section, if a company has been liquidated, the Commissioner may at any time after the liquidation make an assessment of a company for an income tax liability of the company as if it had not been liquidated. The time bar applies, but this subsection overrides other provisions in this Act and the Tax Administration Act 1994.

Agents for purposes of notification or objection procedures

(7) In making an assessment under subsection (6), the Commissioner must nominate 1 or more persons as having the tax obligation set out in the assessment. The nominated person or persons are treated as agents of the company in relation to any notification or objection procedure concerning the assessment.

When liability does not arise

(8) No liability arises under this section for a tax year in relation to which—

(a) a company has provided returns within the time allowed by section 37 of the Tax Administration Act 1994 for providing returns for the tax year in which the company is liquidated; and

(b) the Commissioner has not issued a notice of assessment of the company for the tax year before the end of 4 years following the end of the tax year in which the company is liquidated.

Meaning of company in voting interest or market value interest tests

(8B) When applying sections YC 2 to YC 6 (which relate to voting and market value interests) for the purposes of the definitions of **controlling shareholder** and **interested shareholder** in subsection (9), the reference to **company** in sections YC 2 to YC 6 includes a company that is acting in the capacity of trustee.

Some definitions

(9) In this section,—

company includes a company that is acting in the capacity of trustee

controlling shareholder, for a company, means—

(a) a person whose voting interest or market value interest in the company at the time of the arrangement, together with any interests of an associated person, is 50% or more; and

(b) if the person or associated person is a company, the voting interest or market value interest of the person or associated person is calculated as if they were not a company and as if sections YC 4 (Look-through rule for corporate shareholders) and YC 6 did not apply

director means,—

(a) a person who occupies the position of director, whether or not the position has that title:

(b) for an entity that is treated as a company under this Act, a person who acts in the same or similar way as a director would if the entity were a company incorporated in New Zealand under the Companies Act 1993

interested shareholder means a person who, at the time the arrangement is entered into, has a voting interest or market value interest in the company, calculated in either case if the person is a company as if the person were not a company, and because of the size of the benefit that the person derives from the arrangement, it is reasonable to conclude that the person is a party to the arrangement

penalties and interest means a civil penalty or amount payable under Part 7 of the Tax Administration Act 1994 that is part of the tax obligation.

Defined in this Act: agent, amount, arrangement, assessment, associated person, Commissioner, company, controlling shareholder, director, income tax, income tax liability, interested shareholder, liquidation, market value, market value interest, New Zealand, notice, notify, penalties and interest, return of income, tax, tax year, time bar, trustee, voting interest

Compare: 2004 No 35 s HK 11

Section HD 15(2)(c): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section HD 15(8B) heading: inserted, on 29 March 2018, by section 119(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HD 15(8B): inserted, on 29 March 2018, by section 119(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HD 15(9) **company**: inserted, on 29 March 2018, by section 119(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HD 15(9) **controlling shareholder** paragraph (b): amended, on 29 March 2018, by section 119(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HD 15 list of defined terms **trustee**: inserted, on 29 March 2018, by section 119(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HD 16 Non-resident general insurers

When this section applies

(1) This section applies when an insurer derives income under section CR 3 (Income of non-resident general insurer) to determine who is liable to provide a return of income and pay income tax on the income.

Insurer

(2) To the extent to which the insurer provides the return and pays the income tax, no other person described in this section is liable to do so.

Person acting on insurer's behalf

(3) To the extent to which a person on behalf of the insurer, including a broker or other agent who pays a premium on behalf of another person, provides the return and pays the income tax, no agent described in any of subsections (4) to (6) is liable to do so.

Agent paying premium or providing funds

(4) The person liable in the first place as an agent is—

(a) a person, including a broker or agent, who pays the premium to the insurer or to some other person not carrying on a business in New Zealand through a fixed establishment in New Zealand; or

(b) a person described in subsection (7)(b).

Person paying premium

(5) The person liable in the second place as agent is a person who pays the premium, whether or not through a broker or agent.

Insured person

(6) The person liable in the third place as agent is the insured person.

Bank or building society

(7) If a premium is paid by a registered bank, as defined in section 2 of the Banking (Prudential Supervision) Act 1989, or a building society on behalf of a person to the insurer or to some other person not carrying on a business in New Zealand through a fixed establishment in New Zealand,—

(a) the bank or building society is not an agent of the insurer; and

(b) the person who provides the bank or building society with the funds from which the premium is paid is an agent of the insurer.

Defined in this Act: agent, building society, business, fixed establishment, income, income tax, insured person, insurer, New Zealand, pay, premium, registered bank, return of income

Compare: 2004 No 35 s FC 16

Section HD 16(7): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

HD 17 Agent paying premiums to residents of Switzerland

When this section applies

(1) This section applies when—

(a) an insurer derives income under section CR 3 (Income of non-resident general insurer); and

(b) an agent of the insurer under section HD 16 pays the premium to an insurer or to some other person not carrying on a business in New Zealand through a fixed establishment in New Zealand; and

(c) the insurer or other person is treated as being resident in Switzerland for the purposes of a double tax agreement between the government of New Zealand and the government of Switzerland.

Disclosure

(2) The agent must disclose details of the payment of the premium to the Commissioner in the manner, if any, required by the Commissioner.

Defined in this Act: agent, business, Commissioner, double tax agreement, fixed establishment, income, insurer, New Zealand, pay, premium

Compare: 2004 No 35 s FC 17

HD 17B Lloyd's of London: agents for life insurance

When this section applies

(1) This section applies when Lloyd's of London derives income from the payment of a premium under section CR 3B (Lloyd's of London: income from life insurance premiums).

Agents paying premium or providing funds

(2) The person treated as agent for Lloyd's of London is—

(a) a person, including a broker or agent, who pays the premium to Lloyd's of London; or

(b) a person described in subsection (4)(b).

Liability of agents

(3) The person liable as agent is only liable to calculate the taxable income, provide the return and pay the income tax in relation to the premium the person pays to Lloyd's of London and not in relation to all the premium income of Lloyd's of London for the tax year.

Banks or non-bank deposit takers

(4) If a premium is paid by a registered bank, or a licensed non-bank deposit taker, on behalf of a person to Lloyd's of London or to some other person, acting on behalf of Lloyd's of London, not carrying on a business in New Zealand through a fixed establishment in New Zealand,—

(a) the bank or licensed non-bank deposit taker is not an agent of Lloyd's of London; and

(b) the person who provides the bank or licensed non-bank deposit taker with the funds from which the premium is paid is an agent of Lloyd's of London.

Defined in this Act: agent, business, deduction, fixed establishment, general permission, income, income tax, licensed non-bank deposit taker, life insurance policy, Lloyd's of London, New Zealand, pay, premium, registered bank, return of income, tax year, taxable income

Section HD 17B: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 120(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Absentees

HD 18 Agency in relation to absentees generally

What sections HD 19 to HD 25 do

(1) Sections HD 19 to HD 25 apply for the purposes of this Act to treat a person as an agent in relation to the income of an absentee when certain conditions are met and to the extent set out in the circumstances described in those sections. The person must meet the tax obligations set out in section HD 3 in relation to the income to which the agency applies.

Meaning of absentee

(2) In this subpart, **absentee** means—

(a) a natural person who is for the time being out of New Zealand:

(b) a foreign company, unless it has a fixed and permanent place of business in New Zealand at which it carries on business in its own name:

(c) a foreign company when the Commissioner declares that it is an absentee for the purposes of this Act by giving notice to the company, or its agent or representative in New Zealand.

Defined in this Act: absentee, agent, business, Commissioner, company, foreign company, income, New Zealand, notice, tax

Compare: 2004 No 35 ss HK 1, HK 16, OB 1 "absentee"

HD 19 Persons receiving absentees' income

A person is treated as an agent if they receive, control, or dispose of income derived by a principal who is an absentee.

Defined in this Act: absentee, agent, income

Compare: 2004 No 35 s HK 20

Section HD 19 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HD 20 Persons carrying on business for absentees

A person is treated as an agent if they carry on in New Zealand a business for an absentee, whether or not the income is received by the agent.

Defined in this Act: absentee, agent, business, income, New Zealand

Section HD 20: substituted, on 1 April 2008, by section 18(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

HD 20B General partners and partners carrying on with or managing business involving absentees

Who this section applies to

(1) This section applies to a person who—

(a) in New Zealand carries on a business in a partnership that is not a limited partnership:

(b) is a general partner of a limited partnership that carries on a business in New Zealand ignoring section HG 2 (Partnerships are transparent).

Person treated as agent

(2) If the person carries on the business with an absentee or, as a general partner, is responsible for the management of a limited partnership in which a limited partner is an absentee, the person is treated as the agent of the relevant absentee in relation to the absentee's partnership share of the partnership's income under section HG 2.

Defined in this Act: absentee, agent, business, general partner, income, limited partner, limited partnership, New Zealand, partnership, partnership share

Section HD 20B: inserted, on 1 April 2008, by section 18(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HD 20B(1) heading: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HD 20B(2) heading: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HD 21 Companies

Paying dividends

(1) A company incorporated in New Zealand is an agent of an absentee to whom it pays or credits dividends as a shareholder, or as a holder of a debenture to which section FA 2 (Recharacterisation of certain debentures) applies.

Relationship with NRWT rules

(2) Section RF 2(3) and (4) (Non-resident passive income) overrides this section.

Defined in this Act: absentee, agent, company, debenture, debenture holder, dividend, New Zealand, NRWT rules, pay, shareholder

Compare: 2004 No 35 s HK 21

HD 22 Banking companies

Receiving deposit in course of business activities

(1) A person, including a banking or other company, or a local authority or public authority, is treated as an agent if in the course of their business activities, they receive or hold money as a deposit and pay interest to an absentee on the money deposited by the absentee.

Threshold

(2) This section applies only if the interest paid on the deposit is more than $100.

Relationship with NRWT rules

(3) Section RF 2(3) and (4) (Non-resident passive income) overrides this section.

Defined in this Act: absentee, agent, banking company, business, company, interest, local authority, NRWT rules, pay, public authority

Compare: 2004 No 35 s HK 23

HD 23 Trustees of group investment funds

A person is treated as an agent if they are a trustee of a group investment fund and an absentee is an investor to whom a dividend is paid.

Defined in this Act: absentee, agent, dividend, group investment fund, pay, trustee

Compare: 2004 No 35 s HK 22

HD 24 Shipping businesses

A person is treated as an agent if they are the master of a ship owned by or under charter to an absentee who carries on a business carrying goods or passengers.

Defined in this Act: absentee, agent, business

Compare: 2004 No 35 s HK 18(1)

HD 25 Persons remitting amounts outside New Zealand

Absentee landlords, mortgagors, or creditors

(1) A person is treated as an agent if they are a tenant, mortgagor, or other person who remits an amount from New Zealand to an absentee who is their landlord, mortgagee, or creditor, when the amount is income derived by the absentee. But this subsection applies only after the Commissioner has notified the person that they are accountable as the absentee's agent.

When fund outside New Zealand

(2) If the amount referred to in subsection (1) is paid by or on account of a person resident in New Zealand from a fund outside New Zealand, it is treated as an amount to which this section applies.

Defined in this Act: absentee, agent, amount, Commissioner, income, New Zealand, notify, pay, resident in New Zealand

Compare: 2004 No 35 s HK 19

Non-residents

HD 26 Agency in relation to non-residents generally

What sections HD 27 and HD 28 do

(1) Sections HD 27 and HD 28 apply for the purposes of this Act to treat a person as an agent in relation to the income of a non-resident taxpayer when certain conditions are met. The person must meet the tax obligations set out in section HD 3 in relation to the income to which the agency applies.

Meaning of non-resident taxpayer

(2) In sections HD 27 and HD 28, a **non-resident taxpayer** means a person who—

(a) is liable for income tax on employment income derived in New Zealand; and

(b) has no fixed and permanent place to live in New Zealand.

Defined in this Act: agent, employment income, income, income tax, New Zealand, non-resident, non-resident taxpayer, tax

Compare: 2004 No 35 s HK 24(1), (4)

HD 27 Employers

Employment of non-resident persons

(1) An employer who employs a non-resident person with an income tax liability is treated as an agent in relation to the employment income derived in New Zealand by the non-resident person. If the person does not meet their income tax liability, the employer must withhold the amount of income tax payable from their employment income and pay it to the Commissioner on the person's behalf.

Employment by non-resident traders

(2) A non-resident trader who employs a person in New Zealand is treated as an agent in relation to the person's employment income. If the trader has an agent in New Zealand, the agent must meet the trader's obligations under section HD 3.

Defined in this Act: agent, amount, Commissioner, employer, employment income, income tax, income tax liability, New Zealand, non-resident, non-resident trader, pay

Compare: 2004 No 35 ss HK 24(2), HK 25

HD 28 Government pensions and payments under superannuation schemes

If a non-resident person who has an income tax liability derives a pension or annuity from the government of New Zealand or under an unregistered superannuation scheme established in New Zealand, the income tax payable must be withheld from 1 or more instalments of the pension or annuity and paid to the Commissioner on the person's behalf.

Defined in this Act: Commissioner, income tax, income tax liability, New Zealand, non-resident, pay, superannuation scheme

Compare: 2004 No 35 s HK 24(3)

HD 29 Persons acquiring goods from overseas

Who this section applies to

(1) This section applies, in relation to an acquisition of goods, to—

(a) a person in New Zealand (**person A**); and

(b) person A's principal who is resident in a country or territory outside New Zealand, and not resident in New Zealand (**person B**).

Treatment of persons acquiring goods

(2) If person A is instrumental in arranging the purchase or other acquisition of goods from person B, and the goods are either in New Zealand or are to be imported into New Zealand under the contract of purchase, person A and person B and the income are treated as follows:

(a) person B is treated as carrying on a business in New Zealand; and

(b) person A is treated as person B's agent in relation to the income derived from the business; and

(c) the income from the business is treated as having a source in New Zealand.

Exemption

(3) Person A is not liable as agent for the payment of income tax if the Commissioner is satisfied that in corresponding circumstances in a country or territory

outside New Zealand, person B, if resident in New Zealand, would not be liable for income tax in that country or territory.

Defined in this Act: agent, business, Commissioner, income, income tax, New Zealand, pay, resident in New Zealand, source in New Zealand

Compare: 2004 No 35 s HK 26

Section HD 29 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HD 29(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HD 29(2) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HD 29(2): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HD 29(2)(c): amended, on 21 December 2010, by section 80(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HD 29 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 80(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HD 29 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 80(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HD 30 Members of wholly-owned large multinational group

A member of a wholly-owned large multinational group who is a New Zealand resident or has a permanent establishment in New Zealand is treated as an agent of a member of the large multinational group (the **principal member**) who is a non-resident in relation to unpaid tax of the principal member if—

(a) the principal member fails to pay the unpaid tax; and

(b) the Commissioner notifies the member that the member has the obligations of an agent for the principal member and the unpaid tax.

Defined in this Act: agent, large multinational group, New Zealand resident, permanent establishment, tax

Section HD 30: inserted, on 27 June 2018, by section 43 of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Subpart HE—Mutual associations

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HE 1 Income and deductions of mutual associations

Income and allocation

(1) The treatment of amounts derived by mutual associations and from mutual associations is dealt with in—

(a) section CB 33 (Amounts derived by mutual associations); and

(b) section CB 34 (Amounts derived by members from mutual associations).

Deductions and allocation

(2) The treatment of association rebates that a mutual association pays to a member is dealt with in section DV 19 (Association rebates).

Defined in this Act: amount, association, association rebate, member

HE 2 Classes of mutual transaction

When mutual transactions arise

(1) In this subpart, and sections CB 33, CB 34, and DV 19 (which relate to income and deductions relating to mutual transactions), a mutual transaction arises when an association—

(a) enters into a transaction with members of the association, or a transaction with members of the association and other persons; and

(b) the association takes the transaction into account in an income year in determining its net income or net loss under section BC 4 (Net income and net loss).

Types of transaction

(2) For the purposes of subsection (1), a transaction between an association and its member includes 1 or more of the following:

(a) the borrowing by the association of money from 1 or more members, to the extent to which the money is applied as a loan to a member:

(b) the lending by the association of money to 1 or more members:

(c) for an association that is a statutory producer board other than a body that derives only exempt income—

(i) a levy paid by 1 or more members:

(ii) a produce transaction.

Defined in this Act: association, exempt income, income year, levy, loan, member, mutual transaction, net income, net loss, pay, produce transactions, statutory producer board

Compare: 2004 No 35 s HF 1(8)

HE 3 Association rebates

Meaning

(1) In this subpart, and in sections CB 34 and DV 19 (which relate to income and deductions relating to mutual transactions), an **association rebate** means a payment by an association to a member that is made—

(a) through a distribution of profits of the association; and

(b) not later than 6 months after the end of the accounting year of the association in relation to which the payment is made.

Exclusion

(2) An association rebate does not include—

(a) a cash distribution in relation to which the association has made an election under section OB 73(1) or OB 78(1) (which relate to imputation credits of statutory producer boards or co-operative companies); or

(b) a distribution described in section CD 26 (Capital distributions on liquidation or emigration) or CD 33 (Payments corresponding to notional distributions of producer boards and co-operative companies).

Defined in this Act: accounting year, association, association rebate, member, pay

Compare: 2004 No 35 s HF 1(9) "rebate"

Section HE 3(1)(a): amended, on 18 March 2019, by section 215 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

HE 4 Apportionment when transactions with members and non-members

When this section applies

(1) This section applies when an association takes into account transactions with both members and non-members.

Apportioning expenditure or loss

(2) In determining its net income or net loss for an income year under section BC 4 (Net income and net loss), the association must apportion the expenditure or loss that it incurs in the income year between those transactions with members, and those with persons who are not members.

Defined in this Act: association, income year, loss, member, net income, net loss

Compare: 2004 No 35 s HF 1(4)

HE 5 Association rebates paid by shares or credit

When this section applies

(1) This section applies when an association that enters into mutual transactions with members pays an association rebate to 1 or more members through—

(a) issuing fully or partly paid-up shares in the association; or

(b) providing credit for all or part of an amount unpaid on shares in the association.

Not bonus issue

(2) The amount, or the relevant part of it, is not treated as a bonus issue.

Defined in this Act: amount, association, association rebate, bonus issue, member, mutual transaction, pay, share

Compare: 2004 No 35 s HF 1(7)

Subpart HF—Maori authorities

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Introductory provisions

HF 1 Maori authorities and the Maori authority rules

Who is a Maori authority?

(1) A Maori authority is a person eligible under section HF 2 who has made an election under section HF 11.

Maori authority rules

(2) The **Maori authority rules** means the following:

(a) this subpart:

(b) sections GB 42 and GB 43 (which relate to Maori authority credit arrangements to obtain a tax advantage):

(c) sections LA 4, LA 6, LO 1, LO 4, and LO 5 (which relate to Maori authority credits):

(d) subpart OK (Maori authority credit accounts (MACA)):

(e) section RM 22 to RM 27 (which relate to limits on refunds of tax in relation to Maori authorities):

(f) schedule 1, part A, clause 7 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(g) sections 25I, 31, 57, 69B, 70B, 97B, 140CB, 140DB, and 181B of the Tax Administration Act 1994.

Defined in this Act: Maori authority, Maori authority rules

Compare: 2004 No 35 s OB 1 "Maori authority", "Maori authority rules"

Section HF 1(2)(f): amended (with effect on 1 April 2008), on 28 March 2024, by section 99 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HF 1(2)(f): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section HF 1(2)(g): amended, on 1 April 2020, by section 121 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HF 2 Who is eligible to be a Maori authority?

What this section does

(1) This section sets out the persons eligible to choose under section HF 11 to become a Maori authority.

Companies

(2) The following are eligible to make an election:

(a) a company established by an order made under Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993):

(b) a company that owns land that is subject to Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993):

(c) a company that is—

(i) established by a mandated iwi organisation to be an asset-holding company, as contemplated by section 12(1)(d) of the Maori Fisheries Act 2004:

(ii) recognised by Te Ohu Kai Moana Trustee Limited as a mandated iwi organisation under section 13(1) of the Maori Fisheries Act 2004:

(d) a company that,—

(i) on behalf of Maori claimants, receives and manages assets that are transferred by the Crown as part of the settlement of a claim under the Treaty of Waitangi; and

(ii) is contemplated by the deed of settlement of the claim as performing the functions described in subparagraph (i).

Trusts

(3) The following are eligible to make an election:

(a) the trustees of a trust established by an order made under Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993):

(b) the trustees of a trust who own land that is subject to Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993):

(c) the trustees of a trust that is recognised by Te Ohu Kai Moana Trustee Limited as a mandated iwi organisation under section 13(1) of the Maori Fisheries Act 2004:

(d) the trustees of trusts that are established by Te Ohu Kai Moana Trustee Limited as a mandated iwi organisation under sections 79 and 92 of the Maori Fisheries Act 2004:

(e) the trustees of a trust who,—

(i) on behalf of Maori claimants, receive and manage assets that are transferred by the Crown as part of the settlement of a claim under the Treaty of Waitangi; and

(ii) are contemplated by the deed of settlement of the claim as performing the functions described in subparagraph (i).

Maori Trustee

(4) The Maori Trustee in the Maori Trustee's capacity as an agent for an owner of land that is subject to Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993) is eligible to make an election.

Maori Trust Board

(5) A Maori Trust Board, as defined in section 2 of the Maori Trust Boards Act 1955, is eligible to make an election.

Crown Forestry Rental Trust

(6) The Crown Forestry Rental Trust, established by deed in accordance with section 34 of the Crown Forest Assets Act 1989, is eligible to make an election.

Te Ohu Kai Moana Trustee Limited

(7) Te Ohu Kai Moana Trustee Limited, established under section 33 of the Maori Fisheries Act 2004, is eligible to make an election.

Aotearoa Fisheries Limited

(8) Aotearoa Fisheries Limited, established under section 60 of the Maori Fisheries Act 2004, is eligible to make an election.

Defined in this Act: agent, company, Maori authority, trustee

Compare: 2004 No 35 s HI 2

HF 3 Applying provisions to Maori authorities

Relationship with provisions generally

(1) A provision in the Maori authority rules overrides any other provision in this Act that may apply to a Maori authority unless a provision specifically provides otherwise.

Relationship with company rules

(2) A Maori authority must not—

(a) amalgamate with a company that is not a Maori authority; or

(b) be part of a consolidated group that includes a company that is not a Maori authority; or

(c) be a co-operative company if a shareholder is not a Maori authority.

Treatment of tax losses

(3) Under section IA 6 (Restrictions on companies grouping tax losses) and subpart IC (Grouping tax losses),—

(a) a Maori authority may subtract from its net income some or all of a tax loss component or loss balance only of another Maori authority:

(b) a Maori authority may use some or all of its tax loss component or loss balance in relation to the net income only of another person who is a Maori authority.

Defined in this Act: amalgamation, company, consolidated group, co-operative company, loss balance, Maori authority, Maori authority rules, net income, shareholder, tax loss component

Compare: 2004 No 35 s HI 1

Maori authority distributions

HF 4 What constitutes a Maori authority distribution?

Transfer of value

(1) A transfer of value from a Maori authority to a person is a Maori authority distribution if the cause of the transfer is the membership of the person in the Maori authority.

Distributions

(2) A Maori authority distribution includes an amount advanced to a member by a Maori authority, to the extent to which the advance is not a genuine investment by the authority entered into but in effect a distribution of an amount that falls within sections BD 1(1) and CA 1(2) (which relate to amounts that are income).

Taxable bonus issues

(3) A taxable bonus issue made by a Maori authority to a member is a taxable Maori authority distribution.

Exclusion: services

(4) A Maori authority distribution does not include the provision of services to a person by a Maori authority.

Distributions with credits attached

(5) A Maori authority distribution includes the amount of a Maori authority credit attached to it.

Dividends

(6) A Maori authority distribution that, but for this subsection, would be a dividend for a member, is treated as not being a dividend except for the purposes of section CW 10 (Dividend within New Zealand wholly-owned group).

Value of distribution by reference to market values

(7) For the purposes of this section, if the transfer of value is—

(a) the disposal of property to a member without consideration, or for a consideration that is less than the market value of the property, the value of the Maori authority distribution is the amount by which the market value of the property is more than the consideration; and

(b) the acquisition of property from a member for a consideration that is more than the market value of the property, the value of the Maori authority distribution is the amount by which the market value is less than the consideration.

Defined in this Act: amount, dividend, Maori authority, Maori authority credit, member, taxable bonus issue, taxable Maori authority distribution, transfer of value

Compare: 2004 No 35 ss HI 4(1), (2), HI 5(4), HI 7

HF 5 Notional distributions of co-operative companies

A Maori authority that is a co-operative company may make a notional distribution to a member under section OB 79 (Cooperative companies attaching imputation credits to notional distributions) as if a Maori authority credit were an imputation credit.

Defined in this Act: co-operative company, imputation credit, Maori authority, Maori authority credit, member

Compare: 2004 No 35 s HI 4(3)

HF 6 Tax treatment of Maori authority distributions

A Maori authority distribution to a member is—

(a) income of the member under section CV 11 (Maori authorities), if the amount is—

(i) a taxable Maori authority distribution; or

(ii) a notional distribution:

(b) exempt income of the member under section CW 55 (Maori authority distributions), if paragraph (a) does not apply.

Defined in this Act: amount, exempt income, income, Maori authority, member, taxable Maori authority distribution

Compare: 2004 No 35 s HI 5(1)

HF 7 Taxable Maori authority distributions

A Maori authority distribution is a **taxable Maori authority distribution** if—

(a) the source is income of the Maori authority that is—

(i) derived by the Maori authority in the 2004–05 income year or a later income year; and

(ii) not exempt income of the Maori authority; and

(b) it is not a cash distribution made to a member in relation to a notional distribution for which the Maori authority has made an election under section OB 82 (When and how co-operative company makes election).

Defined in this Act: exempt income, income, income year, Maori authority, member, taxable Maori authority distribution

Compare: 2004 No 35 s HI 5(2), (3)

Section HF 7: replaced (with effect on 1 April 2008), on 30 March 2022, by section 115 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

HF 8 Proportional allocation

If a Maori authority distribution consists of a taxable Maori authority distribution and another amount, the Maori authority must allocate an equal proportion of each type of distribution to every member to whom the distribution is made.

Defined in this Act: amount, Maori authority, member, taxable Maori authority distribution

Compare: 2004 No 35 s HI 6

Changing status

Table H1
Consequences of change in entity status for purposes of Maori authority rules

Row	Entity	Changing to	Consequences
1	Company	Maori authority	The company stops being an ICA company, and the rules relating to the ending of ICA company status apply Retained earnings, accumulated profits, and capital reserves are treated as an amount from which a distribution that is not a taxable Maori authority distribution may be made
2	Trust	Maori authority	Trustee income is treated as an amount from which a distribution that is not a taxable Maori authority distribution may be made
3	Maori authority	Company that is not a Maori authority	The Maori authority may transfer a credit balance in the Maori authority credit account to the company's

			imputation credit account, and section OK 18 applies to a debit balance in the Maori authority credit account Taxable income derived by the Maori authority in the 2003–04 or an earlier tax year is available subscribed capital	
4	Maori authority	Trust that is not a Maori authority	Taxable income of the Maori Authority in the 2003–04 or an earlier tax year is treated as trustee income	
Row	**Entity**	**Changing to**	**Reverting to**	**Consequences**
5	Maori authority	Company that is not a Maori authority	Maori authority	Market value calculations are required under section HF 10. The company must apply row 1
6	Maori authority	Trust that is not a Maori authority	Maori authority	Market value calculations are required under section HF 10. The company must apply row 2

How to use this table
Read columns from left to right according to the row that fits the situation.

HF 9 Treatment of companies and trusts that choose to apply this subpart

Company becoming Maori authority

(1) If a company becomes a Maori authority in a tax year, the company must apply table H1, row 1.

Trust becoming Maori authority

(2) If a trust becomes a Maori authority in a tax year, the trustee must apply table H1, row 2.

Maori authority becoming company

(3) If a Maori authority is a company that stops being a Maori authority in a tax year, it must apply table H1, row 3.

Maori authority becoming trust

(4) If a Maori authority is a trust that stops being a Maori authority in a tax year, the trustee must apply table H1, row 4.

Defined in this Act: company, Maori authority, tax year, trustee

Compare: 2004 No 35 s HI 8

HF 10 Market value calculations

When this section applies

(1) This section applies to property of a company or a trust when the company or the trustees of the trust, having stopped being a Maori authority, reverts to being a Maori authority.

Treatment

(2) The company or the trustees, as applicable, are treated as—

(a) disposing of the company's property, or the trust's property, immediately before becoming a Maori authority for a consideration that is the market value of the property on the date of disposal; and

(b) acquiring the property of the Maori authority for a consideration that is the market value of the property on the date of disposal referred to in paragraph (a).

Market value for both

(3) In subsection (2), the market value of the property is the market value for both the company, or the trustees, as applicable, and the Maori authority.

Depreciation

(4) Despite sections EE 55 to EE 60, and EZ 22 (which relate to depreciation), the cost to a Maori authority of property to which this section applies is the lesser of—

(a) the market value of the property on the date it was acquired; and

(b) the original cost of the property to the company or the trust.

Defined in this Act: company, Maori authority, trustee

Compare: 2004 No 35 s HI 9

HF 11 Choosing to become Maori authority

Notice

(1) A person who is eligible under section HF 2 may choose to become a Maori authority by notifying the Commissioner.

Acceptance notified

(2) Having received a notice under subsection (1), the Commissioner must notify the person of the acceptance of the election. The Commissioner must provide an acceptance date in the notice.

When election takes effect

(3) The election takes effect on—

(a) the first day of the income year in which the person's notice is given; or

(b) the first day of the next income year, if the person nominates that date in the notice; or

(c) the day on which the person does not comply with the person's rules contained in the register of charities under the Charities Act 2005, if the person nominates that date in the notice.

When election no longer effective

(4) An election under this section stops having effect if the person—

(a) notifies the Commissioner that the election is cancelled, and the election no longer has effect from the date set out in the notice:

(b) stops being a Maori authority.

Defined in this Act: Commissioner, income year, Maori authority, notice, notify

Compare: 2004 No 35 s HI 3

Section HF 11(3): replaced, on 30 June 2014, by section 126 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Subpart HG—Joint venturers, partners, and partnerships

Subpart HG: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

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Joint venturers

Heading: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

HG 1 Joint venturers

When this section applies

(1) This section applies when 2 or more people derive income jointly or have deductions jointly, and they are not partners in the same partnership.

Separate shares

(2) Each person must calculate their net income for a tax year taking into account their share of the joint income and deductions.

Exclusion

(3) This section does not apply to the income derived by and the deductions of an airport operator from activities that are activities undertaken as an airport operator.

Defined in this Act: airport operator, deduction, income, net income, partner, partnership, tax year

Section HG 1: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Partners and partnerships

Heading: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

HG 2 Partnerships are transparent

Look-through in accordance with share

(1) For the purposes of a partner's liabilities and obligations under this Act in their capacity of partner of a partnership, unless the context requires otherwise,—

(a) the partner is treated as carrying on an activity carried on by the partnership, and having a status, intention, and purpose of the partnership, and the partnership is treated as not carrying on the activity or having the status, intention, or purpose:

(b) the partner is treated as holding property that a partnership holds, in proportion to the partner's partnership share, and the partnership is treated as not holding the property:

(c) the partner is treated as being party to an arrangement to which the partnership is a party, in proportion to the partner's partnership share, and the partnership is treated as not being a party to the arrangement:

(d) the partner is treated as doing a thing and being entitled to a thing that the partnership does or is entitled to, in proportion to the partner's partnership share, and the partnership is treated as not doing the thing or being entitled to the thing.

No streaming

(2) Despite subsection (1), for a partner in their capacity of partner of a partnership, the amount of income, tax credit, rebate, gain, expenditure, or loss that they have from a particular source, or of a particular nature, is calculated by multiplying the total income, tax credit, rebate, gain, expenditure, or loss of the partners of the partnership from the particular source or of the particular nature by the partner's partnership share in the partnership's income.

Expenditure or loss previously incurred

(3) A partner of a partnership may be treated as incurring an expenditure or loss which the partnership incurs ignoring this section, despite the partner not being a partner at the time the expenditure or loss is incurred. This subsection does not allow 2 deductions for 1 expenditure or loss.

Excluded amounts

(4) Subsection (2) does not apply to the following amounts:

(a) expenditure or loss that relates to a person entering a partnership by acquiring partner's interests disposed of by another partner, to the extent to which sections HG 5 to HG 10 do not apply to the partner's interests:

(b) supplementary dividends, to the extent to which subpart LP (Tax credits for supplementary dividends) applies:

(c) *[Repealed]*

(d) imputation credits, to the extent to which section LE 6 (Partners in partnerships) applies.

(e) *[Repealed]*

Defined in this Act: arrangement, imputation credit, income, partner, partnership, partnership share, supplementary dividend, tax credit

Section HG 2: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 2(4)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 76(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section HG 2(4)(d): amended, on 1 April 2017, by section 133(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 2(4)(e): repealed, on 1 April 2017, by section 133(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 2 list of defined terms **CTR additional dividend**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HG 2 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 133(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 2 list of defined terms **rebate**: repealed (with effect on 23 November 2010), on 17 July 2013, by section 61 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

HG 3 General provisions relating to disposals

No disposal safe harbours when disposal upon dissolution

(1) Sections HG 5 to HG 10 do not apply for the partners of a partnership when the partnership is finally dissolved by agreement of the partners, court order, or otherwise and the partnership's business, ignoring section HG 2, will not continue to be carried on in partnership.

Election out of disposal safe harbours for small partnerships

(2) Sections HG 5 to HG 9 do not apply for the partners of a small partnership if the entering partner, the exiting partner, and the partnership, furnish returns of income that ignore the sections.

Election in for specified livestock disposed of to entering partner

(3) Section HG 10 applies for an entering partner if the entering partner furnishes a return of income that applies the section.

Defined in this Act: entering partner, exiting partner, partner, partnership, return of income, small partnership

Section HG 3: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 3(1) heading: replaced (with effect on 1 April 2008), on 29 March 2025, by section 76(1) (and see section 76(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 3(1): replaced (with effect on 1 April 2008), on 29 March 2025, by section 76(1) (and see section 76(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 3(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 269(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 3(3) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 269(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 3(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 269(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 3 list of defined terms **entering partner**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 62 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HG 3 list of defined terms **exiting partner**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 76(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 3 list of defined terms **exiting partner**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HG 3 list of defined terms **partner**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 62 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HG 3 list of defined terms **partnership**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 62 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HG 3 list of defined terms **return of income**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 62 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HG 3 list of defined terms **small partnership**: inserted (with effect on 1 April 2008), on 17 July 2013, by section 62 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

HG 4 Disposal upon final dissolution

When this section applies

(1) This section applies when a partnership is finally dissolved by agreement of the partners, court order, or otherwise, and the partnership's business ignoring section HG 2 will not continue to be carried on in partnership.

Disposal and re-acquisition

(2) A partner of the partnership is treated as disposing of all of their partner's interests in the partnership, immediately before the dissolution, to a single third party for a payment equal to the interests' market value. The partner is treated as re-acquiring all of their partner's interests immediately after the dissolution, from the third party for a payment equal to the interests' market value.

Receipt upon dissolution

(3) Anything received by a partner in relation to the final dissolution of the partnership is ignored.

Exclusion: actual disposal to third party

(4) This section does not apply to the extent to which a partner of the partnership disposes of their partner's interests in the partnership to persons who are not associated with them. For the purposes of testing association, the partner's partnership capacity is ignored.

Exclusion: partnerships of persons in marriage, civil union, or de facto relationships

(5) This section does not apply if—

(a) immediately before the dissolution, there are only 2 partners of the partnership and they are married to each other, in a civil union together, or in a de facto relationship together; and

(b) the dissolution is caused by death of a partner, or the dissolution relates to the settlement of relationship property; and

(c) on dissolution, all partner's interests of 1 person are transferred, ignoring any intervening transfer to an executor or administrator, to the other person; and

(d) the transfers of those partner's interests are subject to provisions in subpart FB or FC (which relate to transfers of relationship property and gifts), and those provisions treat the transfers as disposals for amounts that are not the interests' market values.

Relationship with subject matter

[Repealed]

(6) *[Repealed]*

Market value of debt owed

(7) In this section, in relation to a limited partnership, the market value of a partner's interest in a financial arrangement as debtor must take into account the amount of any adjustment for credit impairment.

Defined in this Act: amount, associated person, dispose, financial arrangement, limited partnership, partner, partner's interests, partnership, settlement of relationship property

Section HG 4: substituted (with effect on 1 April 2008), on 6 October 2009, by section 270(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 4(4): amended (with effect on 1 April 2008), on 28 March 2024, by section 100(1) (and see section 100(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HG 4(6) heading: repealed (with effect on 1 April 2008), on 29 March 2025, pursuant to section 77(1) (and see section 77(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 4(6): repealed (with effect on 1 April 2008), on 29 March 2025, by section 77(1) (and see section 77(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 4(7) heading: inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 122(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HG 4(7): inserted, on 29 March 2018 (with effect on 1 April 2011 and applying for income years beginning on or after that date), by section 122(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HG 4 list of defined terms **financial arrangement**: inserted, on 29 March 2018 (with effect on 1 April 2011), by section 122(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HG 4 list of defined terms **limited partnership**: inserted, on 30 March 2025, by section 77(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HG 5 Disposal of partner's interests

When this section applies

(1) This section applies when an exiting partner disposes of some or all of their partner's interests (the **current interests**) in a partnership to an entering partner, if the amount calculated using the following formula is less than zero:

disposal payment + previous payments
− (gross tax value − liabilities) − $50,000.

Definition of items in formula

(2) In the formula,—

(a) **disposal payment** is the total amount of consideration paid or payable to the exiting partner for the current interests:

(b) **previous payments** is the total amount of consideration paid or payable to the exiting partner for other disposals of some or all of their partner's interests (the **other interests**) that have occurred in the year before the disposal of the current interests:

(c) **gross tax value** is the total of—

(i) the value under this Act of the current interests and other interests at the time the relevant interest is disposed of, to the extent to which the interests are revenue account property or depreciable property:

(ii) the market value of the current interests and other interests at the time the relevant interest is disposed of, to the extent to which the interests are not revenue account property or depreciable property:

(d) **liabilities** is the amount of liabilities under generally accepted accounting practice at the time the relevant interest is disposed of, calculated by reference to the exiting partner's partnership share for the relevant interest.

Exiting partner: excluded payment

(3) The disposal payment described in subsection (2)(a) is excluded income of the exiting partner.

Exiting partner: no deduction

(4) The exiting partner is denied any deduction in relation to the current interests for the income year in which the disposal of the interests occurs and later income years to the extent to which the entering partner is allowed a deduction because of subsection (6).

Entering partner: no deduction

(5) An entering partner is denied any deduction for the disposal payment described in subsection (2)(a).

Entering partner: stepping in

(6) For the purposes of calculating the income and deductions of an entering partner for the part of the income year after the disposal of the interests occurs and later income years (the **post-disposal periods**), the entering partner is treated for the post-disposal periods as if they had originally acquired and held the current interests, not the exiting partner. However, this subsection does not apply to a deduction carried forward under section HG 12.

Exclusion by election

(7) This section does not apply for the partners of a small partnership if section HG 3(2) applies.

Exclusion: final dissolution

(8) This section does not apply for the partners of a partnership if section HG 3(1) applies.

Defined in this Act: amount, deduction, depreciable property, dispose, entering partner, excluded income, exiting partner, financial arrangement, income, income year, income tax liability, partner, partner's interests, partnership, partnership share, pay, return of income, revenue account property, small partnership, year

Section HG 5: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 5(1): amended, on 30 March 2025, by section 78(1)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5(1): amended, on 30 March 2025, by section 78(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5(1): amended, on 30 March 2017, by section 134(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 5(2)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 271(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 5(2)(c)(i): amended, on 30 March 2025, by section 78(2)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5(2)(c)(ii): amended, on 30 March 2025, by section 78(2)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5(7): amended (with effect on 1 April 2008), on 6 October 2009, by section 271(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 5(8) heading: replaced (with effect on 1 April 2008), on 29 March 2025, by section 78(3) (and see section 78(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5(8): replaced (with effect on 1 April 2008), on 29 March 2025, by section 78(3) (and see section 78(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5 list of defined terms **amount**: inserted, on 30 March 2025, by section 78(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5 list of defined terms **depreciable property**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 271(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 5 list of defined terms **exiting partner**: inserted, on 30 March 2017, by section 134(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 5 list of defined terms **financial arrangement**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 271(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 5 list of defined terms **income**: inserted, on 30 March 2025, by section 78(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5 list of defined terms **income year**: inserted, on 30 March 2025, by section 78(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5 list of defined terms **pay**: inserted, on 30 March 2025, by section 78(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 5 list of defined terms **revenue account property**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 271(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 5 list of defined terms **small partnership**: inserted, on 30 March 2025, by section 78(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HG 6 Disposal of trading stock

When this section applies

(1) This section applies when an exiting partner disposes of some or all of their partner's interests in a partnership to an entering partner, to the extent to which those interests include trading stock that is not livestock, and, for the income year of disposal, the total turnover of the partnership, ignoring section HG 2, is $3,000,000 or less.

Exiting partner: excluded payment

(2) The amount of consideration paid or payable to the exiting partner for the trading stock is excluded income of the exiting partner.

Exiting partner: no deduction

(3) The exiting partner is denied any deduction in relation to the trading stock for the income year in which the disposal of the trading stock occurs and later income years, to the extent to which the entering partner is allowed a deduction because of subsection (5).

Entering partner: no deduction

(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the trading stock.

Entering partner: stepping in

(5) For the purposes of calculating the income tax liability of an entering partner, the entering partner is treated as if they had acquired and held the trading stock, not the exiting partner.

Exclusion by election

(6) This section does not apply for the partners of a small partnership if section HG 3(2) applies.

Exclusion: final dissolution

(7) This section does not apply for the partners of a partnership if section HG 3(1) applies.

Defined in this Act: amount, deduction, dispose, entering partner, excluded income, exiting partner, income year, income tax liability, partner, partner's interests, partnership, pay, small partnership, trading stock, turnover

Section HG 6: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 6(1): amended, on 30 March 2025, by section 79(1)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 6(1): amended, on 30 March 2025, by section 79(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 6(1): amended, on 30 March 2017, by section 135(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 6(6): amended (with effect on 1 April 2008), on 6 October 2009, by section 272(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 6(7) heading: replaced (with effect on 1 April 2008), on 29 March 2025, by section 79(2) (and see section 79(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 6(7): replaced (with effect on 1 April 2008), on 29 March 2025, by section 79(2) (and see section 79(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 6 list of defined terms **amount**: inserted, on 30 March 2025, by section 79(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 6 list of defined terms **exiting partner**: inserted, on 30 March 2017, by section 135(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 6 list of defined terms **income year**: inserted, on 30 March 2025, by section 79(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 6 list of defined terms **pay**: inserted, on 30 March 2025, by section 79(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HG 7 Disposal of depreciable property

When this section applies

(1) This section applies when an exiting partner disposes of some or all of their partner's interests in a partnership to an entering partner, to the extent to which those interests include an item of depreciable property that is not depreciable intangible property, and the total cost of the item when it was first acquired by the partners of the partnership is $200,000 or less.

Exiting partner: excluded payment

(2) The amount of consideration paid or payable to the exiting partner for the depreciable property is excluded income of the exiting partner.

Exiting partner: no deduction

(3) The exiting partner is denied any deduction in relation to the depreciable property for the income year in which the disposal of the depreciable property occurs and later income years, to the extent to which the entering partner is allowed a deduction because of subsection (5).

Entering partner: no deduction

(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the depreciable property.

Entering partner: stepping in

(5) For the purposes of calculating the income tax liability of an entering partner for the part of the income year after the disposal of the depreciable property occurs and later income years (the **post-disposal periods**), the entering partner is treated for the post-disposal periods as if they had originally acquired and held the depreciable property, not the exiting partner.

Exclusion by election

(6) This section does not apply for the partners of a small partnership if section HG 3(2) applies.

Exclusion: final dissolution

(7) This section does not apply for the partners of a partnership if section HG 3(1) applies.

Defined in this Act: amount, deduction, depreciable intangible property, depreciable property, dispose, entering partner, excluded income, exiting partner, income tax liability, income year, partner, partner's interests, partnership, pay, small partnership

Section HG 7: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 7(1): amended, on 30 March 2025, by section 80(1)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 7(1): amended, on 30 March 2025, by section 80(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 7(1): amended, on 30 March 2017, by section 136(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 7(6): amended (with effect on 1 April 2008), on 6 October 2009, by section 273(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 7(7) heading: replaced (with effect on 1 April 2008), on 29 March 2025, by section 80(2) (and see section 80(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 7(7): replaced (with effect on 1 April 2008), on 29 March 2025, by section 80(2) (and see section 80(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 7 list of defined terms **amount**: inserted, on 30 March 2025, by section 80(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 7 list of defined terms **exiting partner**: inserted, on 30 March 2017, by section 136(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 7 list of defined terms **income year**: inserted, on 30 March 2025, by section 80(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 7 list of defined terms **pay**: inserted, on 30 March 2025, by section 80(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HG 8 Disposal of financial arrangements and certain excepted financial arrangements

When this section applies

(1) This section applies when an exiting partner disposes of some or all of their partner's interests in a partnership to an entering partner, to the extent to which those interests include a financial arrangement or an excepted financial arrangement described in section EW 5(10) (What is an excepted financial arrangement?) and, ignoring section HG 2—

(a) the purpose for which the financial arrangement or excepted financial arrangement was entered into was necessary and incidental to the business of the partnership; and

(b) the partnership does not derive income from a business of holding financial arrangements.

Exiting partner: excluded payment

(2) The amount of consideration paid or payable to the exiting partner for the relevant financial arrangement or excepted financial arrangement is excluded income of the exiting partner. The exiting partner is, for the relevant financial

arrangement, a party that is not required to calculate a base price adjustment, despite section EW 29 (When calculation of base price adjustment required).

Exiting partner: no deduction

(3) The exiting partner is denied any deduction in relation to the relevant financial arrangement or excepted financial arrangement for the income year in which the disposal of the financial arrangement or excepted financial arrangement occurs and later income years.

Entering partner: no deduction

(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the relevant financial arrangement or excepted financial arrangement.

Entering partner: stepping in

(5) For the purposes of calculating the income tax liability of an entering partner for the part of the income year after the disposal of the relevant financial arrangement or excepted financial arrangement occurs and later income years (the **post-disposal periods**), the entering partner is treated for the post-disposal periods as if they had acquired and held the financial arrangement or excepted financial arrangement, not the exiting partner.

Exclusion by election

(6) This section does not apply for the partners of a small partnership if section HG 3(2) applies.

Exclusion: final dissolution

(7) This section does not apply for the partners of a partnership if section HG 3(1) applies.

Defined in this Act: amount, deduction, dispose, entering partner, excepted financial arrangement, excluded income, exiting partner, financial arrangement, income tax liability, income year, partner, partner's interests, partnership, pay, small partnership

Section HG 8: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 8(1): amended, on 30 March 2025, by section 81(1)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8(1): amended, on 30 March 2025, by section 81(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8(1): amended, on 30 March 2017, by section 137(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 8(6): amended (with effect on 1 April 2008), on 6 October 2009, by section 274(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 8(7) heading: replaced (with effect on 1 April 2008), on 29 March 2025, by section 81(2) (and see section 81(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8(7): replaced (with effect on 1 April 2008), on 29 March 2025, by section 81(2) (and see section 81(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8 list of defined terms **amount**: inserted, on 30 March 2025, by section 81(3)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8 list of defined terms **disposal**: repealed, on 30 March 2025, by section 81(3)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8 list of defined terms **dispose**: inserted, on 30 March 2025, by section 81(3)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8 list of defined terms **exiting partner**: inserted, on 30 March 2017, by section 137(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 8 list of defined terms **income year**: inserted, on 30 March 2025, by section 81(3)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 8 list of defined terms **pay**: inserted, on 30 March 2025, by section 81(3)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HG 9 Disposal of short-term agreements for sale and purchase

When this section applies

(1) This section applies when an exiting partner disposes of some or all of their partner's interests in a partnership to an entering partner, to the extent to which those interests include a short-term agreement for sale and purchase.

Exiting partner: excluded payment

(2) The amount of consideration paid or payable to the exiting partner for the short-term agreement for sale and purchase is excluded income of the exiting partner.

Exiting partner: no deduction

(3) The exiting partner is denied any deduction in relation to the short-term agreement for sale and purchase, to the extent to which the entering partner is allowed a deduction because of subsection (5).

Entering partner: no deduction

(4) The entering partner is denied any deduction for the amount of consideration paid or payable to the exiting partner for the short-term agreement for sale and purchase.

Entering partner: stepping in

(5) For the purposes of calculating the income tax liability of an entering partner for the part of the income year after the disposal of the short-term agreement for sale and purchase occurs and later income years (the **post-disposal periods**), the entering partner is treated for the post-disposal periods as if they had originally acquired and held the short-term agreement for sale and purchase, not the exiting partner.

Exclusion by election

(6) This section does not apply for the partners of a small partnership if section HG 3(2) applies.

Exclusion: final dissolution

(7) This section does not apply for the partners of a partnership if section HG 3(1) applies.

Defined in this Act: amount, deduction, dispose, entering partner, excluded income, exiting partner, income tax liability, income year, partner, partner's interests, partnership, pay, short-term agreement for sale and purchase, small partnership

Section HG 9: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 9 heading: amended (with effect on 1 April 2008), on 6 October 2009, by section 275(1)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9(1): amended, on 30 March 2025, by section 82(1)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 9(1): amended, on 30 March 2025, by section 82(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 9(1): amended, on 30 March 2017, by section 138(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 9(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 275(1)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 275(1)(c) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9(3): amended (with effect on 1 April 2008), on 6 October 2009, by section 275(1)(d) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9(4): amended (with effect on 1 April 2008), on 6 October 2009, by section 275(1)(e) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9(5): amended (with effect on 1 April 2008), on 6 October 2009, by section 275(1)(f) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9(6): amended (with effect on 1 April 2008), on 6 October 2009, by section 275(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9(7) heading: replaced (with effect on 1 April 2008), on 29 March 2025, by section 82(2) (and see section 82(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 9(7): replaced (with effect on 1 April 2008), on 29 March 2025, by section 82(2) (and see section 82(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 9 list of defined terms **amount**: inserted, on 30 March 2025, by section 82(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 9 list of defined terms **disposal**: repealed, on 30 March 2017, by section 138(2)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 9 list of defined terms **dispose**: inserted, on 30 March 2017, by section 138(2)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 9 list of defined terms **exiting partner**: inserted, on 30 March 2017, by section 138(2)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 9 list of defined terms **income year**: inserted, on 30 March 2025, by section 82(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 9 list of defined terms **pay**: inserted, on 30 March 2025, by section 82(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 9 list of defined terms **short-term agreement for sale and purchase**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 275(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 9 list of defined terms **short-term agreement for the sale and purchase of property or services**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 275(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HG 10 Disposal of livestock

When this section applies

(1) This section applies when an exiting partner disposes of some or all of their partner's interests to an entering partner and section HG 3(3) applies, to the extent to which those interests include specified livestock and that specified livestock includes female breeding livestock and, for the income year, the partners use—

(a) the national standard cost scheme for specified livestock, described in section EC 22 (National standard cost scheme); or

(b) the cost price method for specified livestock, described in section EC 25 (Cost price, replacement price, or market value).

Entering partner's cost base

(2) Section EC 26B (Entering partners' cost base) may apply to the entering partner for the purposes of determining the value of the specified livestock at the end of an income year for the purposes of section EC 2 (Valuation of livestock).

Exclusion: final dissolution

(3) This section does not apply for the partners of a partnership if section HG 3(1) applies.

Defined in this Act: amount, cost price, dispose, entering partner, exiting partner, income year, national standard cost scheme, partner, partner's interest, partnership, specified livestock

Section HG 10: substituted (with effect on 1 April 2009), on 6 October 2009, by section 276(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 10(1): amended, on 30 March 2025, by section 83(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 10(3) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 83(2) (and see section 83(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 10(3): inserted (with effect on 1 April 2008), on 29 March 2025, by section 83(2) (and see section 83(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 10 list of defined terms **entering partner**: inserted (with effect on 1 April 2009), on 24 February 2016, by section 189(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HG 10 list of defined terms **exiting partner**: inserted, on 30 March 2025, by section 83(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 10 list of defined terms **partnership**: inserted, on 30 March 2025, by section 83(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HG 11 Limitation on deductions by partners in limited partnerships

When this section applies

(1) This section applies for a limited partnership and an income year when, but for this section, a deduction by virtue of section HG 2 or HG 12 is allowed to—

(a) a limited partner of the limited partnership:

(b) a general partner of the partnership who—

(i) was a limited partner of the limited partnership within 60 days of the last day of the income year; and

(ii) is or will be a limited partner of the limited partnership within 60 days after the last day of the income year.

No deduction

(2) The partner is denied the deduction for an income year to the extent of the lesser of—

(a) the greater of zero and the amount calculated by subtracting, from their limited partnership deduction for the income year, the amount (the **partner's basis**) calculated using the formula in subsection (3) on the last day of the income year; and

(b) the greater of zero and the amount calculated by subtracting, from their limited partnership deduction for the income year, the amount of assessable income that they have by virtue of section HG 2 for the limited partnership and the income year.

Partner's basis

(3) For the purposes of subsection (2), the amount that is the partner's basis is calculated using the following formula:

investments − distributions + income − deductions − disallowed amount.

Definition of items in formula

(4) The items in the formula are defined in subsections (5) to (9).

Investments

(5) **Investments** is the total of—

(a) the market value of capital contributions made by the partner to the limited partnership at the time the relevant contribution is contributed or agreed to be contributed by them:

(b) the amount paid by the partner as an entering partner for the assignment of an interest in partnership property to them:

(c) the secured amounts to the extent to which they are not already included in paragraph (a) as a loan made to the partnership by another partner.

Distributions

(6) **Distributions** is the total of—

(a) the market value of distributions to the partner from the limited partnership:

(b) the amount paid to the partner as an exiting partner for the assignment of an interest in partnership property by them:

(c) amounts included in paragraph (a) of subsection (5) to the extent to which they are capital contributions under paragraph (b) of the definition of **capital contribution** in subsection (12) for which the limited partnership is no longer debtor in relation to the partner.

Income

(7) **Income** is the total of—

(a) income that the partner has by virtue of section HG 2 in the income year and previous income years:

(ab) if the partner has FIF income or a FIF loss in the income year and previous income years, amounts under subsection (7B) for those years:

(b) capital gain amounts under section CD 44(7)(a) (Available capital distribution amount) that the partner would have by virtue of section HG 2 in the income year and previous income years, if the partner were treated as a company for the purposes of section CD 44(7)(a), unless the gain is accounted for under paragraph (a).

(c) *[Repealed]*

Formula

(7B) An amount described in subsection (7)(ab) is given by the following formula, but if the calculation returns a negative number, the amount is zero:

dividends − FIF amount.

Definition of items in formula

(7C) In the formula,—

(a) **dividends** is the amount that would be the partner's share of the dividends paid by a FIF to the limited partnership, if sections CD 36 (Foreign investment fund income) and HG 2(2) were ignored:

(b) **FIF amount** is—

(i) zero, if subparagraph (ii) does not apply:

(ii) the amount that is the person's FIF income, for the relevant income year and FIF, if the person has such an amount.

Deductions

(8) **Deductions** is the total of—

(a) expenditure or loss in previous income years, to the extent to which the expenditure or loss is incurred by virtue of section HG 2 in the partner deriving income by virtue of section HG 2, excluding any deductions denied in those previous years under this section:

(b) capital loss amounts under section CD 44(9) that the partner would have by virtue of section HG 2 in the income year and previous income years, if the partner is treated as a company for the purposes of section CD 44(9), unless the loss is accounted for under paragraph (a).

(c) *[Repealed]*

Disallowed amounts

(9) **Disallowed amount** is the amount of investments, as defined in subsection (5), made by the partner within 60 days of the last day of the income year, if those investments are or will be distributed or reduced within 60 days after the last day of the income year.

Exclusion

[Repealed]

(10) *[Repealed]*

Relationship with subject matter

(11) This section is modified by sections HZ 3, HZ 4, and HZ 4B (which relate to transitions to limited partnerships).

Some definitions

(12) In this section,—

capital contribution includes—

(a) a capital contribution for the purposes of the Limited Partnerships Act 2008:

(b) amounts that the limited partnership is debtor for in relation to the partner, including a loan to the limited partnership and a credit balance in a current account

guarantor means—

(a) a partner, if—

(i) the partner secures the relevant debt by guarantee or indemnity:

(ii) the partner's associate secures the relevant debt by guarantee or indemnity:

(b) a person who is not described in paragraph (a)(i) and (ii) but who secures the relevant debt by guarantee or indemnity, if the partner or a partner's associate also secures the relevant debt as described in paragraph (a)(i) or (ii)

limited partnership deduction means, for the partner and the income year, the amount of any deductions that the partner would be allowed if the partner is treated as having no income or deductions other than those that arise by virtue of sections HG 2 and HG 12

partner's associate means, for a partner, a person who is not a partner of the relevant limited partnership, and who is—

(a) a relative of the partner, but excluding a person under section YA 1 (Definitions), definition of **relative**, paragraph (v):

(b) a company in the same wholly-owned group as the partner

recourse property means property to which a creditor has recourse, to enforce a guarantee or indemnity for the relevant debt, if the guarantee or indemnity expressly provides recourse to only that property

secured amounts means, for the partner, the total of, for each amount of the limited partnership's debt ignoring section HG 2 (the **secured debt**) for which the partner is a guarantor, the lesser of the following applicable amounts—

(a) the amount of the secured debt divided by the total number of guarantors for that debt:

(b) the market value of the recourse property for the secured debt to the extent of the interest that the partner and the partner's associates have in it, net of higher-ranking calls whether actual, future, or contingent, divided by the total number of guarantors described in the definition of **guarantor**, paragraph (a), who have an interest in the recourse property or have a partner's associate with an interest in the recourse property.

Defined in this Act: amount, assessable income, capital contribution, company, deduction, dividends, entering partner, exiting partner, FIF, FIF income, FIF loss, general partner, guarantor, income, income year, limited partner, limited partnership, limited partnership deduction, loan, net income, net loss, partner, partner's associate, partnership, recourse property, secured amounts, wholly-owned group

Section HG 11: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 11(2): replaced (with effect on 1 April 2008), on 18 March 2019, by section 216(1) (and see section 216(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HG 11(5)(b): replaced, on 30 March 2025, by section 84(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(5)(c): replaced, on 30 March 2025, by section 84(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(6)(b): replaced, on 30 March 2025, by section 84(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(6)(c): inserted, on 30 March 2025, by section 84(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(7)(a): replaced (with effect on 1 April 2008), on 2 November 2012, by section 85(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(7)(ab): replaced, on 30 March 2025, by section 84(3)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(7)(c): repealed, on 30 March 2025, by section 84(3)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(7B) heading: inserted (with effect on 1 April 2008), on 2 November 2012, by section 85(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(7B): inserted (with effect on 1 April 2008), on 2 November 2012, by section 85(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(7B): amended, on 30 March 2025, by section 84(4)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(7B) formula: amended, on 30 March 2025, by section 84(4)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(7C) heading: inserted (with effect on 1 April 2008), on 2 November 2012, by section 85(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(7C): inserted (with effect on 1 April 2008), on 2 November 2012, by section 85(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(7C)(a): amended, on 30 March 2025, by section 84(5)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(7C)(a): amended, on 30 March 2025, by section 84(5)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(8)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 277 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HG 11(8)(c): repealed, on 30 March 2025, by section 84(6) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(10) heading: repealed, on 30 March 2025, pursuant to section 84(7) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(10): repealed, on 30 March 2025, by section 84(7) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(11): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 81(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HG 11(12) **capital contribution**: replaced (with effect on 1 April 2008), on 2 November 2012, by section 85(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(12) **guarantor**: inserted (with effect on 1 April 2012), on 2 November 2012, by section 85(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(12) **partner's associate** paragraph (a): amended (with effect on 1 April 2012), on 2 November 2012, by section 85(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(12) **resource property**: inserted (with effect on 1 April 2012), on 2 November 2012, by section 85(6) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(12) **secured amounts**: replaced (with effect on 1 April 2012), on 2 November 2012, by section 85(6) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11(12) **secured amounts**: amended, on 30 March 2025, by section 84(8)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11(12) **secured amounts** paragraph (a): replaced, on 30 March 2025, by section 84(8)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11 list of defined terms **assessable income**: inserted (with effect on 1 April 2008), on 18 March 2019, by section 216(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HG 11 list of defined terms **company**: inserted, on 30 March 2025, by section 84(9) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11 list of defined terms **exiting partner**: inserted, on 30 March 2017, by section 139(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HG 11 list of defined terms **FIF loss**: inserted (with effect on 1 April 2008), on 2 November 2012, by section 85(7) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11 list of defined terms **general partner**: inserted, on 30 March 2025, by section 84(9) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11 list of defined terms **guarantor**: inserted (with effect on 1 April 2012), on 2 November 2012, by section 85(8) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11 list of defined terms **limited partner**: inserted, on 30 March 2025, by section 84(9) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HG 11 list of defined terms **limited partnership**: inserted (with effect on 1 April 2008), on 18 March 2019, by section 216(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HG 11 list of defined terms **loan**: inserted (with effect on 1 April 2008), on 2 November 2012, by section 85(9) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11 list of defined terms **recourse property**: inserted (with effect on 1 April 2012), on 2 November 2012, by section 85(8) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11 list of defined terms **secured amounts**: inserted (with effect on 1 April 2012), on 2 November 2012, by section 85(8) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HG 11 list of defined terms **wholly-owned group**: inserted, on 30 March 2025, by section 84(9) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HG 12 Limitation on deductions by partners in limited partnerships: carry-forward

When this section applies

(1) This section applies when, for an income year, a partner is denied a deduction under section HG 11.

Carry-forward

(2) The partner is allowed a deduction, for an amount for which the partner is denied a deduction under section HG 11, for the income year (the **later income year**) after the one for which it is denied under section HG 11, unless—

(a) the limited partnership ceases to be a limited partnership in the later year:

(b) the partner ceases to be a partner in the later year

Carry-forward: resumption

(2B) If a person would have been allowed a deduction but for the application of subsection (2)(b) for the later year, they are allowed a deduction for the amount for the first income year after the later year in which they resume being a partner in the limited partnership.

Relationship with subject matter

(3) The deduction allowed under this section is subject to section HG 11, to the extent to which that section applies to the deduction and the relevant partner.

Defined in this Act: amount, deduction, income year, limited partner

Section HG 12: inserted, on 1 April 2008, by section 19(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HG 12(2): amended (with effect on 1 April 2008), on 21 December 2010, by section 82(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HG 12(2B) heading: inserted (with effect on 1 April 2008), on 21 December 2010, by section 82(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HG 12(2B): inserted (with effect on 1 April 2008), on 21 December 2010, by section 82(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Subpart HL—Portfolio investment entities

[Repealed]

Subpart HL: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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Allocation of income in some cases

[Repealed]

HL 17 Treatment of income from interest when entitlement conditional or lacking *[Repealed]* 2133

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Calculating portfolio entity tax liability

[Repealed]

HL 19 Portfolio class net income and portfolio class net loss for portfolio allocation period *[Repealed]* 2133

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Payment by portfolio tax rate entity of tax for tax year

[Repealed]

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HL 25 Optional payments of tax by portfolio tax rate entities *[Repealed]* 2135

Results for investors

[Repealed]

HL 26 Portfolio investor allocated income and portfolio investor allocated loss *[Repealed]* 2135

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Tax credits for entity

[Repealed]

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[Repealed]

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Portfolio investor proxies

[Repealed]

HL 33 Portfolio investor proxies *[Repealed]* 2136

Introductory provisions

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 1 Intended effect on portfolio tax rate entities and investors

[Repealed]

Section HL 1: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 2 Scheme of subpart

[Repealed]

Section HL 2: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Eligibility requirements: portfolio investment entities and foreign investment vehicles

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 3 Eligibility requirements for entities

[Repealed]

Section HL 3: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 4 Effect of failure to meet eligibility requirements for entities

[Repealed]

Section HL 4: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 5 Foreign investment vehicles

[Repealed]

Section HL 5: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 5B Meaning of investor and portfolio investor class

[Repealed]

Section HL 5B: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 5C Income interest requirement

[Repealed]

Section HL 5C: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 6 Investor membership requirement

[Repealed]

Section HL 6: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 7 Investor return adjustment requirement: portfolio tax rate entity

[Repealed]

Section HL 7: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 8 Imputation credit distribution requirement: portfolio listed company

[Repealed]

Section HL 8: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 9 Investor interest size requirement

[Repealed]

Section HL 9: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 10 Further eligibility requirements relating to investments

[Repealed]

Section HL 10: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Becoming and ceasing to be portfolio investment entity

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 11 Election to become portfolio investment entity and cancellation of election

[Repealed]

Section HL 11: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 12 Unlisted company choosing to become portfolio listed company

[Repealed]

Section HL 12: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 13 Becoming portfolio investment entity

[Repealed]

Section HL 13: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 14 Tax consequences from transition

[Repealed]

Section HL 14: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 15 Ceasing to be portfolio investment entity

[Repealed]

Section HL 15: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Periods relevant to calculation of portfolio entity tax liability

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 16 Portfolio allocation period and portfolio calculation period

[Repealed]

Section HL 16: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Allocation of income in some cases

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 17 Treatment of income from interest when entitlement conditional or lacking

[Repealed]

Section HL 17: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 18 Certain new investors treated as part of existing portfolio investor class

[Repealed]

Section HL 18: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Calculating portfolio entity tax liability

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 19 Portfolio class net income and portfolio class net loss for portfolio allocation period

[Repealed]

Section HL 19: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 19B Treatment of certain provisions made by portfolio tax rate entity

[Repealed]

Section HL 19B: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 20 Portfolio class taxable income and portfolio class taxable loss for portfolio allocation period

[Repealed]

Section HL 20: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 21 Portfolio entity tax liability and tax credits of portfolio tax rate entity for period

[Repealed]

Section HL 21: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HL 21: amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 86(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HL 21: amended (with effect on 1 April 2008), on 2 November 2012, by section 86(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Payment by portfolio tax rate entity of tax for tax year

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 22 Payments of tax by portfolio tax rate entity making no election

[Repealed]

Section HL 22: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 23 Payments of tax by portfolio tax rate entity choosing to pay provisional tax

[Repealed]

Section HL 23: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 24 Payments of tax by portfolio tax rate entity choosing to make payments when investor leaves

[Repealed]

Section HL 24: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 25 Optional payments of tax by portfolio tax rate entities

[Repealed]

Section HL 25: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Results for investors

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 26 Portfolio investor allocated income and portfolio investor allocated loss

[Repealed]

Section HL 26: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 27 Treatment of portfolio investor allocated loss for zero-rated portfolio investors and investors with portfolio investor exit period

[Repealed]

Section HL 27: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Tax credits for entity

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 28 Treatment of portfolio investor allocated loss for other investors

[Repealed]

Section HL 28: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 29 Credits received by portfolio tax rate entity or portfolio investor proxy

[Repealed]

Section HL 29: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Treatment of losses for entity

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 30 Portfolio entity formation loss

[Repealed]

Section HL 30: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 31 Portfolio class taxable income and portfolio class taxable loss for tax year

[Repealed]

Section HL 31: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 32 Treatment of portfolio class taxable loss and portfolio class land loss for tax year

[Repealed]

Section HL 32: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Portfolio investor proxies

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HL 33 Portfolio investor proxies

[Repealed]

Section HL 33: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart HM—Portfolio investment entities

Subpart HM: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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Introductory provisions

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 1 Outline of subpart and relationship with other Parts

Subpart HM

(1) This subpart sets out—

(a) the entry and exit rules for portfolio investment entities, *see* sections HM 7 to HM 30:

(b) who an investor is, and what an investor class is, *see* sections HM 4 and HM 5:

(c) what a multi-rate PIE must do in relation to its investors and its investments, *see* sections HM 31 to HM 63:

(d) the treatment of losses by PIEs, *see* sections HM 64 to HM 70:

(e) how an entity makes an election to become a PIE, and the consequences of making the election, *see* sections HM 71 to HM 76.

Relationship with Parts C and D

(2) The following sections apply to portfolio investment entities:

(a) section CB 26 (Disposal of certain shares by portfolio investment entities):

(b) section CP 1 (Attributed income of investors in multi-rate PIEs):

(c) section CX 55 (Proceeds from disposal of investment shares):

(d) section CX 56 (Attributed income of certain investors in multi-rate PIEs):

(e) section CX 56B (Distributions to investors in multi-rate PIEs):

(f) section CX 56C (Distributions to investors by listed PIEs):

(g) section CX 57 (Credits for investment fees):

(h) section DB 53 (Attributed PIE losses of certain investors):

(i) section DB 54 (No deductions for fees relating to interests in multi-rate PIEs):

(ib) section DB 54B (Expenditure incurred by foreign investment PIEs):

(j) sections DV 2, DV 4, and DV 5 (which relate to transfers of expenditure to a master superannuation fund that is a PIE).

Outline of provisions related to particular PIEs

(2B) Certain PIEs either have special rules related to their activities or are affected by some particular rules. These are set out below:

(a) for a listed PIE, *see* the following:

(i) section CX 56C (Distributions to investors by listed PIEs):

(ii) section EZ 63 (Disposal and acquisition upon entry):

(iii) section HM 2(3), which relates to listed PIEs becoming multi-rate PIEs:

(iv) section HM 18, which describes how an unlisted company becomes a listed PIE:

(v) section HM 19, which relates to distributions of listed PIEs:

(vi) section HM 21(4), for a transitional provision for investors in listed PIEs:

(vii) section HM 28, for the consequences when a listed PIE does not meet a distributional requirement:

(viii) sections MB 1(5) and MB 11, which relate to family scheme income:

(b) for a life fund PIE, *see* the following:

(i) section CX 55 (Proceeds from disposal of investment shares):

(ii) section DR 1(2) (Policyholder base allowable deduction of life insurer):

(iii) section EY 1(2) (What this subpart does):

(iv) section EY 2(6) (Policyholder base):

(v) section HM 4, which is about who can be an investor:

(vi) section HM 10, which excludes entities other than life fund PIEs carrying on a business of life insurance:

(vii) section HM 17, for an additional entry rule for PIEs other than life fund PIEs:

(viii) section HM 19, for an additional entry rule for listed PIEs other than life fund PIEs:

(ix) section HM 26, for an exit rule for entities other than life fund PIEs starting a life insurance business:

(x) section OB 35B (ICA debit for transfer from tax pooling account for policyholder base liability):

(xi) section OP 33B (Consolidated ICA debit for transfer from tax pooling account for policyholder base liability):

(c) for a foreign investment PIE, *see* the following:

(i) section CX 56 (Attributed income of certain investors in multi-rate PIEs):

(ii) section CX 56B (Distributions to investors in multi-rate PIEs):

(iii) section DB 54B (Expenditure incurred by foreign investment PIEs):

(iv) section HM 6B, for the optional look-through treatment of income derived from other PIEs:

(v) section HM 19B, for the particular requirements for foreign investment zero-rate PIEs:

(vi) section HM 19C, for the particular requirements for foreign investment variable-rate PIEs:

(vii) section HM 35C, which is about the determination of the income tax liability of a foreign investment PIE and the calculation of attributed PIE income for a notified foreign investor:

(viii) sections HM 41(4) and HM 44(1B), for restrictions on the calculation method available to foreign investment PIEs:

(ix) section HM 44B, for an additional calculation method for foreign investment PIEs:

(x) section HM 47, which is about the calculation of the tax liability or tax credit of a foreign investment PIE:

(xi) sections HM 55C to HM 55H, for the special requirements for foreign investment PIEs and their investors:

(xii) section HM 71B, for the election mechanism for foreign investment PIEs:

(xiii) schedule 6, tables 1 and 1B, for the prescribed tax rates for certain non-resident investors in foreign investment PIEs and the rates applying to certain sources of income attributed to investors:

(xiv) section 28D of the Tax Administration Act 1994, for the information required from notified foreign investors.

Relationship with subpart LS

(3) Subpart LS (Tax credits for multi-rate PIEs and investors) contains the rules relating to the amount and use of a tax credit arising under this subpart.

Defined in this Act: amount, investor, investor class, multi-rate PIE, PIE, portfolio investment entity, tax credit

Compare: 2007 No 97 ss HL 1, HL 2

Section HM 1: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 1(2)(i): amended, on 30 June 2014, by section 127 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section HM 1(2)(ib): inserted, on 29 August 2011, by section 51(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 1(2B) heading: inserted, on 29 August 2011, by section 51(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 1(2B): inserted, on 29 August 2011, by section 51(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 2 What is a portfolio investment entity?

Meaning

(1) A portfolio investment entity (a **PIE**) is a company or fund that—

(a) makes investments on behalf of 1 or more investors in the entity or in an investor class of the entity; and

(b) meets and maintains the requirements for PIE status; and

(c) chooses to become a PIE by notifying the Commissioner.

PIE types

(2) An entity that chooses to become a PIE must be 1 of the following types of entity:

(a) a multi-rate PIE:

(b) a listed PIE:

(c) a benefit fund PIE:

(d) a life fund PIE:

(e) a foreign investment PIE that is either a foreign investment zero-rate PIE or a foreign investment variable-rate PIE.

Listed PIEs becoming multi-rate PIEs

(3) Despite subsection (2), an entity that chooses to become a listed PIE may choose to become a multi-rate PIE if it meets the requirements of the entry rules set out in sections HM 7 to HM 20.

Foreign investment PIEs

(4) The provisions of the PIE rules as they relate to multi-rate PIEs apply in the same manner to foreign investment PIEs, unless a provision expressly states otherwise.

Defined in this Act: benefit fund PIE, Commissioner, company, foreign investment PIE, foreign investment variable-rate PIE, foreign investment zero-rate PIE, investor, investor class, life fund PIE, listed PIE, multi-rate PIE, notify, PIE, portfolio investment entity

Compare: 2007 No 97 s YA 1 "portfolio investment entity"

Section HM 2: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 2(2)(d): amended, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 52(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 2(2)(e): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 52(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 2(3): amended (with effect on 1 April 2010), on 18 March 2019, by section 217 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HM 2(4) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 52(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 2(4): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 52(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 2 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 52(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 2 list of defined terms **foreign investment variable-rate PIE**: inserted, on 29 August 2011, by section 52(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 2 list of defined terms **foreign investment zero-rate PIE**: inserted, on 29 August 2011, by section 52(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 3 Foreign PIE equivalents

General definition

(1) A **foreign PIE equivalent** means an entity that—

(a) is not resident in New Zealand; and

(b) is—

(i) a company:

(ii) a superannuation scheme; and

(iii) *[Repealed]*

(c) meets the requirements relating to investment types, income sources, and maximum shareholding in investments in sections HM 11 to HM 13; and

(d) has investors that would qualify as an investor class under section HM 14 taking into account the limitations under sections HM 21(1) and HM 22; and

(e) if it has investors who are resident in New Zealand, those investors meet the requirements relating to investor interests in section HM 15 taking into account the limitations under sections HM 21(2) to (4) and HM 22.

Australian managed investment trusts

(2) A trust that is, for Australian tax purposes, a managed investment trust under the Income Tax Assessment Act 1997 (Australia) is a foreign PIE equivalent if it meets the requirement in subsection (1)(a).

Defined in this Act: company, investor, investor class, investor interest, resident in New Zealand, superannuation scheme

Compare: 2007 No 97 s HL 5(1)

Section HM 3: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 3(1) heading: inserted (with effect on 2 November 2012), on 2 November 2012, by section 87(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 3(1)(b)(ii): amended (with effect on 29 March 2018), on 23 March 2020, by section 146 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 3(1)(b)(iii): repealed, on 29 March 2018, by section 123(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 3(1)(e): substituted (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 85(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 3(2) heading: inserted (with effect on 2 November 2012), on 2 November 2012, by section 87(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 3(2): inserted (with effect on 2 November 2012), on 2 November 2012, by section 87(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 3(2): amended (with effect on 2 November 2012), on 30 March 2017, by section 140 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HM 3 list of defined terms **trustee**: repealed, on 29 March 2018, by section 123(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 3 list of defined terms **unit trust**: repealed, on 29 March 2018, by section 123(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HM 4 Who is an investor?

Meaning of investor

(1) An **investor** in a PIE or foreign PIE equivalent means—

(a) for an entity that is a company, a shareholder in a company:

(b) for a life fund PIE, a person whose benefits under the relevant life insurance policy are directly linked to the value of investments held in the PIE:

(c) for an entity that is not a company or a life fund PIE, a person who is entitled to a proportion of the funds available for distribution by the entity—

(i) under the rules of the entity or terms of the trust under which the entity is established; and

(ii) as if the entity were a company and the person were a shareholder in the company.

Consequences of not providing tax file number

(2) An investor in a multi-rate PIE who is required under section 28B of the Tax Administration Act 1994 to provide a tax file number to the PIE and fails to do so within the time limit set out in that section is treated as an investor whose interest has reached the exit level.

Defined in this Act: company, exit level, foreign PIE equivalent, investor, life fund PIE, life insurance policy, multi-rate PIE, PIE, share, shareholder, tax file number

Compare: 2007 No 97 s HL 5B(1)

Section HM 4: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 4(1) heading: inserted, on 1 April 2018, by section 124(1) (and see section 124(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 4(2) heading: inserted, on 1 April 2018, by section 124(2) (and see section 124(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 4(2): inserted, on 1 April 2018, by section 124(2) (and see section 124(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 4 list of defined terms **exit level**: inserted, on 1 April 2018, by section 124(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 4 list of defined terms **multi-rate PIE**: inserted, on 1 April 2018, by section 124(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 4 list of defined terms **tax file number**: inserted, on 1 April 2018, by section 124(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HM 5 What is an investor class?

Meaning of investor class

(1) An **investor class** of an entity means a group of 1 or more investors in the entity that meet the requirements of subsections (2) to (4).

Entitlement to distributions

(2) Each investor in the group must have an entitlement to a distribution by the entity of proceeds from the entity's investments that means the requirements of subsections (3) and (4) are met.

Same investments

(3) The investments must be the same for all investors in the group.

Similar proportionate entitlement

(4) Each investor's interest in the investment as a proportion of the value of their entitlement must not differ from the average value for the group and the investment by 2.5% or more unless—

(a) the investment is an arrangement under which the PIE is assured of receiving sufficient proceeds from the investments to repay each investor in the group an amount contributed to it; and

(b) the excess in any difference between the proportion for the investor and the average value for the group arises from differences between the notified investor rates of those investors in the group.

Supplementary dividends

(5) For the purposes of this section, the payment of a supplementary dividend that is attributed to a notified foreign investor, or would be attributed to them in the absence of section HM 44B(2), is disregarded.

Defined in this Act: arrangement, investor, investor class, notified investor rate, pay, supplementary dividend

Compare: 2007 No 97 s HL 5B(2), (3)

Section HM 5: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 5(4)(a): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 86(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 5(4)(b): amended (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 53(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 5(5) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 88(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 5(5): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 88(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 5 list of defined terms **investor interest**: repealed (with effect on 1 April 2010), on 21 December 2010, by section 86(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 5 list of defined terms **notified investor rate**: inserted (with effect on 1 April 2010), on 29 August 2011, by section 53(2)(a) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 5 list of defined terms **notified tax rate**: repealed (with effect on 1 April 2010), on 29 August 2011, by section 53(2)(b) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 5 list of defined terms **supplementary dividend**: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 88(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 6 Intended effects for multi-rate PIEs and investors

Intended effects for entity

(1) The intended effects for an entity that is using funds supplied by investors to make investments of certain types and that meets the requirements for multi-rate PIE status are that—

(a) in relation to proceeds of the investments that are attributed to investors who are natural persons or certain trustees, the PIE has a tax liability—

(i) calculated using a tax rate for each investor; and

(ii) resembling the total tax liability the group of investors would have if the investors were to make the investments separately:

(ab) in relation to proceeds of the investments that are attributable to notified foreign investors in a foreign investment PIE, the PIE has a tax liability—

(i) calculated using a tax rate that is appropriate having regard to the income source and investment type; and

(ii) resembling the tax liability of the investor if they were to make the investment directly:

(b) the PIE has no tax liability on proceeds of the investments that are attributed to other investors:

(c) the PIE allocates to each investor amounts resembling the amounts that the investor would receive, after allowing for the tax paid by the PIE if making the investment separately.

Intended effects for investors

(2) The intended effects for an investor in the multi-rate PIE are that—

(a) the investor has no tax liability on income arising from proceeds for which the PIE has a tax liability, unless—

(i) the PIE has applied a rate that is lower than the investor's prescribed investor rate:

(ii) the investor has been treated by a foreign investment PIE as a notified foreign investor for a period in which they do not in fact meet the requirements of section HM 55D for notified foreign investor status:

(b) the investor is liable for tax on any assessable income arising from proceeds for which the PIE has no tax liability:

(c) the investor receives on the investment in the PIE an economic return that the investor would receive after payment of tax liabilities if personally making investments similar to those made by the PIE in which they have an investor interest:

(d) despite paragraphs (a) and (b), an adjustment may be made to the schedular income tax liability of an investor who derives PIE schedular income.

Defined in this Act: amount, assessable income, foreign investment PIE, investor, investor interest, multi-rate PIE, notified foreign investor, pay, PIE, PIE schedular income, schedular income tax liability, tax, trustee

Compare: 2007 No 97 s HL 1(2)(a)

Section HM 6: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 6(1)(a): amended (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 54(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 6(1)(ab): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 54(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 6(2)(a): substituted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 54(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 6(2)(a)(i): replaced, on 1 April 2020, by section 147(1) (and see section 147(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 6(2)(b): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 87(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 6(2)(d): inserted, on 1 April 2020, by section 147(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 6 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 54(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 6 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 54(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 6 list of defined terms **PIE schedular income**: inserted, on 1 April 2020, by section 147(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 6 list of defined terms **schedular income tax liability**: inserted, on 1 April 2020, by section 147(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HM 6B Optional look-through rules for certain PIEs

When this section applies

(1) This section applies when a PIE (a **retail PIE**) is a zero-rated investor in another PIE (a **wholesale PIE**).

Look-through treatment

(2) The retail PIE may choose to apply a look-through approach in relation to its investor interest, treating the attributed PIE income or attributed PIE loss as consisting of—

(a) the proportion of the assessable income derived by the wholesale PIE that corresponds to the investor interest; and

(b) the proportion of the expenditure or loss incurred by the wholesale PIE that corresponds to the investor interest.

Sufficient information held by PIE

(3) In choosing to apply this section, the retail PIE must have sufficient information to enable it to account for the income, expenditure, or loss, and to discharge its tax obligations in relation to those amounts.

Inter-PIE transactions

(4) In the application of subsections (1) to (3), any transaction or attribution between the wholesale PIE and retail PIE relating to the income or expenditure is ignored.

Foreign investment PIEs

(5) When a retail PIE that is a foreign investment variable-rate PIE derives an amount allowable under section HM 55G through having an investor interest in a wholesale PIE that meets the requirements of section HM 19B(1), the retail PIE may treat the amount as a foreign-sourced amount.

Defined in this Act: amount, assessable income, attributed PIE income, attributed PIE loss, foreign investment variable-rate PIE, foreign-sourced amount, investor interest, PIE

Section HM 6B: replaced (with effect on 1 April 2012), on 2 November 2012 (applying for the 2012–13 and later income years), by section 89(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Entry rules

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 7 Requirements

For an entity to be a PIE, it must—

(a) meet the requirements of the entry rules in sections HM 8 to HM 10B, HM 17, HM 18, and HM 20, as applicable; and

(b) be 1 of the types of entity referred to in section HM 2(2); and

(c) choose under section HM 71 or HM 71B to become a PIE; and

(d) maintain the requirements of the rules in sections HM 8 to HM 20, as applicable; and

(e) not lose PIE status under the exit rules in sections HM 24 to HM 30.

Defined in this Act: PIE

Compare: 2007 No 97 ss HL 2(2), HL 15(1), (2)

Section HM 7: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 7(a): amended, on 1 April 2025, by section 85 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HM 7(c): amended, on 29 August 2011, by section 56 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Requirements

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 8 Residence in New Zealand

Requirements

(1) The entity must be—

(a) resident in New Zealand; and

(b) not treated under a double tax agreement as not resident in New Zealand.

Foreign investment zero-rate PIEs

(2) Section HM 19B(2) modifies this section.

Defined in this Act: double tax agreement, foreign investment zero-rate PIE, resident in New Zealand

Compare: 2007 No 97 s HL 3(10)

Section HM 8: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 8(1) heading: inserted, on 29 August 2011, by section 57(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 8(2) heading: added, on 29 August 2011, by section 57(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 8(2): added, on 29 August 2011, by section 57(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 8 list of defined terms **foreign investment zero-rate PIE**: inserted (with effect on 29 August 2011), on 27 February 2014, by section 85 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

HM 9 Collective schemes

The entity must be—

(a) a company:

(b) a superannuation scheme:

(c) *[Repealed]*

(d) a separate identifiable fund forming part of a life insurer that holds investments subject to life insurance policies under which benefits are directly linked to the value of the investments held in the fund:

(e) the trustees of a group investment fund in relation to income derived by them to the extent to which the income is not treated as income derived by a company under paragraph (a).

Defined in this Act: company, life insurance policy, life insurer, superannuation scheme, trustee, unit trust

Section HM 9: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 9(c): repealed, on 29 March 2018, by section 125 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 9(d): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 88(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 9(e): added (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 88(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HM 10 Exclusion: life insurance business

The entity must not carry on a business of life insurance unless it is a life fund PIE.

Defined in this Act: life fund PIE, life insurance

Compare: 2007 No 97 s HL 3(9)

Section HM 10: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 10B Exclusion: banks and licensed non-bank deposit takers

The entity must not be a registered bank or a licensed non-bank deposit taker.

Defined in this Act: licensed non-bank deposit taker, registered bank

Section HM 10B: inserted, on 1 April 2025, by section 86(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HM 11 Investment types

Types

(1) The entity's investments, to the extent of 90% or more by value of its assets, must be—

(a) an interest in land:

(b) a financial arrangement:

(c) an excepted financial arrangement:

(d) a right or option in relation to property listed in paragraphs (a) to (c).

Foreign investment zero-rate PIEs

[Repealed]

(2) *[Repealed]*

Foreign investment variable-rate PIEs

(3) Section HM 19C(1) overrides subsection (1)(a) and modifies subsection (1)(d).

Defined in this Act: excepted financial arrangement, financial arrangement, foreign investment variable-rate PIE, foreign investment zero-rate PIE, land

Compare: 2007 No 97 s HL 10(1)

Section HM 11: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 11(1) heading: inserted, on 29 August 2011, by section 58(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 11(2) heading: repealed (with effect on 29 August 2011), on 2 November 2012, pursuant to section 90(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 11(2): repealed (with effect on 29 August 2011), on 2 November 2012, by section 90(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 11(3) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 58(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 11(3): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 58(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 11(3): amended (with effect on 29 August 2011), on 2 November 2012, by section 90(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 11 list of defined terms **foreign investment variable-rate PIE**: inserted (with effect on 29 August 2011), on 27 February 2014, by section 86 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HM 11 list of defined terms **foreign investment zero-rate PIE**: inserted (with effect on 29 August 2011), on 27 February 2014, by section 86 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

HM 12 Income types

Nature of income

(1) Income derived by the entity, to the extent of 90% or more, must—

(a) be derived from property referred to in section HM 11; and

(b) consist of the following:

(i) a dividend:

(ii) a replacement payment:

(iii) an amount of income treated under subpart EW (Financial arrangements rules) as derived by the entity, other than an amount of excluded interest:

(iv) an amount of income derived from a lease of land, but this subparagraph does not apply if the lessee under the lease is associated with the entity receiving the amount:

(ivb) insurance, indemnity, or compensation amounts replacing income that would be described in subparagraph (iv):

(v) an amount derived from the disposal of property referred to in section HM 11:

(vi) FIF income:

(vii) attributed PIE income:

(viii) a distribution from a superannuation fund:

(ix) an amount of income under section CW 4 (Annuities under life insurance policies) or CX 40 (Superannuation fund deriving amount from life insurance policy):

(x) a rebate on a management fee.

Meaning of excluded interest

(1B) For the purposes of subsection (1)(b)(iii), **excluded interest** means interest derived from a person associated with the entity other than under section YB 2(3) (Two companies), but does not include interest derived from the person if—

(a) the person is a registered bank or a licensed non-bank deposit taker:

(b) the person is—

(i) a PIE; or

(ii) a foreign PIE equivalent; or

(iii) an entity that qualifies for PIE status:

(c) the interest is on funds the entity loaned to the person that were loaned to the entity by a third party, and the interest rate is either—

(i) the same for both loans; or

(ii) the weighted average of interest rates incurred by the entity under all active loans from third parties.

Foreign investment zero-rate PIEs

(2) Section HM 19B(1) overrides this section.

Foreign investment variable-rate PIEs

(3) Section HM 19C(2) overrides subsection (1)(a) and (b)(v).

Defined in this Act: amount, associated person, attributed PIE income, dividend, FIF income, income, foreign investment variable-rate PIE, foreign investment zero-rate PIE, foreign PIE equivalent, land, lessee, licensed non-bank deposit taker, PIE, registered bank, replacement payment, superannuation fund

Compare: 2007 No 97 s HL 10(2)

Section HM 12: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 12 heading: amended (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 59(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12(1) heading: inserted, on 29 August 2011, by section 59(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12(1)(b)(iii): amended, on 1 April 2025, by section 87(1) (and see section 87(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HM 12(1)(b)(ivb): inserted, on 18 March 2019, by section 218 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HM 12(1)(b)(viii): amended (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 59(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12(1)(b)(ix): added (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 59(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12(1)(b)(ix): amended (with effect on 1 April 2012), on 17 July 2013, by section 63 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 12(1)(b)(x): inserted (with effect on 1 April 2012), on 17 July 2013, by section 63 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 12(1B) heading: inserted, on 1 April 2025, by section 87(2) (and see section 87(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HM 12(1B): inserted, on 1 April 2025, by section 87(2) (and see section 87(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HM 12(2) heading: added, on 29 August 2011, by section 59(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12(2): added, on 29 August 2011, by section 59(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12(2): amended (with effect on 29 August 2011), on 2 November 2012, by section 91 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 12(3) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 59(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12(3): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 59(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 12 list of defined terms **foreign investment variable-rate PIE**: inserted (with effect on 29 August 2011), on 27 February 2014, by section 87 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HM 12 list of defined terms **foreign investment zero-rate PIE**: inserted (with effect on 29 August 2011), on 27 February 2014, by section 87 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HM 12 list of defined terms **foreign PIE equivalent**: inserted, on 1 April 2025, by section 87(4)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HM 12 list of defined terms **licensed non-bank deposit taker**: inserted, on 1 April 2025, by section 87(4)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HM 12 list of defined terms **PIE**: inserted, on 1 April 2025, by section 87(4)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HM 12 list of defined terms **registered bank**: inserted, on 1 April 2025, by section 87(4)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HM 13 Maximum shareholdings in investments

When this section applies

(1) This section applies when an entity has an investment consisting of shares in a company other than shares in—

(a) a PIE, or an entity that qualifies for PIE status:

(b) a foreign PIE equivalent:

(c) a land investment company.

Voting and market interests: companies other than unit trusts

(2) The investment must not carry voting interests or market value interests of more than 20%. This subsection does not apply to a unit trust. Subsection (5) overrides this subsection.

Investments in unit trusts

(3) For an investment in a unit trust, the investment must have a market value no more than 20% of the market value of all interests in the unit trust. Subsection (5) overrides this subsection.

Class requirements

(4) For each investment and each investor class of the entity, the percentage thresholds set out in subsections (2) and (3) apply to the investment by the class in the same way as they apply to the investment by the entity. Subsection (5) overrides this subsection.

Exception for limited non-complying investments

(5) Despite subsections (2) to (4), the 20% cap in those subsections can be exceeded if the total market value of all investments where the cap is exceeded is not more than 10% of the market value of the total investments of the entity or investor class.

Certain investments of foreign investment PIEs

(6) Despite the exclusion in subsection (1)(a) and (c), if a foreign investment variable-rate PIE has an investment in a land investment company resident in New Zealand or in an entity that qualifies for PIE status, the investment must—

(a) carry voting interests in the company or entity, as applicable, of no more than 20%; or

(b) have a market value of no more than 20% of all interests in the entity, if the entity is a unit trust.

Exceeding threshold

(7) Section HM 55H(4) and (5) apply in the case of a breach of subsection (6).

Defined in this Act: company, foreign investment PIE, foreign investment variable-rate PIE, foreign PIE equivalent, investor class, land investment company, market value, market value interest, PIE, resident in New Zealand, share, unit trust, voting interest

Compare: 2007 No 97 s HL 10(3)–(5)

Section HM 13: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 13(2) heading: replaced, on 29 March 2018, by section 126(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 13(2): replaced, on 29 March 2018, by section 126(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 13(6) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 60(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 13(6): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 60(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 13(7) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 60(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 13(7): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 60(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 13 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 60(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 13 list of defined terms **foreign investment variable-rate PIE**: inserted (with effect on 29 August 2011), on 27 February 2014, by section 88 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HM 13 list of defined terms **market value interest**: inserted, on 29 March 2018, by section 126(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 13 list of defined terms **resident in New Zealand**: inserted, on 29 August 2011, by section 60(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 14 Minimum number of investors

Requirement for entities other than listed companies

(1) If the entity is not a listed PIE, each investor class must include 20 or more persons.

Requirements for listed PIEs

(2) For listed PIEs, if the entity is a company listed on a recognised exchange in New Zealand, it must have only 1 investor class of which each investor is a member. Each investor interest must be a share traded on the exchange. This subsection applies equally to an unlisted PIE that meets the requirements of section HM 18.

Exceptions

(3) Sections HM 21(1) and HM 22 override subsection (1).

Defined in this Act: company, investor, investor class, investor interest, listed company, listed PIE, New Zealand, recognised exchange, share

Compare: 2007 No 97 s HL 6(1A), (1), (2), (4)

Section HM 14: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 14(1): amended, on 2 November 2012, by section 92 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 14(2) heading: substituted, on 29 August 2011, by section 61(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 14(2): amended, on 29 August 2011, by section 61(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 14(3): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 46(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

HM 15 Maximum investor interests

Requirement for investors' interests

(1) An investor in an investor class must not hold more than 20% of the total investor interests in the class.

Exceptions

(2) Sections HM 21(2) to (4) and HM 22 override this section.

Defined in this Act: investor, investor class, investor interest

Compare: 2007 No 97 s HL 9(1), (6)

Section HM 15: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 15 heading: amended (with effect on 1 April 2010), on 21 December 2010, by section 89(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 15(1): amended (with effect on 1 April 2010), on 21 December 2010, by section 89(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 15(2): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 47(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 15 list of defined terms **investor interest**: inserted (with effect on 1 April 2010), on 21 December 2010, by section 89(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HM 16 Associates combined

For the purposes of sections HM 14 and HM 15, if a person is associated with an investor, the person and the investor are treated as 1 person, but only if both the person and the investor hold an investor interest of 5% or more. Section HM 21(5) overrides this section.

Defined in this Act: associated person, investor, investor interest

Compare: 2007 No 97 s HL 9(6)

Section HM 16: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 17 Same rights to all investment proceeds

What this section does

(1) This section is an additional entry rule for a PIE that is not a life fund PIE.

Same rights in relation to proceeds of investments

(2) All investor interests in the entity that give rights in relation to proceeds from a portfolio investment must give the same rights in relation to all types of proceeds from the investment.

Exclusions

(3) This section does not apply if—

(a) the proceeds are category B income:

(b) for a single investor class, the only income that the class derives is income under section CC 3 (Financial arrangements).

Supplementary dividends

(4) For the purposes of this section, the payment of a supplementary dividend that is attributed to a notified foreign investor, or would be attributed to them in the absence of section HM 44B(2), is disregarded.

Defined in this Act: category B income, income, investor class, investor interest, life fund PIE, notified foreign investor, PIE, portfolio investment, supplementary dividend

Compare: 2007 No 97 s HL 5C

Section HM 17: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 17(3) heading: replaced, on 2 November 2012, by section 93(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 17(3): replaced, on 2 November 2012, by section 93(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 17(4) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 93(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 17(4): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 93(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 17 list of defined terms **income**: inserted, on 2 November 2012, by section 93(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 17 list of defined terms **investor class**: inserted, on 2 November 2012, by section 93(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 17 list of defined terms **notified foreign investor**: inserted, on 2 November 2012, by section 93(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 17 list of defined terms **supplementary dividend**: inserted, on 2 November 2012, by section 93(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 18 Requirements for listed PIEs: unlisted companies

Choosing to become listed PIE

(1) A company that is not listed on a recognised exchange in New Zealand may choose under section HM 71 to become a listed PIE if it—

(a) has 100 shareholders or more; and

(b) has resolved to become a company listed on a recognised exchange in New Zealand if it were to obtain the required consents; and

(c) has applied to the Securities Commission or the FMA for an exemption to disclose in a product disclosure statement its intention to become a listed company; and

(d) satisfies the Commissioner that the company would apply to become a listed company if it were to obtain the required consents.

Two-year period

(2) If the company is not listed within 2 years of the election, it loses PIE status from the last day of that period.

Extension of period for listing

(3) Despite subsection (2), a company does not lose PIE status at the end of the 2-year period if—

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

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

Further extension granted by Commissioner

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

Defined in this Act: apply, Commissioner, company, listed company, listed PIE, New Zealand, PIE, recognised exchange, shareholder

Compare: 2007 No 97 s HL 12

Section HM 18: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 18(1)(c): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section HM 18(1)(c): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Section HM 18(3) heading: added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 48(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 18(3): added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 48(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 18(4) heading: added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 48(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 18(4): added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 48(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 18 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HM 19 Requirements for listed PIEs: fully crediting distributions

What this section does

(1) This section is an additional rule for an entity that is a listed PIE other than a life fund PIE.

Fully crediting distributions

(2) When a listed PIE distributes an amount to an investor in an investor class, the distribution must be fully credited as described in section CD 43(26) (Available subscribed capital (ASC) amount) to the extent permitted by the imputation credits that the directors of the company determine are available.

Relationship with section CX 56C

(3) For the treatment of imputation credits when a shareholder chooses to include the distribution as income in their return of income, *see* section CX 56C(2) (Distributions to investors by listed PIEs).

Defined in this Act: amount, company, director, imputation credit, income, investor, investor class, life fund PIE, listed PIE, return of income, shareholder

Compare: 2007 No 97 s HL 8

Section HM 19: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 19(2): amended, on 1 April 2017, by section 141(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HM 19 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 141(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HM 19B Modified rules for foreign investment zero-rate PIEs

Income

(1) Despite section HM 12, the income derived by a foreign investment zero-rate PIE must consist of no amount other than—

(a) a foreign-sourced amount:

(b) an amount allowable under section HM 55G, as measured under section HM 55H.

Residence

(2) A foreign investment zero-rate PIE is resident in New Zealand for the purposes of section HM 8 if it—

(a) is a unit trust; and

(b) has a trustee who is resident in New Zealand.

Defined in this Act: amount, foreign investment zero-rate PIE, foreign-sourced amount, income, resident in New Zealand, trustee, unit trust

Section HM 19B: inserted, on 29 August 2011, by section 62 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 19B(2)(a): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

HM 19C Modified rules for foreign investment variable-rate PIEs

Investment types

(1) Despite section HM 11(1)(a) and (b), no investment of a foreign investment variable-rate PIE may include an interest in land in New Zealand or a right or option in relation to land in New Zealand.

Income sources

(2) Despite section HM 12(1)(a) and (b)(iv) and (v), the income derived by a foreign investment variable-rate PIE must not include an amount derived from—

(a) an interest in land in New Zealand:

(b) the disposal of an interest in land in New Zealand.

Defined in this Act: amount, foreign investment variable-rate PIE, interest, land, New Zealand

Section HM 19C: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 63(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 19C(1): amended (with effect on 29 August 2011), on 17 July 2013, by section 64 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 19C(1): amended (with effect on 1 April 2012), on 2 November 2012 (applying for the 2012–13 and later income years), by section 94(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 19C(2): amended (with effect on 1 April 2012), on 2 November 2012 (applying for the 2012–13 and later income years), by section 94(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 20 Re-entering as PIE: 5-year rule

If an entity loses PIE status through the application of sections HM 24 to HM 29, it cannot choose to become a PIE again until 5 years have passed from the date of loss of status to the date on which a new election takes effect.

Defined in this Act: PIE

Compare: 2007 No 97 s HL 3(11)

Section HM 20: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Exceptions

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 21 Exceptions for certain investors

Investor classes

(1) The rule for a minimum number of investors in section HM 14(1) does not apply if—

(a) an investor class of the entity includes at least 1 investor listed in schedule 29, part A (Portfolio investment entities: listed investors):

(b) the only income that the investor derives is exempt income under section CW 41 or CW 42 (which relate to charities).

Certain investors

(2) The rule for maximum investor interests in section HM 15(1) does not apply if the investor is—

(a) listed in schedule 29, part A or B:

(b) a person whose only income is exempt income under section CW 41 or CW 42.

Certain investors in listed PIEs

[Repealed]

(3) *[Repealed]*

Transitional provision for investors in listed PIEs

(4) Section HM 15 does not apply in the case of an investor in a listed PIE, other than an investor listed in schedule 29, parts A and B, that holds more than 20% but less than 40% of the total interests in the investor class and held more than 20% and less than 40% of the total interests at all times from 17 May 2006 to the relevant time.

Not combined associates

(5) Section HM 16 does not apply if either the associated person or the investor is an investor listed in schedule 29, parts A and B.

Defined in this Act: associated person, exempt income, income, investor, investor class, listed PIE, PIE

Compare: 2007 No 97 ss HL 6(4), HL 9

Section HM 21: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 21(1): substituted, on 29 August 2011, by section 64(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 21(2) heading: amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 90(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 21(2): substituted, on 29 August 2011, by section 64(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 21(3) heading: repealed (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), pursuant to section 90(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 21(3): repealed (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 90(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 21 list of defined terms **exempt income**: inserted, on 29 August 2011, by section 64(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 21 list of defined terms **income**: inserted, on 29 August 2011, by section 64(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 22 Exceptions for certain funds

Public unit trust

(1) Sections HM 14(1) and HM 15 do not apply to an investor class of an entity if, treating the class as a unit trust, it would meet the requirements of 1 or more of paragraphs (a) and (c) to (e) of the definition of **public unit trust**.

Certain superannuation funds

(2) Sections HM 14(1) and HM 15 do not apply in the case of an investor class of an entity that is a fund, trust, or class listed in schedule 29, part B (Portfolio investment entities: listed investors).

Defined in this Act: investor class, PIE, public unit trust, unit trust

Compare: 2007 No 97 ss HL 6(3), HL 9(2)

Section HM 22: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 22(1): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 91(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HM 23 Exceptions for foreign PIE equivalents

Investor classes and investors' interests

(1) If an investor in a PIE is a foreign PIE equivalent,—

(a) the requirement for investor classes under section HM 14(1) is treated as met:

(b) no limitation on investor interests under section HM 15 applies in the case of that investor.

Shareholding in investments

(2) If a PIE holds an investment in a foreign PIE equivalent, no maximum limit on shareholding in investments under section HM 13 applies to that investment.

Defined in this Act: foreign PIE equivalent, investor, investor class, investor interest, PIE

Compare: 2004 No 35 ss HL 9(4), HL 10(4)

Section HM 23: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 23(1)(b): amended (with effect on 1 April 2010), on 21 December 2010, by section 92 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Exit rules

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 24 Immediate loss of PIE status

An entity loses PIE status immediately if it does not meet—

(a) the residence requirements of section HM 8:

(b) the requirements of section HM 9 about the nature of the entity:

(c) the requirements of section HM 17 concerning rights to investment proceeds.

Defined in this Act: PIE

Section HM 24: replaced, on 2 November 2012, by section 95 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 25 When entity no longer meets investment or investor requirements

Effect

(1) An entity loses PIE status if,—

(a) on the last day of a quarter (the **first quarter**),—

(i) the entity no longer meets a requirement of sections HM 11 to HM 13; or

(ii) an investor class of the entity no longer meets a requirement of sections HM 13 to HM 15; and

(b) the failure to meet the requirements—

(i) is significant and is within the control of the entity:

(ii) is not remedied by the last day of the next quarter (the **second quarter**).

Date of loss of status

(2) The date of loss of PIE status is—

(a) when subsection (1)(b)(i) applies, the first day of the second quarter:

(b) when subsection (1)(b)(i) does not apply, the first day of the third quarter.

Transitional quarters disregarded

(3) Subsection (1) does not apply if—

(a) the start of the first quarter would be within 6 months plus 1 day of the date on which the entity becomes a PIE, or the investor class is formed; or

(b) the first quarter ends within 3 months before an announcement by the entity to its investors that it, or the relevant investor class, is winding up within 12 months of the announcement.

Defined in this Act: investor class, PIE, quarter

Compare: 2007 No 97 s HL 4(2)

Section HM 25: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 25(2)(a): amended (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 65(1)(a) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 25(2)(b): amended (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 65(1)(b) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 25(3)(b): amended (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 67(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

HM 26 Starting life insurance business

An entity that is not a life fund PIE loses PIE status immediately if it starts to carry on the business of life insurance.

Defined in this Act: business, life fund PIE, life insurance, PIE

Compare: 2004 No 35 s HL 4(1)

Section HM 26: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 27 When multi-rate PIE no longer meets investor interest adjustment requirements

A multi-rate PIE loses PIE status immediately if it fails to meet a requirement of section HM 48.

Defined in this Act: investor interest, multi-rate PIE, PIE

Compare: 2004 No 35 s HL 4(1)

Section HM 27: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 28 When listed PIE no longer meets requirements

Loss of PIE status

(1) A listed PIE loses PIE status immediately if—

(a) it fails to meet the requirements of section HM 19:

(b) it does not make an election under section HM 29 to cancel PIE status and ceases to be listed by a recognised exchange:

(c) it makes an election under section HM 29 to cancel PIE status and, after the entity ceases to be listed by a recognised exchange, a period of 2 years from the delisting, or a longer period allowed by the Commissioner under subsection (2), expires:

(d) when the entity is not listed by a recognised exchange, the number of shareholders in the entity is less than 100.

Commissioner may grant extension of time

(2) The Commissioner may grant an extension of the 2-year period referred to in subsection (1)(c) if the extension is reasonable in the circumstances.

Defined in this Act: listed PIE, PIE, recognised exchange, shareholder

Section HM 28: replaced, on 18 March 2019, by section 219 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

HM 29 Choosing to cancel status

An entity loses PIE status if it chooses to cancel PIE status by notifying the Commissioner under section 31B of the Tax Administration Act 1994. Section HM 72(3) applies to determine the date the election takes effect.

Defined in this Act: Commissioner, notify, PIE

Section HM 29: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 30 When foreign PIE equivalent no longer meets requirements

Commencing New Zealand residence

Continued failure

(1) A foreign PIE equivalent loses its status immediately if—

(a) it becomes resident in New Zealand:

(b) it is treated under a double tax agreement as resident in New Zealand.

(2) A foreign PIE equivalent loses its status if it no longer meets the requirements set out in section HM 3(1)(b) to (e) at the end of 2 consecutive quarters. The loss of status takes effect from the first day of the third quarter.

Defined in this Act: double tax agreement, foreign PIE equivalent, quarter, resident in New Zealand

Compare: 2007 No 97 s HL 5(2)

Section HM 30: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 30(1): replaced, on 2 November 2012, by section 96(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 30(2): amended, on 29 March 2018, by section 127 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 30 list of defined terms **double tax agreement**: inserted, on 2 November 2012, by section 96(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Rules for multi-rate PIEs

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Introductory provisions

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 31 Rules for multi-rate PIEs

Rules

(1) A multi-rate PIE must—

(a) attribute income arising from the proceeds of an investment to an investor, and pay tax on the income based on the investor's tax rates, *see* sections HM 34 to HM 40:

(b) calculate and pay its tax liability, choosing certain periods to do this, *see* sections HM 41 to HM 47:

(c) adjust investor interests of investors in the entity or distributions from the entity to reflect an amount of tax paid, *see* section HM 48:

(d) use tax credits received to satisfy the entity's tax liability, in some cases providing any surplus credits to certain investors by making an adjustment described in paragraph (c), *see* sections HM 49 to HM 55.

Foreign investment PIEs

(1B) For the provisions relating to the treatment of notified foreign investors in foreign investment PIEs, *see* sections HM 2(4), HM 33, HM 35C, HM 44B,

HM 47(2B), (4), and (6), HM 51, HM 53, HM 55C to HM 55H, HM 60, HM 61(2), HM 64(4), and HM 65(5).

Further provisions related to payment options, tax rates, and exit periods

(2) For the provisions relating to the options available to a multi-rate PIE for calculating and paying its tax liability, prescribed and notified investor rates for investors, and exit levels and periods, *see* sections HM 56 to HM 63.

Further provisions relating to use of losses

(3) For the provisions relating to the use of losses by multi-rate PIEs, *see* sections HM 64 to HM 70.

Defined in this Act: exit level, exit period, foreign investment PIE, investor, investor interest, multi-rate PIE, notified foreign investor, notified investor rate, pay, prescribed investor rate, tax, tax credit

Section HM 31: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 31(1)(a): amended, on 29 August 2011, by section 66(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 31(1)(c): amended (with effect on 1 April 2010), on 21 December 2010, by section 93 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 31(1B) heading: inserted, on 29 August 2011, by section 66(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 31(1B): inserted, on 29 August 2011, by section 66(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 31 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 66(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 31 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 66(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 32 Rules for and treatment of investors in multi-rate PIEs

Tax rates

(1) An investor in a multi-rate PIE must notify the PIE of a tax rate applying to their investment income or have a default rate apply, *see* sections HM 56 to HM 61.

Attributed income

(2) An amount of income attributed by a multi-rate PIE to an investor in the PIE is—

(a) income of the investor under section CP 1 (Attributed income of investors in multi-rate PIEs):

(b) for certain investors, excluded income of the investor under section CX 56 (Attributed income of certain investors in multi-rate PIEs).

Notified foreign investors

(3) An investor in a foreign investment PIE who notifies the PIE under section HM 55D(2) of their wish to become a notified foreign investor is treated as having notified the PIE of a tax rate under subsection (1).

Defined in this Act: amount, excluded income, foreign investment PIE, income, investor, multi-rate PIE, notified foreign investor, notify

Section HM 32: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 32(3) heading: added, on 29 August 2011, by section 67(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 32(3): replaced (with effect on 29 August 2011), on 2 November 2012, by section 97 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 32 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 67(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 32 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 67(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 33 Proxies for PIE investors

Proxies

(1) An entity may become a proxy for an investor in a multi-rate PIE for an attribution period if the entity—

(a) holds an investor interest for the investor; and

(b) notifies the PIE that it holds the interest as proxy.

Role

(2) The proxy must perform the duties set out in subsection (3) in relation to amounts attributed to them for the period as holder of the interest as if—

(a) the proxy were a multi-rate PIE; and

(b) the investor interest were an interest of the investor in the income of the proxy; and

(bb) for a foreign investment PIE and a notified foreign investor, the investor were a notified foreign investor in the proxy; and

(c) the amounts attributed and distributions received by the proxy were amounts of the proxy to which the investor is entitled as holder of the interest.

Duties

(3) The proxy's duties are to—

(a) attribute amounts to the investor for the period; and

(b) distribute amounts and credits to the investor for the period; and

(c) pay income tax on the investment income for the period; and

(d) adjust the investor interest of the investor or distributions to the investor under section HM 48; and

(db) for a foreign investment PIE, collect information required from the notified foreign investors and act generally on behalf of the PIE in relation to its notified foreign investors; and

(e) provide returns as required under section 57B of the Tax Administration Act 1994 to the Commissioner and any other information required by the Commissioner; and

(f) provide the investor with a notice under section 31C of that Act; and

(g) provide the PIE with information about the investor and investor interest that may be relevant to any eligibility requirements of the PIE.

Defined in this Act: amount, attribution period, Commissioner, foreign investment PIE, income, income tax, investor, investor interest, multi-rate PIE, notice, notified foreign investor, notify, PIE

Section HM 33: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 33(2)(bb): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 68(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 33(3)(db): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 68(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 33 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 68(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 33 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HM 33 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 68(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Attributing income to investors

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 34 Attribution periods

A multi-rate PIE must use 1 of the following periods for attributing an amount for a tax year or an income year, as applicable, to an investor and an investor class:

(a) for an entity that uses the quarterly calculation option under section HM 43, but chooses the attribution period by notifying the Commissioner before the start of the tax year or on choosing to become a PIE, a day, a month, or a quarter; or

(b) for an entity that chooses under section HM 44 to pay provisional tax and chooses the attribution period by notifying the Commissioner before

the start of the income year or on choosing to become a PIE, a day, a month, a quarter, or an income year; or

(c) for an entity that does not make a choice under paragraphs (a) and (b), a day.

Defined in this Act: amount, attribution period, Commissioner, income year, investor, investor class, multi-rate PIE, notify, PIE, provisional tax, tax year

Compare: 2007 No 97 s HL 16(2)

Section HM 34: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 34: amended (with effect on 1 April 2010), on 2 November 2012 (applying for the 2010–11 and later income years), by section 98(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 34(b): amended (with effect on 1 April 2010), on 2 November 2012 (applying for the 2010–11 and later income years), by section 98(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 34 list of defined terms **income year**: inserted (with effect on 1 April 2010), on 2 November 2012, by section 98(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 34 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HM 35 Determining net amounts and taxable amounts

What this section applies to

(1) This section applies for the purposes of a calculation under section HM 36(2).

Net amounts

(2) The net amount for an investor class of a multi-rate PIE for an attribution period is calculated using the formula—

assessable income − deductions.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **assessable income** is the total amount of the PIE's assessable income attributed to the class for the attribution period in the manner referred to in subsection (8), including any tax credits received for the income but not including the amount of any supplementary dividends:

(b) **deductions** is the total amount of the PIE's expenditure or loss for which the PIE is allowed a deduction that is—

(i) incurred by the PIE in deriving the assessable income referred to in paragraph (a); and

(ii) attributed to the class for the attribution period.

Net income or net loss

(4) If the result of the formula is positive, the amount is net income of the class for the period. If the result of the formula is negative, the amount is a net loss of the class for the period.

Taxable amounts

(5) The taxable amount for an investor class of a multi-rate PIE for an attribution period is calculated using the formula—

net income − net loss − other loss used.

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **net income** is the amount of the PIE's net income referred to in subsection (4):

(b) **net loss** is the amount of the PIE's net loss referred to in subsection (4):

(c) **other loss used** is the lesser of the following amounts:

(i) the total amount for the class of formation loss that is attributable for the attribution period under sections HM 66 to HM 70 and any amount of land loss under section HM 65 that has not been used for an earlier period:

(ii) the total amount of net income referred to in paragraph (a).

Taxable income or tax loss

(7) If the result of the formula is positive, the amount is taxable income of the class for the period. If the result of the formula is negative, the amount is a tax loss of the class for the period.

Use of valuations or financial statements

(8) Income and deductions of the multi-rate PIE are allocated to investors and investor classes for attribution periods as—

(a) reflected in the PIE's valuation of investor interests, if the PIE makes these valuations and paragraph (c) does not apply to the income and deductions:

(b) shown in the PIE's financial statements, if the PIE does not makes the valuations referred to in paragraph (a) and paragraph (c) does not apply to the income and deductions:

(c) given by *Determination G27: Swaps*, Method C, if the income and deductions arise from a financial arrangement that meets the requirements for the method and the multi-rate PIE, before becoming a party to the financial arrangement, chooses to use the method for the income

and deductions from such financial arrangements and does not revoke the choice.

Defined in this Act: amount, assessable income, attribution period, deduction, formation loss, income, investor class, investor interest, land loss, multi-rate PIE, net income, net loss, PIE, tax loss, taxable income

Compare: 2007 No 97 ss EG 3, HL 19, HL 20

Section HM 35: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 35(3)(a): substituted (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 94(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 35(3)(a): amended, on 1 April 2013 (applying for the 2013–14 and later income years), by section 99(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35(8)(a): amended, on 1 April 2023, by section 80(1) (and see section 80(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HM 35(8)(a): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 94(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 35(8)(b): amended, on 1 April 2023, by section 80(2) (and see section 80(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HM 35(8)(c): inserted, on 1 April 2023, by section 80(3) (and see section 80(4) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

HM 35B Treatment of certain provisions made by multi-rate PIEs

When this section applies

(1) This section applies for the purposes of section HM 35 when—

(a) a multi-rate PIE—

(i) is likely to have future income:

(ii) makes a provision for future expenditure or loss; and

(b) the amount—

(i) is reflected in the PIE's valuation of investor interests; or

(ii) if subparagraph (i) does not apply, is shown in its financial statements.

Future amounts

(2) For the purposes of determining a net amount under section HM 35(2) for an attribution period, a multi-rate PIE may take account of an amount of future income or future expenditure or loss that is—

(a) for future income, an amount that, when derived, would be assessable income under section HM 35(3)(a):

(b) for future expenditure or loss,—

(i) an expense likely to be incurred by the PIE in the tax year in which the attribution period falls, or within 93 days after the end of the tax year; and

(ii) an amount that, when incurred, would be a deduction under section HM 35(3)(b).

Reasonable estimation

(3) For the purposes of subsection (2), the PIE must make a reasonable estimate of the amount and must be able to demonstrate, if required, the reasonableness of the estimation by—

(a) explaining why and when the income is likely to be derived or the expense is likely to be incurred, as applicable; and

(b) providing the calculation method and actual calculations used to determine the amount, with details showing why the method is appropriate.

Credit impairment provisions

(4) A multi-rate PIE may take account of a credit impairment provision under this section but only if the provision is counted as a credit impairment provision under IFRS 9. However, the time limit set out in subsection (2)(b)(i) does not apply in relation to a credit impairment provision.

Defined in this Act: amount, attribution period, deduction, IFRS 9, income, investor interest, multi-rate PIE, tax year

Section HM 35B: inserted (with effect on 1 April 2010), on 21 December 2010, by section 95(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 35B(1)(b)(i): amended (with effect on 1 April 2010), on 2 November 2012, by section 100 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35B(4): amended, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section HM 35B list of defined terms **IFRS 9**: inserted, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section HM 35B list of defined terms **NZIAS 39**: repealed, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

HM 35C Determining amounts for notified foreign investors

When this section applies

(1) This section applies for the purposes of sections HM 35 to HM 47 when a foreign investment PIE determines its income tax liability and calculates an amount of attributed PIE income for a notified foreign investor in the PIE.

Single class of investors

(2) For the purposes of the calculations, the PIE must treat its notified foreign investors as a single notional investor class.

Taxable amounts

(3) In section HM 35(5), in relation to an investor class that is made up of notified foreign investors, the taxable amount for an attribution period is equal to the assessable income of the PIE for the period for each particular income source and investment type of income of the class.

Attributed amounts

(4) For the purposes of section HM 36, in the calculation of an amount attributed to a notified foreign investor,—

(a) the item **loss** in the formula in subsection (2) is treated as zero:

(b) the item **expenses** in the formula in subsection (2) is treated as zero:

(c) the item **credits for fees** in the formula in subsection (2) is treated as zero:

(d) if the result given by the formula is negative, the result is treated as zero.

Treatment of certain transitional residents

(5) For the purposes of this section, a transitional resident who has chosen under section HM 55D(9) to use the specified prescribed investor rate is treated as if they were a notified foreign investor.

When subsection (7) applies

(6) Subsection (7) applies for the purposes of section HM 35 for a notified foreign investor (a **qualifying investor**) in a foreign investment PIE who meets the requirements of section LP 2(1)(a) (Tax credits for supplementary dividends). It overrides subsections (2) and (3), and for the purposes of the calculation of amounts attributed to them, the qualifying investors are treated as a separate class.

Assessable income and supplementary dividends

(7) For the purposes of section HM 35(3)(a), the assessable income of the PIE is the total amount of the PIE's assessable income attributed to the class of qualifying investors for the attribution period, including any supplementary dividends to which the qualifying investors are entitled.

Defined in this Act: amount, assessable income, attributed PIE income, attribution period, foreign investment PIE, income tax liability, investor class, notified foreign investor, prescribed investor rate, transitional resident

Section HM 35C: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 69(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 35C(5) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 101(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35C(5): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 101(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35C(6) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 101(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35C(6): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 101(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35C(7) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 101(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35C(7): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 101(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35C list of defined terms **prescribed investor rate**: inserted, on 1 April 2013, by section 101(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 35C list of defined terms **taxable amount**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HM 35C list of defined terms **transitional resident**: inserted, on 1 April 2013, by section 101(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 36 Calculating amounts attributed to investors

Calculating amount

(1) The amount of attributed PIE income or attributed PIE loss for an income year for an investor in a multi-rate PIE is the total of the amounts calculated using the formula in subsection (2) for—

(a) each attribution period in the income year; and

(b) each day in the attribution period; and

(c) each investor class to which the investor belongs on the day.

Formula

(2) The formula is—

percentage × (income − loss) ÷ days in period − (expenses − credits for fees).

Definition of items in formula

(3) In the formula,—

(a) **percentage** is the percentage of the investor's entitlement for the day to a distribution by the PIE to the investor class for the period:

(b) **income** is the amount of taxable income determined under section HM 35(5) and (7) for the period:

(c) **loss** is the amount of tax loss determined under section HM 35(5) and (7) for the period:

(d) **days in period** is the number of days in the period:

(e) **expenses** is the total amount for the day in the period of—

(i) fees for management or administration services paid from or charged to the account of the investor as a member of the investor class when the services are ongoing for the investor class:

(ii) expenditure of the investor as a member of the investor class and transferred under subpart DV (Expenditure specific to certain entities) to the PIE:

(f) **credits for fees** is the amount of the credit for the fee paid or credited by the PIE to the account of the investor as a member of the investor class on the day in the period.

Treatment of attributed loss for PIEs paying provisional tax

(4) Despite subsection (3), an investor in a multi-rate PIE that chooses under section HM 44 to pay provisional tax has no attributed PIE loss.

When derived or incurred

(5) The investor is treated as deriving the attributed PIE income or incurring the attributed PIE loss in the income year of the investor in which the end of the PIE's income year falls.

Defined in this Act: amount, attributed PIE income, attributed PIE loss, attribution period, income, income year, investor, investor class, multi-rate PIE, pay, PIE, provisional tax, tax loss, taxable income

Compare: 2007 No 97 s HL 26

Section HM 36: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 36(1): amended, on 29 August 2011, by section 70(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 36(3)(a): replaced (with effect on 1 April 2010 and applying for the 2010–11 and later income years), on 27 February 2014, by section 89(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HM 36(3)(e)(i): substituted, on 29 August 2011, by section 70(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 36 list of defined terms **pay**: inserted, on 29 August 2011, by section 70(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 36B Calculating PIE schedular income adjustments for natural person investors

When this section applies

(1) This section applies for the purposes of calculating the income tax liability under section BC 7 (Income tax liability of person with schedular income) of a natural person who is resident in New Zealand and is an investor in a multi-rate PIE to determine whether an adjustment must be made to the person's income tax liability for a tax year for an amount of PIE schedular income.

When this section does not apply

(1B) Despite subsection (1), this section does not apply to a natural person who derives PIE schedular income in the form of beneficiary income from a trust that is not a PIE.

Making PIE schedular tax adjustments

(2) An adjustment must be made to the person's income tax liability for the tax year for a tax credit or tax liability of the person that arises under section HM 47 when—

(a) the person's prescribed investor rate for the tax year has not been applied to some or all of the person's PIE schedular income for the tax year; and

(b) the Commissioner has information described in subsection (3) that relates to the person and is available for the tax year.

What must be taken into account in making adjustments

(3) The PIE schedular tax adjustment must take into account—

(a) an amount of a tax credit used by the PIE to satisfy the person's income tax liability for the tax year:

(b) another attributed tax credit that the person has for the tax year, including an unused tax credit under section HM 52 or HM 54, or a tax credit under section LS 4 (Tax credits for certain exiting investors):

(c) an amount that has not been taken into account by the PIE in the calculation for the tax year, whether it is an amount of an adjustment for a tax credit for the person for the tax year or another identified adjustment for the person under sections HM 51 to HM 55 and subpart LS (Tax credits for multi-rate PIEs and investors), as applicable:

(d) whether—

(i) the person has an attributed PIE loss in relation to which the person's prescribed investor rate for the tax year has not been applied:

(ii) an adjustment has been made for the tax year under section HM 48 to the person's investor interest, or a distribution paid to them, or a payment required from them:

(iii) the PIE has a tax credit for the tax year under section LS 1 (Tax credits for multi-rate PIEs) in relation to the amount of loss attributed to the investor:

(iv) a rate under section HM 60(6) applies for the investor for the tax year:

(v) the person holds their investment in the PIE jointly with another person:

(e) any other circumstance of which the Commissioner is aware that affects the application of the person's prescribed investor rate to their attributed PIE income for the tax year.

Adjustment items counted only once

(3B) For the purposes of this section, if a component of an item described in subsection (3) is a component of 1 or more other adjustment items, the value of the component is counted only once.

Positive adjustment

(4) If the adjustment is positive, the amount of the adjustment is included in the investor's schedular income tax liability for the tax year under section BC 7(5).

Negative adjustment

(5) If the adjustment is negative,—

(a) the amount of the adjustment is first applied to reduce the terminal tax payable by the person for the tax year:

(b) any amount of adjustment remaining is refundable under sections RB 4, RM 2 to RM 8, and RM 10 (which relate to refunds and their use), as applicable:

(c) the investor's schedular income tax liability for the tax year under section BC 7(5) is zero.

Meaning of PIE schedular income

(6) For the purposes of this section, and sections CX 56, DB 53, and LA 6, **PIE schedular income**—

(a) means an amount of attributed PIE income that a natural person who is resident in New Zealand and is an investor in a multi-rate PIE derives under section CP 1 (Attributed income of investors in multi-rate PIEs) to which the prescribed rates of tax set out in schedule 6, clause 1 (Prescribed rates: PIE investments and retirement scheme contributions) apply; and

(b) includes an amount of attributed PIE loss of the person under section DB 53 (Attributed PIE losses of certain investors).

Defined in this Act: amount, attributed PIE income, attributed PIE loss, Commissioner, income tax liability, investor, investor interest, multi-rate PIE, natural person, pay, PIE schedular income, prescribed investor rate, schedular income tax liability, tax credit, tax year, terminal tax

Section HM 36B: inserted, on 1 April 2020, by section 148(1) (and see section 148(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 36B(1) heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(1): replaced (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(1B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(1B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(2) heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(2): replaced (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(3) heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(3): replaced (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(3B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(3B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(4): amended (with effect on 1 April 2020), on 30 March 2021, by section 91(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(5): amended (with effect on 1 April 2020), on 30 March 2021, by section 91(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B(6): replaced (with effect on 1 April 2020), on 30 March 2021, by section 91(4) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B list of defined terms **attributed PIE loss**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(5)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B list of defined terms **Commissioner**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(5)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B list of defined terms **investor interest**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(5)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B list of defined terms **pay**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 91(5)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 36B list of defined terms **residual income tax**: repealed (with effect on 1 April 2020), on 30 March 2021, by section 91(5)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

HM 37 When income cannot be attributed

When this section applies

(1) This section applies when a multi-rate PIE has income or property in which no investor has an interest, or income or property in which no person has a conditional entitlement under section HM 38.

Sole investor

(2) The PIE is treated for the purposes of sections HM 35 and HM 36 (which relate to the calculation of amounts attributable to investors) as the sole investor in an investor class having an interest in the income or property.

Exception for foreign investment PIE

(3) In the application, under subsection (2), of section HM 36 to a foreign investment PIE, the item deductions in the formula in section HM 35(2) for the investor class consisting of the PIE is treated as being the amount calculated using the formula—

(other than notified interests ÷ total interests) × unadjusted item.

Definition of items in formula

(4) In the formula,—

(a) **other than notified interests** is the value of investor interests in the PIE held at the end of the attribution period by investors other than notified foreign investors:

(b) **total interests** is the total value of investor interests in the PIE at the end of the attribution period:

(c) **unadjusted item** is the value of the item deductions that would be calculated for the investor class in the absence of subsection (3).

Defined in this Act: income, investor, investor class, multi-rate PIE

Compare: 2007 No 97 s HL 17(1)

Section HM 37: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 37(2): replaced (with effect on 1 April 2012), on 17 July 2013, by section 65(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 37(3) heading: inserted (with effect on 1 April 2012), on 17 July 2013, by section 65(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 37(3): inserted (with effect on 1 April 2012), on 17 July 2013, by section 65(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 37(4) heading: inserted (with effect on 1 April 2012), on 17 July 2013, by section 65(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 37(4): inserted (with effect on 1 April 2012), on 17 July 2013, by section 65(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 37 list of defined terms **investor interest**: repealed, on 1 April 2011, by section 68(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

HM 38 When superannuation fund investor has conditional entitlement

When this section applies

(1) This section applies for the purposes of section HM 37 in relation to an attribution period when a person has a conditional entitlement to an investor interest in a multi-rate PIE that is a superannuation fund that meets the requirements of subsection (4) in income or property of the PIE.

Attribution

(2) The investor interest is treated as held by the person for the attribution period.

When conditional entitlement exists

(3) A person is treated as having a conditional entitlement to an investor interest if—

(a) the investor interest is acquired by or for the person's employer; and

(b) the person and the employer have agreed that the person will have an unconditional entitlement to the interest at the end of a vesting period that—

(i) starts on the date when a contribution to the fund is made; and

(ii) ends on the date when the employee becomes unconditionally entitled to the investor interest to which the contribution relates; and

(bb) the vesting period is within 5 years of its end as described in paragraph (b)(ii); and

(c) the agreement exists before the attribution period; and

(d) the vesting period ends after the attribution period.

Modifications to certain vesting periods

(4) For the purposes of subsection (3)(b),—

(a) for a PIE that exists on 17 May 2006, a vesting period longer than 5 years is allowed but the vesting period must not be longer than the longest vesting period allowed by the PIE at that date for an interest created on that date:

(b) for a PIE that does not exist on 17 May 2006, but the investor interest has been transferred to it by a superannuation scheme in existence on that date without significant change to the interest, a vesting period of any length is allowed.

Defined in this Act: attribution period, employer, income, investor interest, multi-rate PIE, PIE, superannuation fund, superannuation scheme

Compare: 2007 No 97 s HL 17(2)

Section HM 38: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 38(3)(a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HM 38(3)(b): replaced, on 1 April 2012 (applying for the 2012–13 and later income years), by section 71(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 38(3)(bb): inserted, on 1 April 2012 (applying for the 2012–13 and later income years), by section 71(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 39 New investors in existing investor classes

When this section applies

(1) This section applies when a person is a new investor in an existing investor class of a multi-rate PIE but, at the time of investing, the PIE holds insufficient investments for the person to qualify as an investor in the class.

Person treated as investor

(2) The PIE may treat the person as an investor in the class if the PIE acquires sufficient investments as described in section HM 11 as soon after the investor's acquisition of the interests as is practicable.

Defined in this Act: investor, investor class, multi-rate PIE, PIE

Compare: 2007 No 97 s HL 18

Section HM 39: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 40 Deductions for attributed PIE losses for zero-rated and exiting investors equal to amount attributed

The deduction an investor referred to in section DB 53(1) is allowed is equal to the amount attributed for the income year or exit period.

Defined in this Act: amount, exit period, income year

Section HM 40: replaced (with effect on 1 April 2020), on 31 March 2023, by section 81 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Calculating and paying tax liability

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 41 Options for calculation and payment of tax

Available options

(1) The options available to a multi-rate PIE for calculating and paying its income tax liability are—

(a) the payment of tax calculated under the exit calculation option, *see* section HM 42; or

(b) the payment of tax calculated under the quarterly calculation option, *see* section HM 43; or

(c) the payment of provisional tax and terminal tax calculated on an income-year basis, *see* section HM 44.

Default option

(2) The PIE must use the default option under subsection (1)(b) unless it chooses an option under subsection (1)(a) or (c) by notifying the Commissioner.

Income tax liability

(3) The income tax liability of the PIE for the tax year is equal to the total amount calculated under the relevant method for periods in the tax year or, in the case of the provisional tax calculation option under section HM 44, for the PIE's income year corresponding to the tax year.

Foreign investment PIEs

(4) Despite subsection (1)(c), a multi-rate PIE that chooses under section HM 71B to become a foreign investment PIE must not use the provisional tax calculation option in section HM 44 to calculate its income tax liability.

Defined in this Act: amount, Commissioner, income tax liability, income year, multi-rate PIE, notify, pay, PIE, provisional tax, tax year, terminal tax

Compare: 2007 No 97 ss HL 16(3), HL 22–HL 24

Section HM 41: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 41(4) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 72(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 41(4): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 72(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 42 Exit calculation option

When this section applies

(1) This section applies when a multi-rate PIE chooses for a tax year to calculate its income tax liability for exiting investors and remaining investors. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period.

Calculation for exiting investors

(2) For an investor whose interest has reached the exit level during the tax year, the PIE must calculate its income tax liability under section HM 47 for the investor and the relevant exit period. The exit level and exit periods are determined under sections HM 62 and HM 63.

Calculations for investors for non-exit periods

(3) For investors and periods in the income year other than exit periods, the PIE must calculate its income tax liability under section HM 47 for the relevant period.

Payment to Commissioner

(4) The PIE must pay to the Commissioner—

(a) the amount of income tax liability for an exiting investor for the exit period—

(i) within 1 month after the end of the month of withdrawal; or

(ii) if the month of withdrawal is November, by the following 15 January; and

(b) the rest of the PIE's income tax liability for the tax year within 1 month after the end of the tax year for remaining investors in the PIE at the end of the tax year, after allowing for any payment under paragraph (a) or any voluntary payment under section HM 45.

Provisional tax rules

(5) The PIE is not required to pay provisional tax under subpart RC (Provisional tax) for the tax year.

Defined in this Act: amount, attribution period, Commissioner, exit level, exit period, income tax liability, income year, investor, multi-rate PIE, notify, pay, PIE, provisional tax, tax year

Compare: 2007 No 97 s HL 24(1)–(4)

Section HM 42: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 42(1): replaced, on 29 March 2018 (with effect on 1 April 2010), by section 128(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 42 list of defined terms **attribution period**: inserted, on 29 March 2018 (with effect on 1 April 2010), by section 128(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 42 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HM 42B Part-year tax calculations for PIEs under the exit calculation option for the 2010–11 tax year

When this section applies

(1) This section applies to a PIE for the 2010–11 tax year if section HM 42 applies to the PIE for that year and the PIE chooses to apply this section by filing a return under section 57B(5) or (7) of the Tax Administration Act 1994 in accordance with this section.

Part-year tax calculations: description

(2) For calculating their income tax liability for the 2010–11 tax year, the PIE treats references to an income year or a tax year as if they are references to 2 separate tax years and corresponding income years within that tax year, divided by 1 October 2010 (*for example*: an amount of income attributed to a date before 1 October 2010 is included in the first part-year and taxed using the notified investor rate advised before 1 October 2010. A notified investor rate advised on or after 1 October 2010 is applied only to the amount of income attributed to the second part-year).

Part-year tax calculations: effect

(3) The part-year calculations may give rise to income and deductions for the income year and they do create part-year tax return obligations, except that the requirement for returns under section 57B(7)(a) of the Tax Administration Act 1994 and for notice in relation to investors or proxies under section 31C(4) of that Act can be met by sending returns or notices on a full-year or part-year basis. The 2 part-year calculations create 2 income tax liabilities for 2 part-years.

Foreign tax credits: special rule

(4) Despite subsections (2) and (3), tax credits under subpart LJ (Tax credits for foreign income tax) may be used in accordance with section HM 51 in either part-year, if they are attributable to the first part-year.

Defined in this Act: deduction, income, income tax liability, income year, notice, notified investor rate, PIE, tax credit, tax year

Section HM 42B: inserted, on 1 October 2010, by section 69 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 42B list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HM 43 Quarterly calculation option

Quarterly calculation

(1) A multi-rate PIE that does not choose to calculate and pay its income tax liability under the exit calculation or provisional tax calculation options, must calculate its tax liability for each quarter of the tax year using the formula set out in section HM 47. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period.

Quarterly payment

(2) The PIE must pay to the Commissioner the amount of its income tax liability for the quarter within 1 month of the end of the quarter.

Exiting investors: zero-rated

(3) If the investor interest of an investor in the PIE has reached the exit level, they are treated under section HM 61 as zero-rated for the exit period which

includes a grace period of 5 working days after the end of the quarter. This subsection does not apply if the PIE voluntarily chooses to pay an amount under section HM 45.

Exiting investors: remaining value to Commissioner

(4) If the investor interest of an investor at the end of an exit period is more than zero, the PIE must pay an amount equal to the value of the interest to the Commissioner at the same time as the payment referred to in subsection (2).

Provisional tax rules

(5) The PIE is not required to pay provisional tax under subpart RC (Provisional tax) for the tax year.

Defined in this Act: amount, attribution period, Commissioner, exit level, exit period, income tax liability, investor interest, multi-rate PIE, notice, pay, PIE, provisional tax, quarter, tax year, working day

Compare: 2007 No 97 s HL 22

Section HM 43: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 43(1): replaced, on 29 March 2018 (with effect on 1 April 2010), by section 129(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 43(3): amended, on 2 November 2012, by section 102(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 43(3): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 97(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 43(4): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 97(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 43 list of defined terms **attribution period**: inserted, on 29 March 2018 (with effect on 1 April 2010), by section 129(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 43 list of defined terms **zero-rated investor**: repealed, on 2 November 2012, by section 102(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 44 Provisional tax calculation option

When this section applies

(1) This section applies when a multi-rate PIE chooses to calculate its income tax liability on an income year basis and pay provisional tax by notifying the Commissioner before the start of the income year or when choosing to become a PIE. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period.

When this section does not apply

(1B) Despite subsection (1), a multi-rate PIE that chooses under section HM 71B to become a foreign investment PIE must not apply this section to calculate and pay its income tax liability.

Application of subparts RB and RC

(2) The PIE must calculate its tax liability for the income year corresponding to the tax year under section HM 47 and pay provisional tax for the tax year as required by subpart RC (Provisional tax) and terminal tax for the tax year as required by subpart RB (Terminal tax).

Treatment of losses

(3) If the calculation of the liability results in a negative amount, the loss must be carried forward to a later tax year, and section HM 64 does not apply.

Defined in this Act: attribution period, Commissioner, foreign investment PIE, income tax liability, income year, multi-rate PIE, notify, pay, PIE, provisional tax, tax year

Compare: 2007 No 97 s HL 23(1), (2)

Section HM 44: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 44(1): replaced, on 29 March 2018 (with effect on 1 April 2010), by section 130(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 44(1B) heading: inserted, on 29 August 2011, by section 73(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 44(1B): inserted, on 29 August 2011, by section 73(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 44 list of defined terms **attribution period**: inserted, on 29 March 2018 (with effect on 1 April 2010), by section 130(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 44 list of defined terms **Commissioner**: inserted, on 29 March 2018 (with effect on 1 April 2010), by section 130(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 44 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 73(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 44B NRWT calculation option

When this section applies

(1) This section applies when—

(a) a foreign investment PIE—

(i) derives a dividend that is not fully imputed from a company resident in New Zealand; and

(ii) pays an amount that represents some or all of the amount of the dividend to a notified foreign investor in the PIE by the date on which the PIE is required to pay its income tax liability under section HM 42 or HM 43, as applicable; and

(b) the PIE chooses to calculate and pay the tax liability in relation to the amount under subpart RF (Withholding tax on non-resident passive income).

When this section also applies: supplementary dividends

(1B) This section also applies when—

(a) a foreign investment PIE—

(i) derives a dividend with imputation credits attached from a company resident in New Zealand together with a related supplementary dividend; and

(ii) has, as an investor, a notified foreign investor who meets the requirements of section LP 2(1)(a) (Tax credits for supplementary dividends); and

(iii) pays the investor an amount that represents the total amount of the dividend and supplementary dividend that would be attributed to the investor in the absence of subsection (2); and

(iv) pays the amount by the date on which the PIE is required to pay its income tax liability under section HM 42 or HM 43, as applicable; and

(b) the PIE chooses to calculate and pay the tax liability in relation to the amount under subpart RF.

Excluding amount from calculation

(2) In determining the net amount for notified foreign investors under sections HM 35 and HM 36, to the extent to which the amount represents either an unimputed portion of the dividend, or a dividend together with a related supplementary dividend, as applicable, the amount is not included in—

(a) the item **assessable income** in section HM 35(3):

(b) the item **income** in section HM 36(3).

Non-resident passive income

(3) The NRWT rules apply to the amount paid to the extent to which the amount represents either an unimputed portion of the dividend, or a dividend together with a related supplementary dividend, as applicable.

Relationship with section CX 56B

(4) Despite section CX 56B (Distributions to investors in multi-rate PIEs), the amount is not excluded income of the notified foreign investor.

Relationship with section HM 35(8)

(5) When a foreign investment PIE derives a dividend and related supplementary dividend as described in subsection (1B), the allocation rule set out in section HM 35(8) does not apply. The dividend and related supplementary dividend are

treated as having been allocated on the date on which ownership of the shares determines a legal entitlement to the dividend.

Defined in this Act: amount, company, dividend, excluded income, foreign investment PIE, imputation credit, income tax liability, multi-rate PIE, non-resident passive income, notified foreign investor, NRWT rules, pay, resident in New Zealand, supplementary dividend

Section HM 44B: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 74(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 44B(1B) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 103(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 44B(1B): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 103(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 44B(2): amended, on 1 April 2013 (applying for the 2013–14 and later income years), by section 103(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 44B(3): amended, on 1 April 2013 (applying for the 2013–14 and later income years), by section 103(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 44B(5) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 103(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 44B(5): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 103(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 44B list of defined terms **supplementary dividend**: inserted, on 1 April 2013, by section 103(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 45 Voluntary payments

When this section applies

(1) This section applies when a multi-rate PIE pays an amount of tax under section HM 42 or HM 43.

Voluntary payment

(2) The PIE may pay an amount of income tax to the Commissioner that represents an amount of its tax liability for the investor as a member of an investor class for the tax year.

Time of payment

(3) The payment must be made—

(a) within 1 month after, as applicable,—

(i) for calculation and payment of tax under the quarterly calculation option, the end of the quarter; or

(ii) for the calculation and payment of tax under the exit calculation option, the month in which the tax liability for the investor referred to in subsection (2) is calculated; or

(b) if the month is November, by the following 15 January.

Defined in this Act: amount, Commissioner, income tax, investor, investor class, investor interest, multi-rate PIE, pay, PIE, quarter, tax year

Compare: 2007 No 97 s HL 25

Section HM 45: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 45(1): amended, on 29 August 2011, by section 75(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 45(3)(a)(ii): amended, on 29 August 2011, by section 75(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 45 list of defined terms **tax year**: added, on 29 August 2011, by section 75(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 46 Calculation process

To calculate its tax liability, a multi-rate PIE must—

(a) determine the net amount for each investor class of the PIE:

(b) determine the taxable amount for each investor class of the PIE:

(c) calculate its tax liability for each investor in an investor class for each day of an attribution period.

Defined in this Act: amount, attribution period, investor, investor class, multi-rate PIE, PIE

Compare: 2007 No 97 ss HL 19, HL 20

Section HM 46: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 47 Calculation of tax liability or tax credit of multi-rate PIEs

What this section does

(1) This section quantifies the amount of the tax liability or tax credit of a multi-rate PIE for a calculation period.

Calculating amount

(2) The amount of the PIE's tax liability or tax credit is the sum of the amounts calculated using the formula in subsection (3) for—

(a) each investor class in which the investor has an investor interest:

(b) each investor in an investor class:

(c) each attribution period in the calculation period:

(d) each day in an attribution period.

Notified foreign investors

(2B) For the purposes of subsection (2), for a notified foreign investor in a foreign investment PIE, the amount of the PIE's tax liability for each investor is the sum of the amounts calculated using the formula in subsection (3) for the amount attributed to the investor for each particular income source and investment type.

Formula

(3) The formula is—

rate × amount.

Definition of items in formula

(4) In the formula,—

(a) **rate** is—

(i) the tax rate under section HM 58 or HM 60, as applicable, that relates to the investor for each day for the period; or

(ib) the tax rates applying under schedule 6, table 1B (Prescribed rates: PIE investments and retirement scheme contributions) for an amount attributed to a notified foreign investor in relation to each income source and investment type; or

(ii) 28%, if the PIE is treated as the sole investor under section HM 37:

(b) **amount** is the amount calculated under sections HM 36(1) and (2) and HM 37, as applicable, for the investor.

Result of formula: tax liability or tax credit

(5) If the result of the formula in subsection (3) is positive, the amount is the PIE's tax liability for the calculation period. If the result is negative, the amount is a tax credit of the PIE under section LS 1 (Tax credits for multi-rate PIEs), *see* section HM 55. However, a tax credit does not arise under section LS 1 for a multi-rate PIE that chooses to use the provisional tax calculation option.

Negative result and foreign investment PIEs

(6) If the result of the formula in subsection (3) is negative and the multi-rate PIE has chosen under section HM 71B to become a foreign investment PIE, no tax credit arises in relation to an amount attributed to an investor in the PIE who is, at the time of attribution, a notified foreign investor.

Defined in this Act: amount, attribution period, calculation period, foreign investment PIE, investor, investor class, investor interest, multi-rate PIE, notified foreign investor, PIE, tax credit

Compare: 2007 No 97 ss EG 3, HL 21

Section HM 47: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 47(2)(a): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 98(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 47(2B) heading: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 76(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 47(2B): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 76(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 47(4)(a)(i): amended, on 1 October 2010, by section 6(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section HM 47(4)(a)(ib): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 76(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 47(4)(a)(ii): amended, on 1 October 2010, by section 6(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section HM 47(6) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 76(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 47(6): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 76(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 47 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 76(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 47 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 76(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Adjusting investors' interests

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 48 Adjustments to investor interests or to distributions

Adjustment

(1) When a multi-rate PIE pays a tax liability or receives a tax credit under section LS 1 (Tax credits for multi-rate PIEs) in relation to an investor, it must make an adjustment to the investor interest of the investor to reflect the rate applying under section HM 60 or HM 61. The PIE may choose to adjust—

(a) the investor interest of the investor in an investor class; or

(b) the amount of a distribution paid to the investor; or

(c) the amount of a payment required from the investor to satisfy the PIE's tax liability.

Investor's choice

(2) The PIE may offer the choice made under subsection (1) to the investor.

Date of adjustment

(3) An adjustment under subsection (1)(a) must be made—

(a) for the quarterly calculation option, within 2 months of the end of the quarter; or

(b) for the exit calculation option, within 2 months of the end of the tax year; or

(c) for the provisional tax calculation option, within 3 months of the end of the income year.

Extending time limits

(4) On application by a multi-rate PIE, the Commissioner may extend a time limit imposed under subsection (3) if it is reasonable in the circumstances.

Adjustments for errors

(5) When a multi-rate PIE, through an error, does not calculate and pay its income tax liability in relation to its investors for a tax year correctly, the PIE may make an adjustment under subsection (1)(c) within 1 month of the discovery of the error.

Maximum adjustments

(6) For the purposes of subsection (5),—

(a) the adjustment may be made in the tax year in which the error is made (**year 1**) without any limit on the total amount of adjustments for errors:

(b) the adjustment may be made in the tax year following that in which the error is made (**year 2**), but the total of all adjustments for errors made in year 2 relating to an error made in year 1 must be no more than the greater of—

(i) $2000; or

(ii) 5% of the income tax liability of the PIE for year 1.

When adjustments treated as made

(7) An adjustment that meets the requirements of subsections (5) and (6) is treated as made on the due date for the amount referred to in section HM 41(3) and calculated under sections HM 42 to HM 44B.

Notifying Commissioner of adjustments

(8) Following the discovery of an error to which subsection (6)(b) applies, the PIE must notify the Commissioner of the error at the time of making the adjustment, including in their notification—

(a) the information in schedule 6, table 1, rows 1 to 8, 10, 12, 13, 16, 21, and 22 of the Tax Administration Act 1994; and

(b) the adjustment to the item referred to in schedule 6, table 1, row 9 of that Act.

Defined in this Act: amount, apply, income tax liability, income year, investor, investor interest, multi-rate PIE, pay, PIE, provisional tax, quarter, tax year

Compare: 2007 No 97 s HL 7

Section HM 48: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 48 heading: amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 99(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 48(1): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 99(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 48(1)(a): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 99(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 48(5) heading: inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48(5): inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48(6) heading: inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48(6): inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48(7) heading: inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48(7): inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48(8) heading: inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48(8): inserted, on 1 April 2020, by section 131(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HM 48 list of defined terms **income tax liability**: inserted, on 1 April 2020, by section 131(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 48 list of defined terms **prescribed investor rate**: repealed (with effect on 1 April 2010), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Using tax credits

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 49 Tax credits: when sections HM 50 to HM 55 apply

When sections apply

(1) Sections HM 50 to HM 55 apply in relation to the tax credits of a multi-rate PIE or proxy for an investor in a multi-rate PIE that has not chosen to calculate its income tax liability under section HM 44 using the provisional tax calculation option.

Limitation

(2) The entity must not, other than under sections HM 51 to HM 55,—

(a) use the tax credit to reduce the liability of the entity for income tax or to obtain a refund of income tax:

(b) attach the tax credit to a distribution or transfer the tax credit to another person.

Relationship with Part L

(3) Sections HM 51 to HM 55 override Part L (Tax credits and other credits) other than subpart LS (Tax credits for multi-rate PIEs and investors).

Defined in this Act: income tax, income tax liability, investor, multi-rate PIE, provisional tax, tax credit

Compare: 2007 No 97 s HL 29(1), (2)

Section HM 49: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 50 Attributing credits to investors

When this section applies

(1) This section applies when a multi-rate PIE has a tax credit other than a tax credit under subpart LS (Tax credits for multi-rate PIEs and investors).

Attributing amount to investor

(2) The amount of the credit attributable to an investor in an investor class of the PIE for an attribution period is calculated using the formula in subsection (3). The amount attributed to the investor is the total of the amounts calculated for each investment of the PIE and each day in the attribution period.

Calculation of amount

(3) The formula is—

credit × class's percentage × investor's percentage ÷ days in period.

Definition of items in formula

(4) In the formula,—

(a) **credit** is the amount of the credit the PIE has in relation to the investment that gives rise to the credit:

(b) **class's percentage** is the percentage of the proceeds from the investment to which the investor class is entitled, including related tax credits:

(c) **investor's percentage** is the percentage to which the investor is entitled of a distribution by the PIE to the investor class:

(d) **days in period** is the number of days in the attribution period.

Supplementary dividends and foreign investment PIEs

(5) For the purposes of this section and for a payment of a dividend and related supplementary dividend to a foreign investment PIE, the dividend is treated as if it were divided into separate dividends as follows:

(a) a dividend of an amount that represents the part to which the notified foreign investors in the PIE who meet the requirements of section LP 2(1)(c) (Tax credits for supplementary dividends) are entitled; and

(b) a dividend of an amount that represents the remaining part to which all investors other than those referred to in paragraph (a) are entitled.

Imputation credits: first part

(6) The imputation credits for the dividend referred to in subsection (5)(a) are treated as attached to that part as if it were a separate dividend.

Imputation credits: second part

(7) The imputation credits for the dividend referred to in subsection (5)(b) are treated as attached to that part as if it were a separate dividend not payable to a non-resident.

Defined in this Act: amount, attribution period, foreign investment PIE, imputation credit, investor, investor class, multi-rate PIE, notified foreign investor, pay, PIE, supplementary dividend, tax credit

Compare: 2007 No 97 ss HL 29(3)–(5), YA 1 "portfolio class fraction", "portfolio investor interest fraction"

Section HM 50: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 50(1): replaced, on 2 November 2012, by section 104(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50(5) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 104(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50(5): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 104(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50(5)(a): amended (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 27 February 2014, by section 90(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HM 50(6) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 104(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50(6): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 104(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50(7) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 104(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50(7): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 104(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50 list of defined terms **foreign investment PIE**: inserted, on 2 November 2012, by section 104(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50 list of defined terms **notified foreign investor**: inserted, on 2 November 2012, by section 104(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 50 list of defined terms **supplementary dividend**: inserted, on 2 November 2012, by section 104(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 51 Use of foreign tax credits by PIEs

When this section applies

(1) This section applies when a multi-rate PIE has a tax credit under subpart LJ (Tax credits for foreign income tax) that is attributable in a tax year to an investor other than—

(a) a zero-rated investor:

(b) an exiting investor who is treated under section HM 61 as zero-rated:

(c) a notified foreign investor in a foreign investment PIE:

(d) a transitional resident who chooses under section HM 55D(8) to use a prescribed investor rate set out in schedule 6, table 1, row 10 (Prescribed rates: PIE investments and retirement scheme contributions).

Using tax credit to satisfy income tax liability

(2) The multi-rate PIE may use the tax credit under section LS 1 (Tax credits for multi-rate PIEs) to satisfy its income tax liability for the tax year in relation to the investor. The amount of the credit is determined under subsection (3).

Amount

(3) The total amount of the credits able to be used is the lesser of—

(a) the total amount of credits attributed to the investor as a member of any investor class for the calculation period together with any amount attributed to the investor in an earlier calculation period that remains unused:

(b) the amount of the PIE's tax liability in relation to the investor as a member of any investor class for the calculation period or an earlier calculation period, and not met by any credit allocated to the earlier period.

Use under exit calculation option

(4) For a multi-rate PIE that calculates its tax liability for a tax year using the exit calculation option under section HM 42, the amount may be used for calculation periods earlier or later in the tax year, and in relation to different classes for the same investor.

Use under quarterly option

(5) For a multi-rate PIE that calculates its tax liability for a tax year using the quarterly calculation option under section HM 43, the amount may be used only for the relevant calculation period and later periods in the tax year, and in relation to different classes for the same investor.

Defined in this Act: amount, calculation period, foreign investment PIE, income tax liability, investor, investor class, multi-rate PIE, notified foreign investor, PIE, prescribed investor rate, quarter, tax credit, tax year, transitional resident, zero-rated investor

Compare: 2007 No 97 s HL 29(10)–(12)

Section HM 51: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 51(1)(b): amended, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 77(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 51(1)(c): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 77(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 51(1)(c): amended, on 2 November 2012 (applying for the 2013–14 and later income years), by section 105(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 51(1)(d): inserted, on 2 November 2012 (applying for the 2013–14 and later income years), by section 105(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 51 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 77(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 51 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 77(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 51 list of defined terms **prescribed investor rate**: inserted, on 2 November 2012, by section 105(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 51 list of defined terms **transitional resident**: inserted, on 2 November 2012, by section 105(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 52 Use of foreign tax credits by zero-rated and certain exiting investors

When this section applies

(1) This section applies when a multi-rate PIE has a tax credit under subpart LJ (Tax credits for foreign income tax) that is attributable in a tax year to an investor who is—

(a) a zero-rated investor:

(b) an exiting investor who is treated under section HM 61 as zero-rated.

Using tax credit to satisfy income tax liability

(2) The investor may use the tax credit under section LS 3 or LS 4 (which relate to the use of tax credits) to satisfy their income tax liability for the tax year. The amount of the credit is determined under subsection (3) or (4).

PIE schedular tax adjustments for natural person investors

(2B) Subsection (2) does not apply to an investor who is a natural person resident in New Zealand. In this case,—

(a) the amount of the investor's tax credit calculated under this section may only be used in making a PIE schedular tax adjustment under section HM 36B; and

(b) the total amount of the tax credit that may be used is limited to the extent of the investor's tax liability on their PIE schedular income.

Amount

(3) The total amount of the credits able to be used is the lesser of—

(a) the total amount of the attributed foreign tax credits for the tax year or exit period, as applicable:

(b) the amount calculated by multiplying the attributed PIE income of the investor from the PIE for the tax year or exit period, as applicable by,—

(i) for an exiting investor described in subsection (1)(b), the notified investor rate in relation to the investor that the PIE would have used had the period not been an exit period; or

(ii) for a zero-rated investor, their basic tax rate set out in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the tax year.

Amount for PIEs or proxies

(4) Despite subsection (3), the amount of the credit is the attributed amount if the investor is—

(a) a multi-rate PIE; or

(b) a proxy for an investor in a multi-rate PIE.

Defined in this Act: amount, attributed PIE income, attribution period, exit period, income tax liability, investor, multi-rate PIE, notified investor rate, notify, PIE, PIE schedular income, tax credit, tax year, zero-rated investor

Compare: 2007 No 97 s HL 29(7), (8)

Section HM 52: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 52(2B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 92(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 52(2B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 92(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 52(3)(b): amended, on 1 October 2010, by section 7(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section HM 52(3)(b)(i): amended, on 1 October 2010, by section 7(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section HM 52 list of defined terms **foreign tax**: repealed, on 30 March 2017, by section 142 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HM 52 list of defined terms **PIE schedular income**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 92(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

HM 53 Use of tax credits other than foreign tax credits by PIEs

When this section applies

(1) This section applies when a multi-rate PIE has—

(a) a tax credit under Part L (Tax credits and other credits) other than a tax credit under subpart LJ (Tax credits for foreign income tax); and

(b) the credit is attributable in a tax year to an investor in an investor class other than—

(i) a zero-rated investor:

(ii) an exiting investor who is treated under section HM 61 as zero-rated:

(iii) a notified foreign investor in a foreign investment PIE, in relation to a credit that is an imputation credit:

(iv) a transitional resident who chooses under section HM 55D(8) to use a prescribed investor rate set out in schedule 6, table 1, row 10 (Prescribed rates: PIE investments and retirement scheme contributions).

Using tax credit to satisfy income tax liability

(2) The PIE may use the tax credit under section LS 1 (Tax credits for multi-rate PIEs) to satisfy its income tax liability for the tax year in relation to the investor as a member of the class or of another investor class. A tax credit under this section is used only after the use of any credit under section HM 51.

Amount

(3) The amount of the tax credit is the amount attributed.

Defined in this Act: amount, foreign investment PIE, income tax liability, investor, investor class, imputation credit, multi-rate PIE, notified foreign investor, prescribed investor rate, tax credit, tax year, transitional resident, zero-rated investor

Compare: 2007 No 97 s HL 29(13)

Section HM 53: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 53(1)(b)(ii): amended, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 78(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 53(1)(b)(iii): inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 78(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 53(1)(b)(iii): amended, on 2 November 2012 (applying for the 2013–14 and later income years), by section 106(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 53(1)(b)(iv): inserted, on 2 November 2012 (applying for the 2013–14 and later income years), by section 106(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 53(2): amended (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 70(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 53 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 78(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 53 list of defined terms **imputation credit**: inserted, on 29 August 2011, by section 78(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 53 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 78(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 53 list of defined terms **prescribed investor rate**: inserted, on 2 November 2012, by section 106(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 53 list of defined terms **transitional resident**: inserted, on 2 November 2012, by section 106(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 54 Use of tax credits other than foreign tax credits by investors

When this section applies

(1) This section applies when a multi-rate PIE has a tax credit under Part L (Tax credits and other credits) other than a tax credit under subpart LJ (Tax credits for foreign income tax), that is attributable in a tax year to an investor who is—

(a) a zero-rated investor:

(b) an exiting investor who is treated under section HM 61 as zero-rated.

Using tax credit to satisfy income tax liability

(2) The investor may use the tax credit under section LS 3 or LS 4 (which relate to the use of tax credits) to satisfy their income tax liability for the tax year.

Amount

(3) The amount of the tax credit is the amount attributed.

Defined in this Act: amount, income tax liability, investor, multi-rate PIE, tax credit, tax year, zero-rated investor

Compare: 2007 No 97 s HL 29(7)(b)

Section HM 54: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 55 Tax credits for losses

A multi-rate PIE that has a negative amount arising under section HM 47(5) and has not chosen to calculate its tax liability using the provisional tax calcu-

lation option under section HM 44 has a tax credit for a tax year under section LS 1 (Tax credits for multi-rate PIEs).

Defined in this Act: amount, multi-rate PIE, provisional tax, tax credit, tax year

Compare: 2007 No 97 s HL 28

Section HM 55: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Special rules for foreign investment PIEs

Heading: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 79(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 55C Modified source rules

Business in New Zealand

(1) Despite section YD 4(2) (Classes of income treated as having New Zealand source), income attributed to a notified foreign investor by a foreign investment PIE is not treated as having a source in New Zealand merely because the business of the PIE is carried on in New Zealand.

Contracts made or performed in New Zealand

(2) Despite section YD 4(3), income attributed to a notified foreign investor by a foreign investment PIE is not treated as having a source in New Zealand merely because the income is derived from a contract made or performed in New Zealand but only to the extent to which the income relates to the PIE's investments outside New Zealand.

Defined in this Act: business, foreign investment PIE, income, New Zealand, notified foreign investor

Section HM 55C: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 79(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 55D Requirements for investors in foreign investment PIEs

What this section does

(1) This section applies to determine the treatment of a non-resident person who is an investor in a multi-rate PIE that chooses under section HM 71B to become a foreign investment PIE. This section overrides section HM 32(1).

Notification

(2) If the person meets the requirements of subsections (3) and (4), they may notify the PIE that they wish to be treated as a notified foreign investor.

Status requirements

(3) The person must not be—

(a) resident in New Zealand; or

(b) a CFC; or

(c) a FIF for which the item **income interest** in section EX 50(4) (Attributable FIF income method), for a person who is a New Zealand resident and the FIF, is 10% or more; or

(d) a non-resident trustee of a trust that is not a foreign trust.

Information requirements

(4) The person must provide the PIE with the information set out in section 28D(1) of the Tax Administration Act 1994.

Non-residents' rates

(5) If the person does not meet the requirements of subsections (3) and (4), the PIE must treat them as a non-resident person to whom schedule 6, table 1, row 2 (Prescribed rates: PIE investments and retirement scheme contributions) applies.

PIE relying on notification

(6) Despite subsection (5), the PIE may rely on the notification given by a person and treat them as a notified foreign investor in the following circumstances:

(a) the person notifies the PIE that they wish to be treated as a notified foreign investor, but they have misrepresented their eligibility for notified foreign investor status:

(b) the person is a notified foreign investor but becomes resident in New Zealand and does not advise the PIE of the change in status:

(c) the person has notified the PIE that they are a notified foreign investor but do not in fact meet the requirements for that status.

When status may be disregarded

(7) The Commissioner may advise a PIE to disregard notification by an investor under subsection (2) if the Commissioner considers on reasonable grounds that the person does not meet or no longer meets the requirements of subsections (3) and (4). As soon as reasonably practicable after receiving the advice, the PIE must treat the investor as a non-resident person described in subsection (5).

Cancelling status

(8) A notified foreign investor who wishes to have their notified foreign investor status cancelled, must notify the PIE. The status may be cancelled at any time.

Cancelling status of trustee after election under section HC 33

(8B) If a trustee of a trust who meets the requirements of subsections (3) and (4) notifies the PIE that the trustee wishes to be treated as a notified foreign investor and later becomes ineligible to be a notified foreign investor because of an election under section HC 33 (Choosing to satisfy income tax liability of trustee) for the trust, the PIE must continue to calculate the tax liability or tax credit of the PIE for the income year in which the election is made and earlier income years as if the trustee continued to be a notified foreign investor until the end of the income year.

Transitional residents

(9) Despite subsection (3)(a), a transitional resident who is an investor in a foreign investment zero-rate PIE may choose the prescribed investor rate set out in schedule 6, table 1, row 10.

Defined in this Act: CFC, Commissioner, excluded income, FIF, foreign investment PIE, foreign trust, income interest, multi-rate PIE, non-resident, notified foreign investor, notify, resident in New Zealand, transitional resident, trustee

Section HM 55D: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 79(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 55D(8B) heading: inserted, on 23 March 2020, by section 149 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 55D(8B): inserted, on 23 March 2020, by section 149 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HM 55E Changes in status of investors in foreign investment PIEs

When this section applies

(1) This section applies when—

(a) a person who is a notified foreign investor in a foreign investment PIE—

(i) becomes resident in New Zealand in a tax year; or

(ii) cancels their notified foreign investor status in a tax year under section HM 55D(8):

(b) a person who is an investor in a foreign investment PIE and who is resident in New Zealand becomes non-resident in a tax year and chooses under section HM 55D(2) to have notified foreign investor status.

Time for changing treatment

(2) The PIE must change the treatment of the person as soon as reasonably practicable. But, at the latest, the change must be made from the start of the following tax year.

Defined in this Act: foreign investment PIE, non-resident, notified foreign investor, resident in New Zealand, tax year

Section HM 55E: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 79(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 55F Treatment of income attributed to notified foreign investors

What this section does

(1) This section applies for a foreign investment PIE for the purposes of the calculations that must be made under sections HM 36 and HM 47 in relation to the income attributed to a notified foreign investor in the PIE or the income tax liability of the PIE.

Foreign investment zero-rate PIEs

(2) A foreign investment zero-rate PIE must apply a prescribed investor rate of 0% under schedule 6, table 1, row 9 (Prescribed rates: PIE investments and retirement scheme contributions) to all amounts attributed to the investor.

Foreign investment variable-rate PIEs

(3) A foreign investment variable-rate PIE must, for all amounts attributed to the investor,—

(a) identify the income source of each amount; and

(b) identify the investment type of each amount that is not a foreign-sourced amount; and

(c) apply the relevant prescribed investor rate set out in schedule 6, table 1B to the amount.

Defined in this Act: amount, foreign investment PIE, foreign investment variable rate PIE, foreign investment zero-rate PIE, income, income tax liability, notified foreign investor, prescribed investor rate

Section HM 55F: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 79(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 55FB Notified foreign investors and tax credits for supplementary dividends

When this section applies

(1) This section applies when—

(a) a foreign investment PIE has an investment consisting of shares in a company resident in New Zealand; and

(b) a notified foreign investor in the PIE is a non-resident who meets the requirements of section LP 2(1)(c) (Tax credits for supplementary dividends); and

(c) the company has declared a dividend to be paid on a later date.

Notification by PIE

(2) The PIE must notify the company of the investors referred to in subsection (1)(b) who have an investor interest in the PIE on the date on which ownership of the shares determines a legal entitlement to the dividend. The PIE must provide the information before the date of payment of the dividend.

Sufficient information

(3) The information provided by the PIE about the investor must be sufficient to enable the calculation and payment of a supplementary dividend to the PIE in relation to the investor.

Calculation and payment of supplementary dividend

(4) The company must use the information provided by the PIE in calculating and paying the supplementary dividend.

Defined in this Act: company, dividend, foreign investment PIE, investor interest, non-resident, notified foreign investor, pay, resident in New Zealand, share, supplementary dividend

Section HM 55FB: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 107(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 55FB(1)(b): amended (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 27 February 2014, by section 91(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

HM 55G Allowable amounts and thresholds for income with New Zealand source

For the purposes of sections HM 19B and HM 55H, and schedule 6 (Prescribed rates: PIE investments and retirement scheme contributions) and for a foreign investment zero-rate PIE, the allowable amounts of income that have a source in New Zealand and the thresholds applying to the amounts are—

(a) interest income from financial arrangements with no term or a term of 90 days or less, for which the total value of the financial arrangements must not be more than 5% of the total value of the PIE's investments, determined without reference to an amount described in paragraph (c):

(b) a dividend paid by a company resident in New Zealand, if the total value of all the shares held by the PIE in companies resident in New Zealand is not more than 1% of the total value of the PIE's investments:

(c) income from a derivative instrument or other non-interest bearing financial arrangement that is related to the PIE's foreign investments:

(d) attributed PIE income from a foreign investment zero-rate PIE or a PIE that meets the requirements of section HM 19B(1).

Defined in this Act: amount, attributed PIE income, company, dividend, financial arrangement, foreign investment zero-rate PIE, foreign-sourced amount, income, interest, multi-rate PIE, New Zealand, resident in New Zealand

Section HM 55G: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 79(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 55H Treatment when certain requirements for foreign investment PIEs not met

Income sources

(1) A foreign investment zero-rate PIE that derives an amount of income other than a foreign-sourced amount or an amount allowable under section HM 55G is treated from the date on which the income is derived as a foreign investment variable-rate PIE.

When thresholds exceeded: PIE applying zero rates

(2) Subsection (3) applies for an income year and a foreign investment zero-rate PIE when—

(a) on the last day of a quarter (the **first quarter**), a threshold set out in section HM 55G(a) and (b) for allowable amounts of income is exceeded; and

(b) the failure is not remedied by the last day of the next quarter (the **second quarter**).

Variable rates

(3) The PIE is treated from the first day of the third quarter as a foreign investment variable-rate PIE, and must apply to each amount of income the variable investor rates under schedule 6, table 1B for all income sources and investment types.

When requirements not met: PIE applying variable rates

(4) Subsection (5) applies for an income year and a foreign investment variable-rate PIE when—

(a) on the last day of the first quarter, the PIE does not meet the requirements of—

(i) section HM 13(6):

(ii) section HM 19C:

(iii) section HM 55F(3):

(b) the failure is not remedied by the last day of the second quarter.

Multi-rate PIE

(5) The PIE is treated from the first day of the third quarter as a multi-rate PIE that is not a foreign investment PIE.

Transitional rule

(6) For the purposes of subsections (1) and (3), if a breach occurs and is not remedied before 1 April 2012, the PIE is treated as a multi-rate PIE that is not a foreign investment PIE.

Defined in this Act: amount, foreign investment PIE, foreign investment variable rate PIE, foreign investment zero-rate PIE, income, income year, multi-rate PIE, quarter

Section HM 55H: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 79(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Prescribed and notified rates for investors in multi-rate PIEs

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 56 Prescribed investor rates: schedular rates

Rates set out in schedule

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

When amount not included in taxable income

[Repealed]

(2) *[Repealed]*

Increased assessment of trustee arising from election

(3) In the determination of a trustee's prescribed investor rate under subsection (1), the amount of the trustee's assessed taxable income for an income year is treated as not including the amount of an increase in the assessed taxable income that results from an election under section HC 33 (Choosing to satisfy income tax liability of trustee), if the election is made after the beginning of the income year and has an effective date that is or precedes the beginning of the income year.

Defined in this Act: amount, investor, multi-rate PIE, notified investor rate, prescribed investor rate, taxable income

Section HM 56: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 49(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 56(1) heading: inserted (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 80(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 56(1): amended, on 29 August 2011, by section 80(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 56(2) heading: repealed, on 1 April 2022, pursuant to section 93 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 56(2): repealed, on 1 April 2022, by section 93 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section HM 56(3) heading: inserted, on 1 April 2020, by section 150 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 56(3): inserted, on 1 April 2020, by section 150 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 56 list of defined terms **amount**: inserted (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 80(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 56 list of defined terms **notified investor rate**: inserted (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 80(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 56 list of defined terms **taxable income**: added (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 80(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 57 Prescribed investor rates for certain investors: 0%

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

(a) a company:

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

(c) a proxy acting under section HM 33:

(d) *[Repealed]*

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

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

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

Section HM 57: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 49(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 57(d): repealed, on 2 November 2012, by section 108 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

HM 57B Prescribed investor rates for new residents

When this section applies

(1) This section applies for the purposes of determining a person's prescribed investor rate under schedule 6, table 1 (Prescribed rates: investments and retirement scheme contributions) when the person becomes a New Zealand resident.

Determining rate

(2) Despite section BD 1(5)(c) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income), the person must include the total amount of their non-residents' foreign-sourced income in their assessable income.

Choosing not to apply this section

(3) The person may choose not to apply this section for either the income year in which they become a New Zealand resident or the following income year (the **resident years**) or for both resident years, if they reasonably expect that their taxable income in the relevant resident year will be significantly lower than their total income from all sources for the income year before the first resident year.

Relationship with section CW 27

(4) Section CW 27 (Certain income derived by transitional resident) is ignored for the purposes of this section.

Defined in this Act: amount, assessable income, income, income year, New Zealand resident, non-residents' foreign-sourced income, prescribed investor rate, taxable income

Section HM 57B: inserted, on 1 April 2012 (applying for the 2012–13 and later income years), by section 81(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 58 Transition of rate for certain investors

When this section applies

(1) This section applies to a multi-rate PIE in relation to a person who is an investor in the PIE, and the person has, on 30 September 2010, a notified investor rate of 12.5%, 19.5%, 21%, or 30%.

Rate applying on and after 1 October 2010

(2) On and after 1 October 2010, the person's notified investor rate is—

(a) 10.5%, if it was 12.5% on 30 September 2010:

(b) 17.5%, if it was 19.5% or 21% on 30 September 2010:

(c) 28%, if it was 30% on 30 September 2010.

Exception: new notified rate

(3) Subsection (2) does not apply if the person advises the PIE of a different notified investor rate.

Defined in this Act: multi-rate PIE, notified investor rate, notify

Section HM 58: substituted, on 1 October 2010, by section 8 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section HM 58(1): amended, on 1 October 2010, by section 71(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 58(2)(b): amended, on 1 October 2010, by section 71(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

HM 59 Prescribed investor rates for certain investors: 0%

[Repealed]

Section HM 59: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 49(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

HM 60 Notified investor rates

Notifying PIE

(1) Despite sections HM 56 to HM 58, an investor other than a notified foreign investor who has provided their tax file number to a multi-rate PIE may notify the PIE of the investor rate to be applied for a period (the **notified investor rate**).

Time of notification

(2) The investor must give notice before the end of the relevant period.

Application of rate

(3) For an investor for an income year, a multi-rate PIE must apply the most recent notified investor rate to every day in the calculation period beginning with—

(a) the later of—

(i) the day after the day on which the multi-rate PIE receives the notice:

(ii) the first day of the calculation period for which the notified investor rate is supplied; or

(b) the first day of the calculation period in which the multi-rate PIE receives the notice.

Exception

(3B) Subsection (3) does not apply if the PIE has made a voluntary payment of tax under section HM 45 that is intended to satisfy its income tax liability for a period in relation to the investor unless the rate last notified applies to the voluntary payment.

Exception for 2010–11 income year

(3C) For the 2010–11 income year, a multi-rate PIE,—

(a) for a day before 1 October 2010, may apply a notified investor rate corresponding to the most recent notified investor rate, ignoring the Taxation (Budget Measures) Act 2010:

(b) for a day on or after 1 October 2010, must apply the most recent notified investor rate on or after 1 October 2010.

Consistent application of rates

(3D) In applying notified investor rates, a multi-rate PIE must use the same approach under subsections (3) and (3C) for all investors for an income year.

When chosen rate lower than rate in sections HM 56 to HM 58

(4) If an investor advises a notified investor rate that is lower than their prescribed investor rate that would apply under sections HM 56 to HM 58, income attributed to them by the PIE is not excluded income of the investor under section CX 56 (Attributed income of certain investors in multi-rate PIEs).

When rate disregarded

[Repealed]

(5) *[Repealed]*

When no rate notified

(6) If an investor does not advise a multi-rate PIE of their notified investor rate, and the Commissioner has not provided a rate for the investor under section HM 60B, the rate applying for a period is 28%.

Defined in this Act: Commissioner, excluded income, income, investor, multi-rate PIE, natural person, notice, notified foreign investor, notified investor rate, notify, pay, PIE, prescribed investor rate, tax file number

Compare: 2007 No 97 s YA 1 "portfolio investor rate", "prescribed investor rate"

Section HM 60: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 60 heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 50(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 60(1): amended, on 29 March 2024, by section 101(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HM 60(1): amended, on 29 August 2011, by section 82(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 60(1): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 50(2)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 60(1): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 50(2)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 60(3) heading: substituted, on 1 October 2010, by section 9(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section HM 60(3): replaced (with effect on 1 October 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 66(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 60(3B) heading: inserted, on 1 October 2010, by section 72(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 60(3B): inserted, on 1 October 2010, by section 72(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 60(3B): amended (with effect on 1 October 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 66(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 60(3C) heading: inserted (with effect on 1 October 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 66(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 60(3C): inserted (with effect on 1 October 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 66(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 60(3D) heading: inserted (with effect on 1 October 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 66(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 60(3D): inserted (with effect on 1 October 2010 and applying for the 2010–11 and later income years), on 17 July 2013, by section 66(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section HM 60(4) heading: amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 50(3)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 60(4): amended, on 29 March 2024, by section 101(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HM 60(4): amended, on 1 April 2020, by section 151(1) (and see section 151(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 60(4): amended (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 72(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 60(4): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 50(3)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 60(4): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 50(3)(c) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 60(5) heading: repealed, on 1 April 2020, pursuant to section 151(2) (and see section 151(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 60(5): repealed, on 1 April 2020, by section 151(2) (and see section 151(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 60(6): amended, on 1 April 2020, by section 151(3) (and see section 151(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 60(6): amended, on 1 October 2010, by section 9(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section HM 60(6): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 50(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 60 list of defined terms **natural person**: inserted, on 1 April 2020, by section 151(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section HM 60 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HM 60 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 82(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 60B Investor rates provided by Commissioner

Rates provided by Commissioner

(1) Despite section HM 60, the Commissioner may, in relation to an investor in a multi-rate PIE, provide a tax rate for the PIE to apply to the investor's attributed PIE income for a calculation period if—

(a) the Commissioner—

(i) considers that the investor's notified investor rate is inconsistent with the investor's prescribed investor rate; and

(ii) holds information about the investor that is sufficient to enable the Commissioner to determine the appropriate rate for the investor:

(b) the investor does not have a notified investor rate.

Application of rate

(2) For the purposes of section HM 60(3), as soon as reasonably practicable after having been notified of the rate provided by the Commissioner, the PIE must apply the rate provided by the Commissioner as if it were the most recent notified investor rate.

Subsequent notification of rate by investor

(3) Despite subsection (2), if the Commissioner provides a tax rate for an investor to the PIE under subsection (1), and the investor subsequently notifies the PIE under section HM 60(1) of a different investor rate, the PIE must apply the rate notified by the investor.

Defined in this Act: attributed PIE income, Commissioner, investor, multi-rate PIE, notified investor rate, prescribed investor rate

Section HM 60B: inserted, on 1 April 2020, by section 152 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

HM 61 Certain exiting investors zero-rated

When tax rate zero

(1) Despite section HM 60, the tax rate applying to an investor for a quarter is 0% if—

(a) the investor interest of the investor in a multi-rate PIE reaches the exit level or the investor has an exit period in a quarter in which they are attributed income from the PIE; and

(b) the PIE calculates and pays tax using the quarterly calculation option under section HM 43; and

(c) the PIE does not choose to make voluntary payments under section HM 45.

Notified foreign investors

(2) This section does not apply if the exiting investor is a notified foreign investor in a foreign investment PIE.

Defined in this Act: foreign investment PIE, income, investor, multi-rate PIE, notified foreign investor, pay, PIE, quarter

Compare: 2007 No 97 s YA 1 “portfolio investor rate”, “prescribed investor rate”

Section HM 61: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 61: amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 51(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 61(1) heading: inserted, on 29 August 2011, by section 83(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 61(1)(a): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 100(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 61(2) heading: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 83(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 61(2): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 83(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 61 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 83(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 61 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 83(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 61 list of defined terms **quarter**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Exit levels and periods

HM 62 Exit levels for investors

When tax liability and investor interests equal

(1) An investor in a multi-rate PIE is treated as reaching the exit level when the PIE's tax liability for the investor is equal to, or more than, the value of the investor interest of the investor in the PIE at the end of the exit period (the **exit level**).

Consequences of not providing tax file number

(2) An investor in a multi-rate PIE is treated as reaching the exit level when they fail to provide a tax file number to the PIE by the date set out in section 28B of the Tax Administration Act 1994.

Treatment of investors when tax file numbers not provided

(3) The account of an investor to whom subsection (2) applies is treated as closed on the date referred to in that subsection. The PIE must pay the amount that is the balance of the investor's investment to the investor, and calculate and pay tax for the exiting investor for the exit period using the exit calculation option under section HM 42.

Defined in this Act: amount, exit level, investor, investor interest, multi-rate PIE, PIE, tax file number

Section HM 62: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 62(1) heading: inserted, on 1 April 2018, by section 132(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 62(1): amended (with effect on 1 April 2010) on 21 December 2010 (applying for the 2010–11 and later income years), by section 101(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HM 62(2) heading: inserted, on 1 April 2018, by section 132(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 62(2): inserted, on 1 April 2018, by section 132(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 62(3) heading: inserted, on 1 April 2018, by section 132(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 62(3): inserted, on 1 April 2018, by section 132(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 62 list of defined terms **amount**: inserted, on 1 April 2018, by section 132(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 62 list of defined terms **tax file number**: inserted, on 1 April 2018, by section 132(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HM 63 Exit periods

When this section applies

(1) This section applies when an investor in a multi-rate PIE reaches the exit level during a tax year.

Exit period: exit calculation

(2) For a PIE that calculates its tax liability using the exit calculation option under section HM 42, the investor's exit period—

(a) begins with the day that is the later of the start of the tax year and the day on which the investor last became an investor; and

(b) ends on the day in the tax year when the exit level is reached.

Exit period: quarterly calculation

(3) For a PIE that calculates its tax liability using the quarterly calculation option under section HM 43, the investor's exit period is the quarter in which the exit level is reached plus a grace period of 5 working days after the end of the quarter.

Voluntary payments of tax

(4) Subsection (3) does not apply if the PIE voluntarily pays tax under section HM 45.

Defined in this Act: exit level, investor, multi-rate PIE, pay, PIE, quarter, tax year, working day

Compare: 2007 No 97 s YA 1 "portfolio investor exit period"

Section HM 63: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Treatment of losses by PIEs

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Losses of certain multi-rate PIEs

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 64 Use of investor classes' losses

When this section applies

(1) This section applies when an investor class of a PIE that calculates and pays tax using the exit calculation or quarterly calculation options under section HM 42 and HM 43 has a tax loss under section HM 35(7) for a calculation period. But this section does not apply to a land loss as defined in section HM 65(3).

Amount not carried forward

(2) The amount is not included in a loss balance carried forward under Part I (Losses) to a later calculation period.

Tax credits

(3) To the extent to which the amount relates to an investor other than a zero-rated investor or an investor treated under section HM 61 as zero-rated, the PIE has a tax credit under section LS 1 (Tax credits for multi-rate PIEs). The amount of the credit is calculated under section HM 47(5).

Foreign investment PIEs

(4) For a notified foreign investor in a foreign investment PIE, the amount is disregarded.

Defined in this Act: amount, calculation period, foreign investment PIE, investor class, land loss, loss balance, notified foreign investor, pay, PIE, tax credit, zero-rated investor

Compare: 2007 No 97 s HL 32(1)

Section HM 64: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 64(3): amended, on 2 November 2012, by section 109(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 64(4) heading: added, on 29 August 2011, by section 84(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 64(4): replaced, on 2 November 2012, by section 109(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 64 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 84(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 64 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 84(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 65 Use of land losses of investor classes

When this section applies

(1) This section applies when an investor class of a multi-rate PIE that calculates and pays tax using the exit calculation option or the quarterly calculation option under section HM 42 or HM 43 has a land loss for a calculation period.

Amount carried forward

(2) The amount of land loss may be included in a loss balance carried forward under Part I (Losses) to a later calculation period and used under section HM 35(5) to reduce an amount of taxable income from the class.

Meaning of land loss

(3) For the purposes of this section, a **land loss** means a tax loss under section HM 35(7) of an investor class of a PIE for a calculation period if, at the end of the period, the class has, through the investor interests of the members of the class, an entitlement to the distribution of the proceeds of the PIE's investments that—

(a) are an investment of the type listed in subsection (4); and

(b) have a value that is more than 50% of the market value of all the PIE's investments in which the class has the entitlement.

Investment types

(4) For the purposes of subsection (3)(a), the investment must be—

(a) an investment in land:

(b) an investment in a land investment company that is resident in New Zealand:

(c) an investment in a non-resident land investment company in which the investor class has a voting interest of more than 20%.

Foreign investment PIEs

(5) For a notified foreign investor in a foreign investment PIE, the amount of land loss is disregarded.

Defined in this Act: amount, calculation period, foreign investment PIE, investor class, investor interest, land, land investment company, land loss, loss balance, market value, multi-rate PIE, non-resident, notified foreign investor, pay, PIE, quarter, resident in New Zealand, share, tax loss, taxable income, voting interest

Compare: 2007 No 97 s HL 32(2), (3)

Section HM 65: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 65(3)(a): substituted (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 73(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 65(4) heading: added (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 73(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 65(4): added (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 73(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 65(5) heading: added, on 29 August 2011, by section 85(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 65(5): replaced, on 2 November 2012, by section 110 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HM 65 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 85(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 65 list of defined terms **non-resident**: inserted (with effect on 1 April 2010), on 7 September 2010, by section 73(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 65 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 85(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 65 list of defined terms **resident in New Zealand**: inserted (with effect on 1 April 2010), on 7 September 2010, by section 73(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 65 list of defined terms **voting interest**: added (with effect on 1 April 2010), on 7 September 2010, by section 73(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Formation losses

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 66 Formation losses carried forward to tax year

What this section applies to

(1) This section applies to an entity that becomes a PIE, other than a multi-rate PIE that calculates and pays tax using the exit calculation or quarterly calculation option under section HM 42 or HM 43, when the entity has a formation loss.

Amount carried forward

(2) The amount of formation loss may be included in a loss balance carried forward under Part I (Losses) to a tax year in which the entity is a PIE.

Defined in this Act: amount, formation loss, loss balance, multi-rate PIE, pay, PIE, quarter, tax, tax year

Compare: 2007 No 97 s HL 30(1), (2)

Section HM 66: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 67 Formation losses carried forward to first quarter

When this section applies

(1) This section applies when an entity either becomes a multi-rate PIE or is a multi-rate PIE that has calculated and paid tax under the provisional tax calculation option under section HM 44 that—

(a) calculates and pays tax using the exit calculation or quarterly calculation option under section HM 42 or HM 43; and

(b) has a formation loss.

Amount carried forward

(2) The amount of formation loss may be carried forward under Part I (Losses) to the quarter in which the entity either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option.

Defined in this Act: amount, formation loss, multi-rate PIE, pay, PIE, provisional tax, quarter

Compare: 2007 No 97 s HL 30(1)

Section HM 67: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 67(1): amended, on 29 March 2018, by section 133(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 67(2): amended, on 29 March 2018, by section 133(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 67 list of defined terms **provisional tax**: inserted, on 29 March 2018, by section 133(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HM 68 When formation losses carried forward are less than 5% of formation investment value

If the total amount of formation loss carried forward under section HM 67 is less than 5% of the total market value of the PIE's investments at the time it either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option, it may allocate to an attribution period the amount not already allocated, when calculating under section HM 35(5) the taxable amount of an investor class for the attribution period.

Defined in this Act: amount, attribution period, formation loss, investor class, market value, PIE, provisional tax

Compare: 2007 No 97 s HL 30(3)

Section HM 68: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 68: amended, on 29 March 2018, by section 134(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 68 list of defined terms **provisional tax**: inserted, on 29 March 2018, by section 134(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 68 list of defined terms **taxable amount**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

HM 69 When formation losses carried forward are 5% or more of formation investment value: 3-year spread

What this section applies to

(1) This section applies to spread the formation loss over the period of 3 years from the date the entity either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option when the amount of formation loss carried forward under section HM 67 is 5% or more of the total market value of the PIE's investments at the time it becomes a PIE.

Amount

(2) The maximum amount of formation loss that the PIE may allocate to an attribution period, when calculating under section HM 35(5) the taxable amount of an investor class for the attribution period, is the amount calculated using the formula—

$$\text{initial loss} \times \text{days} \div 1095.$$

Definition of items in formula

(3) In the formula,—

(a) **initial loss** is the amount of formation loss:

(b) **days** is the number of days in the attribution period.

Unused formation losses

(4) For the purposes of the calculation of the amount in subsection (2), the formation loss includes any unused formation loss that was allocated to an earlier attribution period.

Treatment after 3-year period

(5) After the end of the period of 3 years referred to in subsection (1), any residual formation loss may be allocated to an attribution period when a calculation is made under section HM 35(5) of the taxable amount for an investor class.

Defined in this Act: amount, attribution period, formation loss, investor class, market value, PIE, provisional tax, tax year

Compare: 2007 No 97 s HL 30(4), (5)

Section HM 69: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 69(1): amended, on 29 March 2018, by section 135(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 69(5): substituted (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 74(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section HM 69 list of defined terms **provisional tax**: inserted, on 29 March 2018, by section 135(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HM 69 list of defined terms **taxable amount**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

HM 70 Maximum amount of formation losses allocated by multi-rate PIEs to investor classes

Maximum amount for allocation

(1) Despite sections HM 68 and HM 69, the maximum amount of formation loss that may be allocated, when calculating under section HM 35(5) the taxable amount of an investor class for an attribution period, is calculated using the formula—

class net income − (credits ÷ rate).

Definition of items in formula

(2) In the formula,—

(a) **class net income** is the amount of the net income of the investor class for the period under section HM 35(4):

(b) **credits** is the total amount attributed to the investor class for the period of—

(i) imputation credits:

(ii) Maori authority credits:

(iii) RWT credits:

(iv) *[Repealed]*

(c) **rate** is the basic rate for companies set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Defined in this Act: amount, attribution period, company, formation loss, imputation credit, investor class, Maori authority credit, net income, RWT

Compare: 2007 No 97 s HL 30(6), (7)

Section HM 70: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 70(2)(b)(iv): repealed, on 1 April 2017, by section 143(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HM 70 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 143(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Elections and consequences

Heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 71 Choosing to become PIE

An entity that, at the time of election, meets the requirements of the entry rules in sections HM 8 to HM 10B, HM 17, HM 18, and HM 20, except to the extent to which the relevant requirement is said not to be applicable to the entity, may choose to become a PIE by notifying the Commissioner under section 31B of the Tax Administration Act 1994.

Defined in this Act: Commissioner, notify, PIE

Compare: 2007 No 97 s HL 11(1), (3)

Section HM 71: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 71: amended, on 1 April 2025, by section 88 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HM 71B Choosing to become foreign investment PIE

What this section applies to

(1) This section applies to an entity that—

(a) is, or is eligible to become, a multi-rate PIE; and

(b) has, or intends to have, investors who are not resident in New Zealand; and

(c) does not calculate its income tax liability using the provisional tax calculation option in section HM 44.

Foreign investment zero-rate PIEs

(2) The entity may choose to become a foreign investment zero-rate PIE if it meets the requirements of section HM 19B.

Foreign investment variable-rate PIEs

(3) An entity may choose to become a foreign investment variable-rate PIE if it meets the requirements of section HM 19C.

Election to become foreign investment PIE

(4) The entity makes the election by advising the Commissioner. If the entity is not an existing multi-rate PIE, the entity must notify the Commissioner under section 31B of the Tax Administration Act 1994.

Defined in this Act: Commissioner, foreign investment PIE, foreign investment variable-rate PIE, foreign investment zero-rate PIE, income tax liability, multi-rate PIE, notify, resident in New Zealand

Section HM 71B: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 86(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HM 72 When elections take effect

Notice of election

(1) An election under section HM 71 or HM 71B to become a PIE or a foreign investment PIE, as applicable, takes effect on the latest of the following dates:

(a) the date the entity is formed:

(b) the date set out in the notice:

(c) 30 days before the Commissioner receives the notice.

When entity does not meet basic requirements

(2) Despite subsection (1), an entity's election to become a PIE does not take effect if, in the period ending 12 months after the date on which the election would be effective,—

(a) the entity cancels the election:

(b) an event or situation arises that means the entity would lose PIE status under any of sections HM 24 to HM 28 because the requirements of sections HM 11 to HM 16 were not met in each quarter of the 12-month period.

Notice of cancellation

(3) An election under section HM 29 to cancel PIE status takes effect on the latest of the following dates:

(a) the date the entity became a PIE:

(b) the date set out in the notice:

(c) the date on which the Commissioner receives the notice.

Defined in this Act: Commissioner, foreign investment PIE, notice, PIE, quarter

Compare: 2007 No 97 ss HL 11(2), (2B), (4), HL 13(1), (4), HL 15(2)

Section HM 72: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HM 72(1): amended (with effect on 29 August 2011), on 27 February 2014, by section 92 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HM 72(1): amended, on 29 August 2011, by section 87(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 72(2)(b): substituted, on 1 April 2010 (applying for income years beginning on or after 1 April 2010), by section 52(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HM 72 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 87(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HM 72 list of defined terms **quarter**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

HM 73 Transition: provisional tax

When this section applies

(1) This section applies when an entity chooses to become a PIE in an income year and has an increased liability for provisional tax for the income year because of the election.

Penalties and interest

(2) The entity is not liable to pay any penalty or interest for which it would otherwise be liable for an inaccuracy arising from the increased liability in—

(a) an estimate of provisional tax made before the election:

(b) a payment of provisional tax due before the end of the 2-month period that starts when the election takes effect.

Tax liability

(3) An entity that becomes a PIE in a tax year and is liable to pay an amount of income tax because of the disposal and reacquisition referred to in section HM 75 may satisfy the tax liability by paying the Commissioner at least—

(a) one third of the liability in the tax year; and

(b) one half of the balance remaining after a payment under paragraph (a) in the tax year after that in which the entity became a PIE; and

(c) the balance owing after the payments under paragraphs (a) and (b) in the second tax year after that in which the entity became a PIE.

Defined in this Act: amount, Commissioner, income tax, income year, pay, PIE, provisional tax, tax year

Compare: 2007 No 97 s HL 14

Section HM 73: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 74 Transition: entities with non-standard income years

When this section applies

(1) This section applies when—

(a) an entity with a non-standard income year chooses to become a PIE; and

(b) the entity calculates and pays its tax liability using the exit calculation or quarterly calculation option under section HM 42 or HM 43.

Consequential changes in balance date

(2) Section 39 of the Tax Administration Act 1994 applies as if—

(a) the day before that on which the election takes effect were the original balance date of the entity; and

(b) the next 31 March after the election takes effect were a new balance date approved by the Commissioner for the entity.

Defined in this Act: Commissioner, non-standard income year, pay, PIE, quarter

Compare: 2007 No 97 s HL 13(2)

Section HM 74: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 75 Transition: treatment of shares held in certain companies

When subsection (2) applies

(1) Subsection (2) applies when—

(a) an entity chooses to become a PIE; and

(b) before the election takes effect—

(i) the entity holds a share in relation to which the proceeds of disposal would be excluded income under section CX 55(3)(a) and (b) (Proceeds from disposal of investment shares) once the entity becomes a PIE:

(ii) the entity is a share supplier in a returning share transfer in relation to that type of share; and

(c) the share is in a company that is not a PIE and does not become a PIE within 6 months from the date on which the entity became a PIE.

Disposal and reacquisition

(2) The entity is treated as—

(a) disposing of the share to another person; and

(b) receiving consideration of an amount that equals the market value of the share at the time; and

(c) reacquiring the share from the other person for the same consideration.

Timing

(3) The disposal and reacquisition is treated as occurring on the day before that on which the election takes effect.

When subsection (5) applies

(4) Subsection (5) applies when an entity—

(a) loses PIE status under any of sections HM 24 to HM 28 or chooses to cancel PIE status under section HM 29; and

(b) holds a share in relation to which the proceeds of disposal would be excluded income under section CX 55(3)(a) and (b) while the entity is a PIE.

Disposal and reacquisition

(5) The entity is treated as—

(a) disposing of the share to another person; and

(b) receiving consideration of an amount that equals the market value of the share at the time; and

(c) reacquiring the share from the other person for the same consideration.

Timing

(6) The disposal and reacquisition is treated as occurring on the day before PIE status is lost.

Defined in this Act: amount, company, exempt income, market value, PIE, returning share transfer, share, shareholder

Compare: 2007 No 97 ss HL 13(3), HL 15(3)

Section HM 75: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 292(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

HM 76 Transition: FDPA companies

[Repealed]

Section HM 76: repealed, on 1 April 2017, by section 144 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart HP—Taxation of members of certain multinational groups

Subpart HP: inserted, on 1 January 2025, by section 102(1) (and see section 102(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

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HP 1 Liability for multinational top-up tax

Payment of tax

(1) A constituent entity, other than a securitisation entity, (**entity A**) that is required to pay an amount of tax for a fiscal year under the applied global anti-base erosion rules must pay the amount to the Commissioner.

Joint and several liability

(2) Each constituent entity, other than a securitisation entity, that is located in New Zealand under the applied global anti-base erosion rules and that is a member of the same MNE group as entity A is jointly and severally liable with entity A for the amount of tax for the fiscal year payable by entity A under the applied global anti-base erosion rules.

Member leaving MNE group

(3) If a constituent entity (**entity B**) that is a member of the same MNE group as entity A leaves the MNE group, entity B is relieved from liability under subsection (2) for a fiscal year if—

(a) the assessment of entity A's multinational top-up tax liability for the fiscal year is made after entity B leaves the MNE group; and

(b) the amount assessed is more than an earlier assessment of entity A's multinational top-up tax liability for the fiscal year; and

(c) the Commissioner considers that the removal of the liability will not significantly prejudice the recovery, or likely recovery, of the amount of multinational top-up tax assessed for the fiscal year; and

(d) the Commissioner notifies entity A and entity B that the requirements of paragraph (c) are met.

Defined in this Act: amount, amount of tax, applied global anti-base erosion rules, assessment, Commissioner, multinational top-up tax, New Zealand, notify, pay, securitisation entity

Section HP 1: inserted, on 1 January 2025, by section 102(1) (and see section 102(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HP 1(1): amended (with effect on 1 January 2025), on 29 March 2025, by section 89(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HP 1(2): amended (with effect on 1 January 2025), on 29 March 2025, by section 89(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HP 1 list of defined terms **securitisation entity**: inserted (with effect on 1 January 2025), on 29 March 2025, by section 89(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HP 2 Payment date for multinational top-up tax

A constituent entity must pay its multinational top-up tax for a fiscal year to the Commissioner by,—

(a) for the first fiscal year for which the constituent entity is required to provide a return under section 78J of the Tax Administration Act 1994, the date that is 20 months after the end of the fiscal year:

(b) otherwise, the date that is 16 months after the end of the fiscal year.

Defined in this Act: Commissioner, multinational top-up tax, pay

Section HP 2: inserted, on 1 January 2025, by section 102(1) (and see section 102(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

HP 3 Application of global anti-base erosion model rules

What this section does

(1) This section provides for the application of the global anti-base erosion model rules in determining the obligations of a person under the Inland Revenue Acts.

Modifications to global anti-base erosion model rules

(2) For the purposes of determining the obligations of a person under the Inland Revenue Acts, the global anti-base erosion model rules are modified in the ways specified in schedule 25B (Items modifying global anti-base erosion model rules).

Application of global anti-base erosion model rules

(3) Subject to any regulations made under section 226G of the Tax Administration Act 1994, the global anti-base erosion model rules apply for a fiscal year—

(a) as modified by subsection (2); and

(b) subject to the modifications made by subsection (2), in accordance with—

(i) the most recent commentary to the global anti-base erosion model rules developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the **Inclusive Framework**) and published by the OECD before the start of the fiscal year; and

(ii) the most recent guidance on the interpretation or administration of the global anti-base erosion model rules issued by the Inclusive Framework and published by the OECD before the start of the fiscal year.

Commentary or guidance prevails

(4) For the purposes of subsection (3)(b), if there is a conflict between the global anti-base erosion model rules and commentary or guidance described in that paragraph, the commentary or guidance prevails.

Relationship between provisions

(5) Subsection (4) does not limit or affect any of the modifications to the global anti-base erosion model rules made by subsection (2).

Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts

Section HP 3: inserted, on 1 January 2025, by section 102(1) (and see section 102(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

HP 4 Meaning of terms defined in global anti-base erosion model rules

In the application of this subpart, sections 78H to 78J and 92BA of the Tax Administration Act 1994, and the global anti-base erosion model rules for a fiscal year, a term defined in the global anti-base erosion model rules and used in the Inland Revenue Acts has the meaning that it has at the start of the fiscal year under the global anti-base erosion model rules as modified by section HP 3(2).

Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts

Section HP 4: inserted, on 1 January 2025, by section 102(1) (and see section 102(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Subpart HR—Other entities

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Partnerships and joint ventures

[Repealed]

Heading: repealed (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HR 1 Partnerships and joint ventures

[Repealed]

Section HR 1: repealed, on 1 April 2008, by section 20(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Funds

HR 2 Group investment funds

Separate returns

(1) The trustee of a group investment fund must provide for a tax year under section 33 of the Tax Administration Act 1994, separate returns of its category A income and its category B income.

Designated group investment fund, category B income: application of trust rules

(2) If the trustee of a group investment fund derives an amount that is income derived from investments and funds of a designated group investment fund or category B income, the amount is treated as income derived by the trustee and the trust rules apply.

Category A income: application of company rules

(3) If the trustee of a group investment fund derives from the investments and funds of the group investment fund an amount that is category A income, the amount is treated as income of a notional company.

Defined in this Act: amount, category A income, category B income, designated group investment fund, group investment fund, income, return of income, tax year, trust, trust rules, trustee

Compare: 2004 No 35 s HE 2(1), (1A)

HR 3 Definitions for section HR 2: group investment funds

Category A income

(1) **Category A income**, for a group investment fund other than a designated group investment fund in an income year, means the amount of income derived from the investments and funds of the group investment fund that is calculated using the formula—

((last day value − designated source investments − pre-1983 investments) ÷ last day value) × income.

Definitions for items in formula

(2) In the formula,—

(a) **last day value** is the current value of all investments and funds of the group investment fund on the last day of the income year:

(b) **designated source investments** is the current value of the designated source investments in the group investment fund on the last day of the income year:

(c) **pre-1983 investments** is the current value of the pre-1983 investments in the group investment fund on the last day of the income year:

(d) **income** is the total income derived from all investments and funds of the group investment fund in the income year.

Category B income

(3) **Category B income**, for a group investment fund other than a designated group investment fund, means the income derived from investments and funds of the group investment fund that is not category A income for the income year.

Current value

(4) **Current value**, for a group investment fund and a day in an income year, means the capital value, as defined by the Trustee Companies Act 1967 or the Public Trust Act 2001, of the investments and funds of the group investment fund that is—

(a) either—

(i) last determined before the day under section 31 of the Trustee Companies Act 1967 or section 66 of the Public Trust Act 2001; or

(ii) determined on the day, if that day is the day on which the capital value is determined; and

(b) for the purposes of the definition of **designated source investments** in subsection (7), and **pre-1983 investments** in subsection (8), determined as if those investments and funds comprised all the investments and funds in the group investment fund at the time.

Designated sources

(5) **Designated sources**, for a group investment fund, means a trust, other than the trust under which the fund is established, whose trustee is a trustee of the group investment fund, that—

(a) is created—

(i) by will or codicil, or by order of court varying or modifying the provisions of a will or codicil; or

(ii) on intestacy, including a partial intestacy, or by an order of court varying or modifying, in relation to an estate, the application of the law relating to the distribution of intestate estates; or

(iii) by an order of court; or

(iv) by an enactment; or

(v) to administer funds that are compensation or other money arising from the death of, or injury to, a person; or

(vi) to vary the terms of a will or codicil or, in relation to an estate, to vary the application of the law relating to the distribution of intestate estates, in either case for the sole purpose of effecting a settlement out of court of an application made, or proposed to be made, under the Family Protection Act 1955 or a claim, or a proposed claim, to be made under the Law Reform (Testamentary Promises) Act 1949, if the terms are mainly the same as those likely to have been ordered by the court:

(b) is not carried on for the private benefit of an individual, and whose funds are applied entirely or mainly for benevolent, philanthropic, cultural, or public purposes in New Zealand.

Designated group investment fund

(6) **Designated group investment fund** means a group investment fund whose investments and funds are invested wholly—

(a) in authorised investments; or

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

(6A) In subsection (6)(a), **authorised investment** means any of the following:

(a) any investment authorised by the instrument (if any) creating the trust:

(b) an investment in New Zealand Government securities or securities of any Australian government or of the Government of Fiji:

(c) an investment in a mortgage on land in New Zealand:

(d) an investment in securities issued under any general or special statutory authority by a local authority, public utility, harbour board, drainage board, or transport board:

(e) an investment in a deposit with, or securities issued by, a trustee bank's successor company:

(f) an investment in securities issued by Kāinga Ora–Homes and Communities:

(g) an investment in debentures issued by any dairy finance company:

(h) an investment in a deposit with any building society or in the National Provident Fund:

(i) an investment in securities guaranteed by the Government of New Zealand:

(j) an investment in a deposit with any dealer in the short-term money market approved by the Reserve Bank of New Zealand as a short-term money market dealer, only if there are mortgaged to the trustee (or held by any bank on behalf of the trustee) by that dealer investments described in paragraphs (a) to (i) that have at the time of the deposit a redemption value not less than the amount deposited.

Designated source investments

(7) **Designated source investments**, for a group investment fund at any time, means investments and funds from designated sources invested at the time in the group investment fund.

Pre-1983 investments

(8) **Pre-1983 investments**, for a group investment fund at any time, means investments and funds that were invested in the group investment fund at 22 June 1983, other than designated source investments, as if those investments and funds had continued to be invested at the time, including—

(a) money deposited between 15 June and 23 June 1983 with the trustee of the group investment fund for investment in the fund; and

(b) money deposited between 22 June and 16 July 1983 with the trustee of the group investment fund for investment in the fund, which, on or before 22 June 1983, was subject to a binding commitment to deposit that money.

Defined in this Act: amount, business, category A income, category B income, Commissioner, current value, designated group investment fund, designated source investments, designated sources, group investment fund, income, income year, New Zealand, pre-1983 investments, trustee

Compare: 2004 No 35 ss HE 2(2), (3), OB 1 "category A income", "category B income", "current value", "designated group investment fund", "group investment fund"

Section HR 3(5)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 193(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HR 3(6)(a): replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section HR 3(6A): inserted, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section HR 3(6A)(f): amended (with effect on 30 January 2021), on 30 March 2022, by section 116 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

HR 4 Government Superannuation Fund

The Government Superannuation Fund Authority is treated for income tax purposes as if the Government Superannuation Fund were a superannuation scheme that is a trust and the Authority the trustee of that scheme.

Defined in this Act: income tax, Government Superannuation Fund, superannuation scheme, trust, trustee

Compare: 2004 No 35 s HJ 1

HR 4B Activities relating to New Zealand Superannuation Fund and Venture Capital Fund

When this section applies

(1) This section applies to determine for this Act the rules that determine the amounts of income derived and expenditure incurred by the Crown as owner of the New Zealand Superannuation Fund (the **Fund**) and the VCF.

Activities of the Crown relating to Fund or VCF

(2) Amounts of income derived and expenditure incurred by the Crown in activities relating to the Fund or the VCF are determined as if the amounts were being derived or incurred by a company (the **Fund/VCF company**), other than a public authority, that was a special corporate entity wholly owned by,—

(a) in the case of the Fund, the Minister of the Crown who was for the time being responsible for the administration of the New Zealand Superannuation and Retirement Income Act 2001, Parts 2 and 3:

(b) in the case of the VCF, the Minister of the Crown who was for the time being responsible for the administration of the Venture Capital Fund Act 2019.

Fund investment entities and VCF investment vehicles

(3) The consolidation rules, continuity provisions, and other rules relating to groups of companies apply to the Crown as owner of the Fund and of the VCF, to a Fund investment entity, to a VCF investment vehicle as referred to in section 25 of the Venture Capital Fund Act 2019, and to a company in which the Guardians of New Zealand Superannuation (the **Guardians**) hold interests for the Crown, as if—

(a) the Crown were the Fund/VCF company; and

(b) interests in the Fund investment entity, VCF investment vehicle, or company held by the Guardians were owned by the Crown as the Fund/VCF company.

Defined in this Act: amount, company, consolidation rules, continuity provisions, Fund investment entity, group of companies, income, public authority, special corporate entity, VCF

Section HR 4B: replaced, on 23 October 2015, by section 6 of the Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94).

Section HR 4B heading: amended, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section HR 4B(1): amended, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section HR 4B(2) heading: replaced, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section HR 4B(2): replaced, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section HR 4B(3) heading: replaced, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section HR 4B(3) heading: amended, on 5 June 2024, by section 15(1) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section HR 4B(3): replaced, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section HR 4B(3): amended, on 5 June 2024, by section 15(2) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section HR 4B(3)(b): amended, on 5 June 2024, by section 15(3) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section HR 4B list of defined terms **Fund investment entity**: inserted, on 5 June 2024, by section 15(4) of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section HR 4B list of defined terms **VCF**: inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Airport operators

HR 5 Airport operators: general

When this section applies

(1) This section and sections HR 6 and HR 7 apply to determine for this Act certain aspects of the treatment of an airport operator that is a joint venture between the Crown and a local authority.

Company

(2) The airport operator is treated as a company.

Shares in company

(3) Each joint venturer is treated as holding shares in the company in proportion to their share of the profits of the joint venture, as determined under the joint venture agreement (after allowing for adjustments for earlier income years).

Separate from joint ventures

(4) The airport operator is treated as a person separate from—

(a) the Crown; and

(b) each airport authority; and

(c) each other person.

Neither public nor local authority

(5) The airport operator is treated as neither a public authority nor a local authority.

Not subject to mutual association rules

(6) The airport operator is not treated as a mutual association for the purposes of subpart HE (Mutual associations).

Interest-bearing funding

(7) Subsection (8) applies to the extent to which—

(a) a joint venturer provides funds for the airport operator's activities; and

(b) the joint venturers expressly agree that the funds are to be provided for the airport operator's activities; and

(c) the funds are provided for consideration in the nature of interest payable by the airport operator.

Funding

(8) The funds are treated as money borrowed by the airport operator and the consideration is treated as interest.

Defined in this Act: airport authority, airport operator, airport operator's activities, association, company, interest, local authority, public authority, share

Compare: 2004 No 35 s OC 1(2)

HR 6 Airport operator's assets

Ownership of airport assets

(1) An airport operator is treated as owning each of its airport assets.

Time of acquisition

(2) An airport operator is treated as having acquired an asset at the time—

(a) it acquired it other than by way of purchase:

(b) it agreed to use it:

(c) it started to have the power to use it.

Cost of acquisition

(3) An airport operator is treated as having incurred, in acquiring an asset, its market value at the time of acquisition.

Ceasing to be airport asset

(4) If an asset ceases to be an airport asset of the airport operator, other than on sale, the airport operator is treated as having sold it, at the time, for a price equal to its market value at the time.

Disputes concerning value or timing

(5) Subsection (6) applies if a question arises concerning—

(a) the market value of an asset:

(b) the cost of an airport asset:

(c) the time at which an airport operator acquired, agreed to use, or started to have the power to use an asset.

Resolved by agreement or Commissioner

(6) The question must be resolved by agreement between the airport operator and the Commissioner or, failing agreement, by the Commissioner.

Meaning of airport asset

(7) In this section, for an airport operator, **airport asset** means—

(a) an asset that, under the joint venture agreement and for the purposes of the airport operator's activities, the airport authority—

(i) acquires:

(ii) agrees to use:

(iii) is given the power to use:

(b) an asset owned by a person for the purposes of a depreciation sinking fund for an airport asset:

(c) an asset owned by a person for the purposes of a loan redemption sinking fund for a loan on which the interest payments are a charge against the joint venture income of the airport operator:

(d) an asset acquired by the airport operator using funds that are, or by exchanging property that is, acquired in carrying on the airport operator's activities and not allocated or distributed to the joint venturers.

Exclusion

(8) Subsection (7)(a) does not apply to an asset that—

(a) the airport operator has—

(i) disposed of:

(ii) ceased to agree to use:

(iii) ceased to have the power to use:

(b) the airport operator has acquired, agreed to use or acquired the power to use under a lease, unless the lease is a specified lease or a finance lease.

Defined in this Act: acquire, airport asset, airport authority, airport operator, airport operator's activities, Commissioner, finance lease, interest, loan, specified lease

Compare: 2004 No 35 s OC 1(2)–(6)

HR 7 Meaning of airport operator's activities

Meaning of airport operator's activities

(1) In sections HR 5 and HR 6, **airport operator's activities** means the following activities undertaken for the purposes of the airport operator's joint venture agreement concerning the airport, including the airport's approaches, buildings and equipment:

(a) its establishment:

(b) its improvement:

(c) its maintenance:

(d) its operation:

(e) its management.

Meaning of airport

(2) In this section, **airport** means an aerodrome as defined in section 5 of the Civil Aviation Act 2023.

Defined in this Act: airport, airport operator, airport operator's activities

Compare: 2004 No 35 s OC 1(6)

Section HR 7(2): replaced, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Transitional residents

HR 8 Transitional residents

Provisions under which transitional resident treated as non-resident

(1) When a foreign-sourced amount is derived by a transitional resident, the following provisions apply to produce a result for income tax purposes that is the same as if the transitional resident were non-resident:

(a) sections CD 45, CE 2, CF 3, CQ 2, CQ 5, and CW 27 (which relate to income):

(b) sections DN 2 and DN 6 (which relate to deductions):

(c) sections EW 5, EW 37, EW 41, EX 16, EX 41, and EX 64 (which relate to the financial arrangements rules and to the CFC and FIF rules):

(d) sections HC 25, HC 26, and HC 30 (which relate to the trust rules):

(e) sections MC 5, MC 10, MD 7, and MF 5 (which relate to tax credits):

(f) sections RE 2, RE 5 and RF 12 (which relate to the RWT and NRWT rules):

(g) section YD 1 (Residence of natural persons):

(h) section 41 of the Tax Administration Act 1994.

Meaning of transitional resident

(2) A person is a **transitional resident** if—

(a) they are a natural person; and

(b) they are resident in New Zealand through acquiring a permanent place of abode as described in section YD 1(2) or through the 183-day rule set out in section YD 1(3); and

(c) for a continuous period (the **non-residence period**) of at least 10 years immediately before they meet the requirements of section YD 1(2) or (3) for becoming resident in New Zealand, ignoring the rule in section YD 1(4), they—

(i) did not meet the requirements of that section:

(ii) were not resident in New Zealand; and

(d) they were not a transitional resident before the non-residence period; and

(e) the period described in subsection (3) has not ended.

Period of transitional residence

(3) The period for a person—

(a) begins on the first day of the residence required by subsection (2)(b); and

(b) ends on the earliest of—

(i) the day they nominate under subsection (4):

(ii) the day before the person stops being a New Zealand resident:

(iii) the last day of the 48th month after the month in which the non-residence period ends.

Choosing not to be transitional resident

(4) A person who would otherwise be a transitional resident in an income year may choose by notice to the Commissioner or by notice under subsection (5) not to be a transitional resident on and after a date nominated by the person, which may be on or after the start of the income year.

Applying for tax credits

(5) An application under section 41 of the Tax Administration Act 1994 by a person who is eligible to be a transitional resident for a tax credit under subparts MA to MG and MZ (which relate to tax credits for families) for an income year is treated for the period of the application as—

(a) a notice of election under subsection (4) by the person if they have not made one; and

(b) a notice of election under subsection (4) by a spouse, civil union partner, or de facto partner of the person.

Election irrevocable

(6) An election under subsection (4) is irrevocable.

Notice of election

(7) A notice under subsection (4) to stop being a transitional resident must be received by the Commissioner by—

(a) the time within which the person's return of income must be filed under section 37 of the Tax Administration Act 1994; or

(b) if the person, their tax agent, or their representative applies for it, a further time allowed by the Commissioner.

Defined in this Act: apply, foreign-sourced amount, New Zealand resident, non-resident, notice, representative, resident in New Zealand, tax credit, transitional resident

Compare: 2004 No 35 ss FC 22–FC 24

Section HR 8(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 293(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HR 8(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 293(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HR 8(1)(a): amended, on 1 April 2014, by section 93 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section HR 8(2) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 194(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HR 8(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 194(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HR 8(3) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 194(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HR 8(3): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 194(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HR 8(4) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 194(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HR 8(4): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 194(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HR 8(5): amended, on 1 July 2018, by section 5 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section HR 8(7) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 293(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HR 8(7): added (with effect on 1 April 2008), on 6 October 2009, by section 293(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HR 8(7)(b): amended, on 18 March 2019, by section 220(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 8 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HR 8 list of defined terms **representative**: inserted, on 18 March 2019, by section 220(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Debt funding special purpose vehicles

Heading: added (with effect on 1 April 2008), on 6 October 2009, by section 294(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Heading: amended, on 18 March 2019, by section 221(1) (and see section 221(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

HR 9 Debt funding special purpose vehicles are transparent if election made by originator

What this section applies to

(1) This section applies for the purposes of establishing the liabilities and obligations under an Inland Revenue Act when an originator of a debt funding special purpose vehicle has made an election under section HR 9BA or HZ 9 (Elections to treat existing debt funding special purpose vehicles as transparent) in relation to—

(a) an asset transferred to the special purpose vehicle by the originator (the **transferred asset**); or

(b) an asset held by the special purpose vehicle that is attributed to the originator as described in section HR 9BAA(3) (the **attributed asset**).

What this section does not apply to

(2) Despite subsection (1), this section does not apply to liabilities and obligations arising under sections EW 24 to EW 25B (which relate to the consistency of use of spreading methods for financial arrangements).

Treatment of originators

(3) For the purposes of this section, the originator is treated as—

(a) carrying on an activity carried on by the special purpose vehicle to the extent to which the activity relates to a transferred asset or an attributed asset, as applicable; and

(b) having a status, intention, and purpose of the special purpose vehicle to the extent to which the status, intention, or purpose relates to a transferred asset or an attributed asset, as applicable; and

(c) holding property that the special purpose vehicle holds if the property is a transferred asset or an attributed asset, as applicable; and

(d) being a party to an arrangement to which the special purpose vehicle is party if—

(i) the arrangement is a transferred asset or an attributed asset, as applicable; or

(ii) the arrangement relates to a transferred asset or an attributed asset, as applicable; and

(e) doing a thing and being entitled to a thing that the special purpose vehicle does or is entitled to if the thing relates to a transferred asset or an attributed asset, as applicable.

Treatment of special purpose vehicles

(4) For the purposes of this section, the special purpose vehicle is treated as not carrying on the activity, not having the status, intention, or purpose, not holding

the property, not being party to the arrangement, and not doing the thing or being entitled to the thing.

Defined in this Act: arrangement, debt funding special purpose vehicle, income tax liability, income year, Inland Revenue Acts, originator

Section HR 9: replaced, on 30 March 2025, by section 90 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HR 9BAA Meaning of originator

Meaning

(1) In relation to a debt funding special purpose vehicle, **originator** means a person who is a New Zealand resident who—

(a) has transferred an asset to the special purpose vehicle and the person otherwise meets the requirements set out in subsection (2); or

(b) is a beneficiary or shareholder of the special purpose vehicle and the person otherwise meets the requirements of subsection (3).

When assets transferred by companies

(2) For the purposes of subsection (1)(a), the person must be a company that has transferred assets to the special purpose vehicle and all the transferred assets are—

(a) treated for financial reporting purposes as the person's assets; or

(b) are included in consolidated financial statements prepared by the person or by a member of a wholly-owned group of companies that includes the person.

Other assets

(3) For the purposes of subsection (1)(b), the person must be a beneficiary or shareholder of the special purpose vehicle and a person who—

(a) is treated for financial reporting purposes as holding assets of the debt funding special purpose vehicle to which subsection (1)(a) does not apply; or

(b) is a member of the same wholly-owned group of companies as another person who prepares consolidated financial statements that include the assets referred to in paragraph (a).

Group members

(4) For the purposes of this section, a beneficiary or shareholder includes a member of the same wholly-owned group of companies as a beneficiary or shareholder.

Defined in this Act: company, debt funding special purpose vehicle, financial statements, New Zealand resident, originator, shareholder, trustee, wholly-owned group of companies

HR 9BAA: inserted, on 30 March 2025, by section 91 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HR 9BA Elections to treat debt funding special purpose vehicles as transparent

How elections made

(1) An originator makes an election referred to in section HR 9 by—

(a) after the formation of the debt funding special purpose vehicle and before the return of income referred to in paragraph (b), notifying the Commissioner that the originator chooses to have the liabilities and obligations referred to in section HR 9 that the special purpose vehicle would have in the absence of the election; or

(b) in the originator's first return of income filed after the first transfer of assets by the originator to the debt funding special purpose vehicle, returning income derived and expenditure incurred by the debt funding special purpose vehicle.

Effect of election

(2) An election under this section—

(a) cannot be revoked; and

(b) has effect from the date on which—

(i) the originator first transferred an asset to the special purpose vehicle; or

(ii) an asset first becomes an attributed asset for the originator as described in section HR 9BAA(3); and

(c) remains in effect until the relevant company or trustee of a trust stops being a special purpose vehicle.

Sole originators for attributed assets

(2B) When an originator makes an election under subsection (1) or section HZ 9 (Elections to treat existing debt funding special purpose vehicles as transparent) in relation to an attributed asset referred to in section HR 9(1)(b), no other originator may make an election in relation to that asset.

Relationship with section HR 10B

(2C) Section HR 10B overrides subsection (2B).

Relationship with section HZ 9

(3) This section is overridden by section HZ 9.

Defined in this Act: company, debt funding special purpose vehicle, income, originator, return of income, trustee

Section HR 9BA: inserted, on 18 March 2019, by section 223(1) (and see section 223(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 9BA(1): replaced, on 30 March 2022, by section 117 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section HR 9BA(1)(a): amended, on 30 March 2025, by section 92(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 9BA(2)(b): replaced, on 30 March 2025, by section 92(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 9BA(2)(c): amended, on 30 March 2025, by section 92(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 9BA(2B) heading: inserted, on 30 March 2025, by section 92(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 9BA(2B): inserted, on 30 March 2025, by section 92(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 9BA(2C) heading: inserted, on 30 March 2025, by section 92(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 9BA(2C): inserted, on 30 March 2025, by section 92(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 9BA(3): amended, on 30 March 2025, by section 92(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HR 9B Bankruptcy-remote property during application of section HR 9

Despite section HR 9, property that an originator holds because of the application of section HR 9 cannot be attached, charged, disposed of, or otherwise used in the payment of the originator's tax debt, except to the extent to which—

(a) the tax debt—

(i) does not relate to income tax or provisional tax; and

(ii) would have been the relevant debt funding special purpose vehicle's tax debt in the absence of section HR 9:

(b) the property could have been attached, charged, disposed of, or otherwise used in payment of the tax debt in the absence of section HR 9.

Defined in this Act: debt funding special purpose vehicle, dispose, income tax, originator, pay, provisional tax, tax

Section HR 9B: replaced, on 18 March 2019, by section 224(1) (and see section 224(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

HR 10 What happens when vehicle stops being transparent debt funding special purpose vehicle?

Property transferred and parties reconstituted

(1) When a company or a trustee of a trust (the **vehicle**) stops being a debt funding special purpose vehicle for any reason, other than on unwind, and an election has been made under section HR 9BA or HZ 9 (Elections to treat existing debt funding special purpose vehicles as transparent) that relates to the special purpose vehicle, the following apply:

(a) the relevant originator is treated as disposing of its property (the **property**) that has been subject to section HR 9(b) in relation to the vehicle immediately before the vehicle stops being a special purpose vehicle:

(b) the vehicle is treated as acquiring the property immediately after the vehicle stops being a special purpose vehicle:

(c) the relevant originator is treated as not being a party to an arrangement (the **arrangement**) that the originator was treated as being a party to under section HR 9(c) in relation to the vehicle immediately before the vehicle stops being a special purpose vehicle:

(d) the vehicle is treated as being a party to the arrangement immediately after the vehicle stops being a special purpose vehicle.

Property transferred: market value

(2) The disposition of property in subsection (1)(a) and the acquisition of property in subsection (1)(b) are treated as occurring with a single third party for payments equal to the property's market value.

Arrangements assumed: market value

(3) At the time of the relevant originator becoming not a party to an arrangement, and the vehicle becoming a party to the arrangement, under subsection (1)(c) or (d),—

(a) if the arrangement is a liability of the originator,—

(i) the vehicle is treated as receiving consideration equal to the market value of the liability, expressed as a positive amount, from a single third party:

(ii) the originator is treated as paying consideration equal to the market value of the liability, expressed as a positive amount, to a single third party; or

(b) if the arrangement is an asset of the originator,—

(i) the originator is treated as receiving consideration equal to the market value of the asset from a single third party:

(ii) the vehicle is treated as paying consideration equal to the market value of the asset to a single third party.

Definition

(4) In this section, **unwind** means a process, ignoring section HR 9, by which—

(a) guarantees, securities, and debts, as applicable, described in the definition of **debt funding special purpose vehicle**, paragraph (d), are cancelled; and

(b) interests described in the definition of **debt funding special purpose vehicle**, paragraph (b) are transferred to the relevant originator; and

(c) the vehicle is terminated, by liquidation or otherwise.

Relationship with section HZ 10

(5) This section overrides section HZ 10 (What happens when election is made under section HZ 9?).

Relationship with subject matter

(6) This section does not give rise to a supply of goods or services under the Goods and Services Tax Act 1985.

Defined in this Act: amount, arrangement, company, consideration, debt funding special purpose vehicle, dispose, liquidation, market value, originator, pay, trustee, unwind

Section HR 10: replaced, on 18 March 2019, by section 225(1) (and see section 225(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 10(1): amended, on 30 March 2025, by section 93(1)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 10(1)(a): amended, on 30 March 2025, by section 93(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 10(1)(b): amended, on 30 March 2025, by section 93(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 10(1)(c): amended, on 30 March 2025, by section 93(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 10(1)(d): amended, on 30 March 2025, by section 93(1)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 10(6) heading: inserted, on 30 March 2025, by section 93(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 10(6): inserted, on 30 March 2025, by section 93(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HR 10B What happens when persons stop being originators?

When subsections (2), (3), and (4) apply

(1) Subsections (2), (3), and (4) apply for an income year when, in relation to a debt funding special purpose vehicle and an asset referred to in section HR 9(1),—

(a) an originator (the **first originator**) stops being an originator at a particular date in the income year (the **breach date**); and

(b) another person (the **second originator**)—

(i) is or becomes a beneficiary or shareholder of the special purpose vehicle; and

(ii) immediately before the breach date, is a member of the wholly-owned group of companies of which the first originator is part; and

(iii) immediately after the breach date, holds the assets of the first originator as attributed assets described in section HR 9BAA(3).

Treatment of second originators

(2) For the purposes of section HR 9, and for the special purpose vehicle and an originator for the income year and later income years, the second originator is treated as if—

(a) they acquired and held the assets of the first originator on the same basis as the first originator:

(b) they paid or received the amounts of consideration originally paid or received by the first originator for or under an asset of the first originator that is a financial arrangement or excepted financial arrangement.

Treatment of first originators for section HR 9

(3) For the purposes of section HR 9, and for the special purpose vehicle and an originator for the income year and later income years, the first originator is treated as if they were not an originator for the assets and arrangements referred to in subsection (2).

Treatment of first originators

(4) For the purposes of subsection (2)(a), the first originator is treated as not having acquired or held the assets.

Base price adjustments

(5) In relation to a special purpose vehicle and an asset referred to in section HR 9(1), for the income year that includes the breach date, the first originator is treated as a party that is not required to calculate a base price adjustment, despite section EW 29 (When calculation of base price adjustment required).

Relationship with section HR 10

(6) Section HR 10 overrides this section.

Group members

(7) For the purposes of this section, a beneficiary or shareholder includes a member of the same wholly-owned group of companies as a beneficiary or shareholder.

Relationship with subject matter

(8) Subsections (2), (3), and (4) do not give rise to a supply of goods or services under the Goods and Services Tax Act 1985.

Defined in this Act: amount, debt funding special purpose vehicle, excepted financial arrangement, financial arrangement, income tax liability, income year, originator, shareholder, wholly-owned group of companies

Section HR 10B: inserted, on 30 March 2025, by section 94 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Non-exempt charities: cessation of tax-exempt status

Heading: inserted (with effect on 14 April 2014), on 30 June 2014, by section 128 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

HR 11 Non-exempt charities: initial tax base

When this section applies

(1) This section applies on and after the day that a person ceases to meet the requirements to derive exempt income under section CW 41 or CW 42 (which relate to charities) (the **date of cessation**).

Establishing cost of property

(2) For the purposes of this Act, for the person, the cost of premises, plant, equipment, and trading stock is the value that would be used at the date of cessation under this Act if section CW 41 or CW 42 never applied.

Consideration for financial arrangements

(3) For the purposes of this Act, the consideration for a financial arrangement of the person is the value calculated using the following formula:

consideration paid to person + expenditure
− consideration paid by person − income.

Definition of items in formula

(4) In the formula,—

(a) **consideration paid to person** is the consideration that is paid to the person before the date of cessation:

(b) **expenditure** is the expenditure that would have been incurred under the financial arrangements rules before the date of cessation:

(c) **consideration paid by person** is the consideration that is paid by the person before the date of cessation:

(d) **income** is the income that would have been derived under the financial arrangements rules before the date of cessation.

Prepayments

(5) For the purposes of this Act, the person is treated as having the unexpired portion of expenditure under section EA 3 (Prepayments) and the unpaid amount under section EA 4 (Deferred payment of employment income) that the person would have had if section CW 41 or CW 42 never applied. The unexpired portion is available for deduction under sections DB 50 and DB 51 (which relate to deductions) in the income year that contains the date of cessation.

Information

(6) For the purpose of applying this section, the person may use information from their annual returns contained on the register of charitable entities under the

Charities Act 2005, if they have no other information that is more readily available.

Defined in this Act: charitable purposes, consideration, financial arrangement, financial arrangements rules, income, tax charity, trading stock

Section HR 11: inserted (with effect on 14 April 2014), on 30 June 2014, by section 128 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

HR 12 Non-exempt charities: treatment of tax-exempt accumulations

Who this section applies to

(1) This section applies to—

(a) a person who—

(i) is registered on the register of charitable entities under the Charities Act 2005 for a period; and

(ii) derives exempt income under section CW 41 or CW 42 (which relate to charities) in the same period; and

(iii) is deregistered as a charitable entity on the end date:

(b) *[Repealed]*

When this section does not apply

(2) This section does not apply if—

(a) the person is re-registered on the register of charitable entities within 1 year of the end date:

(b) the person's end date arises because they are a company and shares in them are disposed of, and the disposal is for market value consideration:

(c) the person would, but for this paragraph, have $10,000 or less income under this section on their end date.

Treatment of income

(3) The person has an amount of income derived on the day that is 1 year after the end date that is equal to the current market value, on the end date, of assets that the person has on the end date less the current market value, on the end date, of liabilities that the person has on the end date, but ignoring:

(a) assets that are disposed of or transferred for charitable purposes within 1 year of the end date, together with any rights and obligations, to—

(i) a tax charity, other than a tax charity as defined in paragraph (c) of the definition of tax charity:

(ii) a New Zealand resident person, other than a natural person, that derives exempt income under any of sections CW 38 to CW 52, CW 55BA, and CW 64 (which relate to exempt income of certain entities):

(b) assets received from the Crown—

(i) to settle a Treaty of Waitangi claim:

(ii) in accordance with the Maori Fisheries Act 2004:

(c) assets that are not money and are gifted or bequeathed to the person when they met the requirements to derive exempt income under section CW 41 or CW 42:

(d) assets that are land set apart in a Maori reservation for the purposes of a marae or meeting place under Part 17 of Te Ture Whenua Maori Act 1993:

(e) assets that are shares in companies, if this section applies to the companies and their end dates are the same as the person's end date.

Person's rules

[Repealed]

(4) *[Repealed]*

Negative amounts

(5) For the purposes of the calculation in subsection (3), if the amount is negative, it is treated as zero.

References to assets and liabilities

(6) In this section, references to **assets** and **liabilities**, as applicable,—

(a) mean the assets and liabilities owned, controlled, or held, wholly or in part, immediately before the end date; and

(b) include—

(i) all assets of any kind; and

(ii) all liabilities, including debts, charges, duties, contracts, or other obligations, whether present, future, actual, contingent, payable, or to be observed or performed in New Zealand or elsewhere.

Definitions

(7) In this section,—

end date means, for a person, the day of final decision

current market value means—

(a) for an asset or liability for which section HR 11 gives a value for the purposes of this Act, that value:

(b) for an asset or liability for which section HR 11 does not give a value for the purposes of this Act,—

(i) the market value of the asset or liability; but

(ii) if the person uses the Public Benefit Entity International Not-for-Profit Accounting Standard 17 (the **standard**), the fair value of the asset or liability under the standard.

Defined in this Act: amount, asset, charitable purpose, current market value, day of final decision, end date, exempt income, income, liabilities, New Zealand, real property, share, year

Section HR 12: replaced, on 29 March 2018 (with effect on 6 April 2016), by section 137 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section HR 12(1)(a): amended, on 1 April 2019, by section 226(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(1)(b): repealed, on 1 April 2019, by section 226(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(2) heading: replaced, on 1 April 2019, by section 226(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(2): replaced, on 1 April 2019, by section 226(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(3): amended, on 1 April 2019, by section 226(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(3)(a): replaced, on 1 April 2024, by section 103(1) (and see section 103(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section HR 12(3)(a)(ii): amended (with effect on 1 April 2024), on 29 March 2025, by section 95(1) (and see section 95(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HR 12(3)(c): amended, on 1 April 2019, by section 226(6) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(3)(d): inserted (with effect on 14 April 2014), on 18 March 2019, by section 226(7) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(3)(d): amended, on 1 April 2023, by section 82 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section HR 12(3)(e): inserted, on 1 April 2019, by section 226(8) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(4) heading: repealed, on 1 April 2019, pursuant to section 226(9) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(4): repealed, on 1 April 2019, by section 226(9) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(7) heading: replaced, on 1 April 2019, by section 226(10) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12(7): replaced, on 1 April 2019, by section 226(10) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HR 12 list of defined terms **current market value**: inserted, on 1 April 2019, by section 226(11) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Lloyd's of London: life insurance

Heading: inserted, on 29 March 2018 (with effect on 1 April 2017 applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 138(1)

of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HR 13 Lloyd's of London: life insurance

What this section applies to

(1) This section applies for the purposes of the obligations imposed by section BB 2 (Main obligations) on underwriters of Lloyd's of London who derive income (**premium income**) under section CR 3B (Lloyd's of London: income from life insurance premiums) in an income year in relation to that income.

Lloyd's of London single person

(2) All underwriters of Lloyd's of London who derive premium income in the income year are treated as if they were a notional single person, and are jointly and severally liable for meeting the obligations of the notional single person for the income year.

Taxable income and return of income

(3) Subject to section HD 17B (Lloyd's of London: agents for life insurance), the underwriters of Lloyd's of London must—

(a) calculate the taxable income that relates to the premium income for the notional single person described in subsection (2) for the corresponding tax year; and

(b) for that tax year, provide a joint return of income and satisfy the income tax liability that relates to the premium income for the notional single person.

Underwriters of Lloyd's of London

(4) In this section, underwriters of Lloyd's of London has the same meaning as Lloyd's of London.

Defined in this Act: income, income tax liability, income year, Lloyd's of London, New Zealand, return of income, tax year, taxable income

Section HR 13: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 138(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart HZ—Terminating provisions

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HZ 1 Distributions from trusts of pre-1989 tax reserves

When this section applies

(1) This section applies if, and to the extent to which, a distribution is received from a trust that is not a unit trust, a group investment fund, or a superannuation scheme, when the distribution—

(a) consists of an amount of income or a capital gain derived by the trustee in the 1987–88 or earlier tax year; and

(b) is not also beneficiary income to which an entitlement exists in the tax year.

Treatment of distribution

(2) The distribution is not income, and the provisions of this Act and the Tax Administration Act 1994 that correspond to the provisions of the Income Tax Act 1976, the Income Tax Act 1994, the Income Tax Act 2004, and the Income Tax Amendment Act (No 5) 1988 specified in the proviso to section 9 of the Act last referred to, do not apply.

Defined in this Act: beneficiary income, distribution, group investment fund, income, superannuation scheme, tax year, trustee, trustee income, unit trust

Compare: 2004 No 35 s HZ 1

HZ 2 Trusts that may become complying trusts

When this section applies

(1) This section applies in relation to a settlement made on a trust on or before 17 December 1987, whether or not further settlements have been made on the trust after that date, when a settlor, trustee, or beneficiary of the trust chose under section 228(7) of the Income Tax Act 1976 on or before 31 May 1989 to

pay income tax on trustee income derived in the 1988–89 tax year and later tax years.

Trustee income derived in earlier tax years

(2) Trustee income having a source outside New Zealand, or having a source in New Zealand only as non-resident passive income in relation to which the income tax obligations have been satisfied, in the 1987–88 tax year and earlier tax years when no trustee was resident in New Zealand is treated as liable to income tax, other than only as non-resident passive income.

Trustee's obligations

(3) The trustee's obligations in relation to their income tax liability on the trustee income are treated as having been satisfied.

Defined in this Act: complying trust, income tax, income tax liability, New Zealand, non-resident passive income, pay, resident in New Zealand, settlement, source in New Zealand, settlor, tax year, trustee, trustee income

Compare: 2004 No 35 s HZ 2

Section HZ 2(2): amended, on 21 December 2010, by section 103(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HZ 2 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 103(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HZ 2 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 103(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

HZ 3 Special partnerships: transition into limited partnerships and limited partnerships deduction rules

When this section applies

(1) This section applies when a special partnership under Part 2 of the Partnership Act 1908—

(a) is in existence on 1 April 2008; and

(b) is terminated and a limited partnership registered under the Limited Partnerships Act 2008 (the new **limited partnership**) succeeds to that special partnership.

No disposal: same partnership

(2) No partners' interests are disposed of merely because of the termination and succession described in subsection (1)(b). The partners of the special partnership are treated as the same partners of the new limited partnership.

Initial basis

(3) For the purposes of applying sections HG 11 and HG 12 (which relate to limited partnerships deduction rules) to the partners of the new limited partnership, all of the partners must choose one of the 2 following methods for calculating their partner's basis under section HG 11(3):

(a) they may choose to use the market value or the accounting book value of the amounts described in section HG 11(3), as at the day the calculation

is first performed, namely the last day of the first income year in which they are subject to sections HG 11 and HG 12; or

(b) they may choose to apply section HG 11(3) as if the special partnership had always been a limited partnership and all relevant rules relating to limited partnerships had always existed (applying those rules with any necessary modifications).

Initial basis not less than zero

(4) If the application of sections HG 11 and HG 12, as modified by this section, calculates a partner's basis as less than zero, then the partner's basis is treated as being zero.

Defined in this Act: dispose, limited partnership, partner, partner's interests, partnership

Section HZ 3: added, on 1 April 2008, by section 21(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section HZ 3 list of defined terms **disposal**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 3 list of defined terms **dispose**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

HZ 4 Overseas limited partnerships: transition into limited partnerships deduction rules

When this section applies

(1) This section applies when a limited partnership described in paragraphs (a) and (b) of the definition of **limited partnership** (the **overseas limited partnership**) existed before 1 April 2008, and a partner of that partnership (a **relevant partner**) is a member of the partnership on 1 April 2008 and is subject to sections HG 11 and HG 12 (which relate to limited partnerships deduction rules) on or after 1 April 2008.

Initial basis

(2) For the purposes of applying sections HG 11 and HG 12 to the relevant partners of the overseas limited partnership, all relevant partners must choose one of the 2 following methods for calculating their partner's basis under section HG 11:

(a) they may choose to use the market value or the accounting book value of the amounts described in section HG 11, as at the day the calculation is first performed, namely the last day of the first income year in which they are subject to sections HG 11 and HG 12; or

(b) they may choose to apply section HG 11 as if the overseas limited partnership had always been a limited partnership and all relevant rules relating to limited partnerships had always existed (applying those rules with any necessary modifications).

Initial basis not less than zero

(3) If the application of sections HG 11 and HG 12, as modified by this section, calculates a partner's basis as less than zero, then the partner's basis is treated as being zero.

Defined in this Act: limited partnership, partner, partnership

Section HZ 4: added, on 1 April 2008, by section 21(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

HZ 4B Qualifying companies: transition into partnership

When this section applies

(1) This section applies when a QCP transitional process is carried out for a qualifying company or companies for the first or second income year that starts on or after 1 April 2011, whichever is relevant (the **transitional income year**).

QCP transitional process: retrospective rule

(2) From the first day of the transitional income year to the first day of existence for the partnership that effectively replaces the qualifying company or companies under a QCP transitional process, the partnership is treated as existing and having the assets and liabilities of the qualifying company or companies, and associated rights and obligations, for that period. On and after the first day of the transitional year, the existence of the qualifying company or companies is ignored for the purposes of the Inland Revenue Acts except to the extent necessary to give effect to this section.

Taxation continuity

(3) The moving to the partnership of the assets, liabilities, and associated rights and obligations, under a QCP transitional process is treated for the purposes of the Inland Revenue Acts as a unique form of transference for such assets, liabilities, rights, and obligations, with the following effects:

(a) the moving to the partnership of the assets, liabilities, and associated legal rights and obligations, is treated as not being a transfer of such assets, liabilities, rights, and obligations:

(b) the qualifying company or companies has, before the first day of the transitional income year, the relevant tax situation in relation to the assets and liabilities, and associated rights and obligations (the **historical tax situations**):

(c) the partnership is treated as stepping into the place of the qualifying company or companies, and as having, on and after the first day of the transitional income year,—

(i) the qualifying company's or companies' historical tax situations; and

(ii) the tax situation in relation to the assets and liabilities, and associated rights and obligations, that it would have if it had always had the historical tax situations:

(d) the qualifying company has no tax situation in relation to the assets and liabilities, and associated rights and obligations, on and after the first day of the transitional income year:

(e) all memorandum account balances and other tax accounting amounts for the qualifying company before the first day of the transitional income year are ignored and have no effect on and after that day (for example, the qualifying company has no effective ASC on and after the first day of the transitional income year).

Transparency

(4) Subsections (2) and (3) are applied immediately before section HG 2 (Partnerships are transparent) applies.

Initial basis

(5) For the purposes of applying sections HG 11 and HG 12 (which relate to limited partnership deduction rules) to the partners of a limited partnership described in subsection (2) for the transitional income year and later years, all of the partners must choose 1 of the 2 following methods for calculating their partner's basis under section HG 11(3):

(a) for calculating amounts under section HG 11(5)(a) for shares that were held at the end of the income year (the **last year**) before the transitional income year, they may choose to use the market value or the accounting book value of those shares as at the end of the last year. Calculations under section HG 11(7)(b) and (8)(b) are changed to account for the valuation under this paragraph; or

(b) they may choose to apply section HG 11(3) as if the qualifying company had always been a limited partnership and all relevant rules relating to limited partnerships had always existed, applying those rules with any necessary modifications.

Initial basis not less than zero

(6) If the application of sections HG 11 and HG 12, as modified by this section, calculates a partner's basis as less than zero, then the partner's basis is treated as being zero.

Meaning of QCP transitional process

(7) **QCP transitional process** means a process, for which all outcomes are achieved in an income year (the **transitional income year**), by which a company or companies that are all qualifying companies at the end of the income year before the transitional income year transform into a partnership. The process must have the following outcomes:

(a) the Commissioner receives a notice from the qualifying company or companies before the day that is 6 months after the start of the transitional income year, stating an intention to revoke the company's or companies' qualifying company status and to complete the QCP transitional process relating to the partnership for the transitional income year; and

(b) the partners, or in the case of a limited partnership, the partners other than a company that is a general partner, are the same persons who, at the end of the income year before the transitional income year, were the shareholders of the qualifying company or companies, ignoring any person who dies in the transitional year; and

(c) all assets and liabilities, and associated rights and obligations, of the qualifying companies are moved to the partnership, excluding those that are inappropriate for a partnership; and

(d) each partner must have the same net position in the partnership as to relevant assets and liabilities, and associated rights and obligations, as would arise on the winding up of the qualifying company or companies at the end of the income year before the transitional income year, treating any person who dies in the transitional year as still being a partner.

Defined in this Act: ASC, Commissioner, company, income year, Inland Revenue Acts, limited partnership, memorandum account, notice, partner, partnership, QCP transitional process, qualifying company, tax situation, transfer

Section HZ 4B: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 104(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HZ 4B(3)(b): amended, on 24 February 2016, by section 195(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4B(3)(b): amended, on 24 February 2016, by section 195(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4B(3)(c)(i): amended, on 24 February 2016, by section 195(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4B(3)(c)(ii): amended, on 24 February 2016, by section 195(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4B(3)(c)(ii): amended, on 24 February 2016, by section 195(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4B(3)(d): amended, on 24 February 2016, by section 195(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4B(5): amended (with effect on 1 April 2011), on 2 November 2012, by section 111(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HZ 4B(5)(a): replaced (with effect on 1 April 2011), on 2 November 2012, by section 111(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HZ 4B list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section HZ 4B list of defined terms **tax position**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4B list of defined terms **tax situation**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

HZ 4C Qualifying companies: transition into look-through companies

When this section applies

(1) This section applies when a qualifying company first becomes a look-through company for the first or second income year, whichever is relevant, that starts on or after 1 April 2011 (the **transitional year**).

Initial basis

(2) For the purposes of applying sections HB 11 and HB 12 (which relate to look-through company deduction rules) to a person with an effective look-through interest for the look-through company for the transitional income year and later years, all of the persons who hold owner's interests must choose 1 of the 2 following methods for calculating their basis under section HB 11(3):

(a) for calculating amounts under section HB 11(5)(a) for shares that were held at the end of the income year (the **last year**) before the transitional income year, they may choose to use the market value or the accounting book value of those shares as at the end of the last year. Calculations under section HB 11(7)(b) and (8)(b) are changed to account for the valuation under this paragraph; or

(b) they may choose to apply section HB 11(3) as if the qualifying company had always been a look-through company and all relevant rules relating to look-through companies had always existed, applying those rules with any necessary modifications.

Initial basis not less than zero

(3) If the application of sections HB 11 and HB 12, as modified by this section, calculates an owner's basis as less than zero, then the owner's basis is treated as being zero.

Continuity of elections and methods

(4) The look-through company steps into the place of the qualifying company in relation to Inland Revenue Act elections and methods relating to the qualifying company.

Effect of elections and methods

(5) After subsection (4) applies, section HB 1 (Look-through companies are transparent) applies, so that the elections and methods are those of an owner of an effective look-through interest for the look-through company.

Defined in this Act: effective look-through interest, income year, Inland Revenue Acts, look-through company, owner's interests, qualifying company

Section HZ 4C: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 104(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HZ 4C(2): amended (with effect on 1 April 2011), on 2 November 2012, by section 112(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HZ 4C(2)(a): replaced (with effect on 1 April 2011), on 2 November 2012, by section 112(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section HZ 4C(4) heading: added (with effect on 1 April 2011), on 29 August 2011 (applying for income years beginning on or after 1 April 2011), by section 89(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HZ 4C(4): added (with effect on 1 April 2011), on 29 August 2011 (applying for income years beginning on or after 1 April 2011), by section 89(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HZ 4C(5) heading: added (with effect on 1 April 2011), on 29 August 2011 (applying for income years beginning on or after 1 April 2011), by section 89(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HZ 4C(5): added (with effect on 1 April 2011), on 29 August 2011 (applying for income years beginning on or after 1 April 2011), by section 89(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section HZ 4C list of defined terms **Inland Revenue Acts**: inserted (with effect on 1 April 2011), on 29 August 2011 (applying for income years beginning on or after 1 April 2011), by section 89(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

HZ 4D Qualifying companies: transition into sole traderships

When this section applies

(1) This section applies when a QCST transitional process is carried out for a qualifying company for the first or second income year, whichever is relevant, that starts on or after 1 April 2011 (the **transitional income year**).

QCST transitional process: retrospective rule

(2) From the first day of the transitional income year to the first day of existence for the sole tradership that effectively replaces the qualifying company under a QCST transitional process, the sole tradership is treated as existing and having the assets and liabilities of the qualifying company, and associated rights and obligations, for that period. On and after the first day of the transitional year, the existence of the qualifying company is ignored for the purposes of the Inland Revenue Acts except to the extent necessary to give effect to this section.

Taxation continuity

(3) The moving to the sole tradership of the assets, liabilities, and associated rights and obligations, under a QCST transitional process is treated for the purposes of the Inland Revenue Acts as a unique form of transference for such assets, liabilities, rights, and obligations, with the following effects:

(a) the moving to the sole tradership of the assets, liabilities, and associated rights and obligations, is treated as not being a transfer of such assets, liabilities, rights, and obligations:

(b) the qualifying company has, before the first day of the transitional income year, the tax situation in relation to the assets and liabilities, and associated rights and obligations (the **historical tax situation**):

(c) the sole tradership is treated as stepping into the place of the qualifying company, and as having, on and after the first day of the transitional income year,—

(i) the qualifying company's historical tax situation; and

(ii) the tax situation in relation to the assets and liabilities, and associated rights and obligations, that it would have if it had always had the historical tax situation:

(d) the qualifying company has no tax situation in relation to the assets and liabilities, and associated rights and obligations, on and after the first day of the transitional income year:

(e) all memorandum account balances and other tax accounting amounts for the qualifying company before the first day of the transitional income year are ignored and have no effect on and after that day (for example, the qualifying company has no effective ASC on and after the first day of the transitional income year).

Meaning of QCST transitional process

(4) **QCST transitional process** means a process, for which all outcomes are achieved in an income year (the **transitional income year**), by which a company that is a qualifying company at the end of the income year before the transitional income year is transformed into a sole tradership. The process must have the following outcomes:

(a) the Commissioner receives a notice from the qualifying company before the day that is 6 months after the start of the transitional income year, stating an intention to revoke the company's qualifying company status and to complete the QCST transitional process relating to the sole tradership for the transitional income year; and

(b) the sole tradership is the same natural person who, at the end of the income year before the transitional income year, is the sole shareholder of the qualifying company; and

(c) all assets and liabilities, and associated rights and obligations, of the qualifying company are moved to the sole tradership, excluding those that are inappropriate for a sole tradership.

Defined in this Act: ASC, Commissioner, company, income year, Inland Revenue Acts, memorandum account, notice, QCST transitional process, qualifying company, tax situation, transfer

Section HZ 4D: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 104(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section HZ 4D(3)(b): amended, on 24 February 2016, by section 196(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4D(3)(b): amended, on 24 February 2016, by section 196(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4D(3)(c)(i): amended, on 24 February 2016, by section 196(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4D(3)(c)(ii): amended, on 24 February 2016, by section 196(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4D(3)(d): amended, on 24 February 2016, by section 196(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4D list of defined terms **tax position**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section HZ 4D list of defined terms **tax situation**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

HZ 4E Transition out of LTC regime for Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017

When this section applies

(1) This section applies when an entity that is a look-through company (an **LTC**) at the end of the 2016–17 or 2017–18 income years ceases to be an LTC (the **cessation**)—

(a) on the first day of application for an amendment to LTC-related provisions, in section 288 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017; and

(b) because of an amendment to LTC-related provisions, in section 288 of that Act.

Exemption

(2) Section HB 4(6) (General provisions relating to disposals) does not apply to the cessation.

Company steps into place

(3) An entity that ceases to be an LTC is treated as having, as a company, the tax position it has, ignoring section HB 1(4) (Look-through companies are transparent), immediately before it ceases, and the owners are treated as not having that tax position.

Defined in this Act: company, income year, look-through company, tax position

Section HZ 4E: inserted, on 1 April 2017, by section 145 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section HZ 4E(1): replaced, on 29 March 2018 (with effect on 1 April 2017), by section 139 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

HZ 5 Transitional provisions for PIE rules

Intention of new law

(1) The PIE rules are the provisions of the Income Tax Act 2007 relating to portfolio investment entities in rewritten form, and are intended to have the same effect as the relevant corresponding provisions of the Income Tax Act 2007. Subsection (3) overrides this subsection.

Using old law as interpretation guide

(2) Unless subsection (3) applies, in circumstances where the meaning of a PIE rule (the **new law**) is unclear or gives rise to absurdity—

(a) the wording of the provisions of the Income Tax Act 2007 relating to portfolio investment entities that correspond to and are replaced by the PIE rules (the **old law**) must be used to determine the correct meaning of the new law; and

(b) it can be assumed that a corresponding old law provision exists for each new law provision.

Limits to subsections (1) and (2)

(3) Subsections (1) and (2) do not apply in the case of—

(a) a PIE rule that repeals an old law and replaces it with a new law:

(b) a PIE rule that is amended after the commencement of section 292(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009, with effect from the date on which the amendment comes into force.

Defined in this Act: PIE rules, portfolio investment entity

Section HZ 5: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 295(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HZ 5(3)(b): amended (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 80(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

HZ 6 Saving of binding rules relating to portfolio investment entities

When, and extent to which, this section applies

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

(a) before the commencement of this Act,—

(i) an applicant has applied for a private ruling, a product ruling, or a status ruling, on an arrangement that is entered into, or that the applicant seriously contemplates will be entered into, before the commencement of this Act:

(ii) a public ruling is issued; and

(b) the binding ruling is about a provision of the Income Tax Act 2007 relating to portfolio investment entities (the **old law**) that corresponds to and is replaced by the PIE rules; and

(c) the PIE rules corresponding to the old law (the **new law**) come into force on 1 April 2010; and

(d) the binding ruling—

(i) continues to exist at the commencement of this Act:

(ii) is made after the commencement of this Act in relation to an old law before 1 April 2010:

(iii) is made in relation to an old law provision of the Income Tax Act 2004 to which section ZA 4 (Saving of binding rulings) of the Income Tax Act 2007 applies, that continues to exist at the commencement of this Act; and

(e) in the absence of this section, the commencement of this Act would mean that the binding ruling would cease to apply because of section 91G of the Tax Administration Act 1994.

Ruling about new law

(2) The binding ruling is treated as if it were made about the new law, so that the effect of the ruling at the commencement of this Act is the same as its effect before the commencement.

No confirmation rulings

(3) To the extent to which a binding ruling continued by subsection (2) exists and applies to an arrangement, or to a person and an arrangement, the Commissioner must not make a binding ruling on how—

(a) the new law applies to the arrangement or to the person and the arrangement; or

(b) this subsection applies to the arrangement or to the person and the arrangement.

Defined in this Act: apply, arrangement, binding ruling, Commissioner, PIE rules, portfolio investment entity

Section HZ 6: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 295(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section HZ 6 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HZ 7 Saving of binding rulings relating to settlements on trusts

When, and extent to which, this section applies

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

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

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

(ii) a binding ruling is issued; and

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

(c) the binding ruling—

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

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

(d) in the absence of this section, the commencement of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 would mean that the binding ruling would cease to apply because of section 91G of the Tax Administration Act 1994.

Ruling about new law

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

No confirmation rulings

(3) To the extent to which a binding ruling continued by subsection (2) exists and applies to an arrangement, or to a person and an arrangement, the Commissioner must not make a binding ruling in the period that starts on the date of the commencement of this Act and ends on the date on which the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 receives the Royal assent on how—

(a) the new law applies to the arrangement or to the person and the arrangement; or

(b) this subsection applies to the arrangement or to the person and the arrangement.

Defined in this Act: apply, arrangement, binding ruling, Commissioner, settlement

Section HZ 7: added (with effect on 1 April 2008), on 7 December 2009, by section 53 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section HZ 7 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

HZ 8 Retrospective transitional provision for market valuation under section HB 4

When this section applies

(1) This section applies for the 2017–18 income year if section HB 4 (General provisions relating to disposals) has applied for a person before the start of the 2017–18 income year.

Income

(2) The person has an amount of income for the 2017–18 income year calculated using the formula—

retrospective amount – current amount.

Definition of items in formula

(3) In the formula,—

(a) **retrospective amount** is the amount of income, for the person's owner's interest in financial arrangements as debtor, that would result from the application of section HB 4 for income years before the 2017–18 income year, treating that section as amended, for the purposes of this definition, as provided by section 130 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 for those income years:

(b) **current amount** is the amount of income, for the person's owner's interest in financial arrangements as debtor from the application of section HB 4, for income years before the 2017–18 income year.

Section HZ 8: inserted, on 1 April 2017, by section 146 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

HZ 9 Elections to treat existing debt funding special purpose vehicles as transparent

When this section applies

(1) This section applies when an originator transferred any of their assets to a debt funding special purpose vehicle or an originator has attributed assets as described in section HR 9BAA(3) before the day after the date on which the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 receives the Royal assent.

How elections made

(2) An originator makes an election referred to in section HR 9 (Debt funding special purpose vehicles are transparent if election made by originator) by returning income derived and expenditure incurred by the special purpose vehicle in their return of income for an income year starting on or after the date on which the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 receives the Royal assent.

Effect of election

(3) An election under this section—

(a) cannot be revoked; and

(b) has effect from the start of the income year for which the election is made; and

(c) remains in effect until the relevant company or trustee of a trust stops being a special purpose vehicle.

Relationship with section HR 9BA

(4) This section overrides section HR 9BA (Elections to treat debt funding special purpose vehicles as transparent).

Defined in this Act: company, debt funding special purpose vehicle, income, income year, originator, return of income, trustee

Section HZ 9: inserted, on 18 March 2019, by section 227(1) (and see section 227(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HZ 9(1): replaced, on 30 March 2025, by section 96(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 9(2): amended, on 30 March 2025, by section 96(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 9(3)(c): amended, on 30 March 2025, by section 96(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HZ 10 What happens when election is made under section HZ 9?

When this section applies

(1) This section applies when—

(a) an originator makes an election under section HZ 9 that relates to a debt funding special purpose vehicle; and

(b) immediately before the election is made, the special purpose vehicle holds a financial arrangement or an excepted financial arrangement that was transferred to the special purpose vehicle by 1 of its originators.

Originator: stepping in

(2) For the purposes of calculating the income tax liability of the special purpose vehicle and its originators for the income year in which the election is made and later income years (the **post-disposal periods**),—

(a) the relevant originator is treated for the post-disposal periods as if they had acquired and held the financial arrangement or excepted financial arrangement, not the special purpose vehicle:

(b) the relevant originator is treated for the post-disposal periods as if they had paid any consideration originally paid by the special purpose vehicle for or under the financial arrangement or excepted financial arrangement, and the special purpose vehicle is treated as not having paid that consideration:

(c) the relevant originator is treated for the post-disposal periods as if they had received any consideration originally received by the special purpose vehicle for or under the financial arrangement or excepted financial arrangement, and the special purpose vehicle is treated as not having received that consideration:

(d) the special purpose vehicle is, for the financial arrangement, a party that is not required to calculate a base price adjustment, despite section EW 29 (When calculation of base price adjustment required).

Relationship with section HR 10

(3) Section HR 10 (What happens when vehicle stops being transparent debt funding special purpose vehicle?) overrides this section.

Relationship with subject matter

(4) Subsection (2) does not give rise to a supply of goods or services under the Goods and Services Tax Act 1985.

Defined in this Act: debt funding special purpose vehicle, excepted financial arrangement, financial arrangement, income tax liability, income year, originator

Section HZ 10: inserted, on 18 March 2019, by section 227(1) (and see section 227(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section HZ 10(1)(b): amended, on 30 March 2025, by section 97(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 10(2): amended, on 30 March 2025, by section 97(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 10(2)(a): amended, on 30 March 2025, by section 97(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 10(2)(b): amended, on 30 March 2025, by section 97(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 10(2)(c): amended, on 30 March 2025, by section 97(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 10(2)(d): amended, on 30 March 2025, by section 97(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 10(4) heading: inserted, on 30 March 2025, by section 97(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section HZ 10(4): inserted, on 30 March 2025, by section 97(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

HZ 11 Protection from non-compliance: Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020

Non-compliance with an enactment related to securities is ignored if the non-compliance—

(a) results from the enactment of sections 83, 103(1) and (3), and 148 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020; and

(b) relates to a product disclosure statement, or to information lodged on the relevant disclosure register, under the Financial Markets Conduct Act 2013; and

(c) concerns a multi-rate PIE that is not a KiwiSaver scheme; and

(d) comes to an end before 31 January 2021.

Defined in this Act: KiwiSaver scheme, multi-rate PIE, superannuation scheme

Section HZ 11: inserted, on 23 March 2020, by section 153 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Part I
Treatment of tax losses

Subpart IA—General rules for tax losses

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IA 1 What this subpart does

This subpart—

(a) defines the relationship between the core provisions of this Act, the provisions of this Part, and other provisions in this Act that allow a person with a tax loss to use the amount of the loss; and

(b) establishes the general rules for using a tax loss.

Defined in this Act: amount, tax loss

Compare: 2004 No 35 s IE 1(1)(a)

IA 2 Tax losses

What is a tax loss?

(1) A person's tax loss for a tax year is found by adding together the amounts referred to in subsections (2) to (4).

Loss balances carried forward

(2) If the person has a loss balance carried forward under section IA 3(4) to the tax year, the amount is included in their tax loss for the tax year to the extent to which it is not subtracted under section IA 4(1)(a) from their net income for the tax year.

Net losses

(3) If the person has a net loss under section BC 4 (Net income and net loss) for the tax year, the amount is a tax loss component included in their tax loss for the tax year.

Additional amounts

(4) If the person is described in 1 or more of the following paragraphs and has the amount described in the paragraph, the amount is included as a tax loss component in their tax loss for the tax year:

(a) a member fund that incurs excess expenditure:

(i) the amount that is included in the tax loss under section DV 5(4)(b) (Investment funds: transfer of expenditure to master funds); and

(ii) the amount that the fund chooses under section DV 7(2) (Carry forward of expenditure) to treat as an amount added to the tax loss under this section:

(b) a person whose imputation credits are included in their annual gross income for the tax year: the amount of converted imputation credits arising under section LE 2 (Use of remaining credits by companies and trustees) for the tax year:

(c) a person who has an unallocated deduction for the payment of a supplementary dividend in the corresponding income year: the amount referred to in section LP 10(3) (Limitation on deductions) for the tax year:

(d) a company (**company A**) if an Australian ICA company has chosen under section OB 69(5) (Further income tax paid satisfying liability for income tax) to have a payment converted into a tax loss component of company A: the amount calculated under section OB 69(7) for the tax year:

(e) a person who has an unused attributed controlled foreign company (CFC) net loss for the tax year: the amount referred to in section IQ 2(3) (Ring-fencing cap on attributed CFC net losses) for the tax year:

(f) a person who has an unused foreign investment fund (FIF) net loss for the tax year: the amount referred to in section IQ 3(3) (Ring-fencing cap on FIF net losses) for the tax year:

(g) a person with an unused specified activity net loss: the amount of the unused specified activity net loss to the extent to which the amount has not been subtracted under section IA 4(1)(a) from net income for a tax year:

(h) a person who has a mismatch amount under section FH 8 (Expenditure or loss through hybrid entity or foreign deducting branch producing double deduction without double income) that is not set off under section

FH 12 (Offset of mismatch amounts against surplus assessable income), the amount given by section FH 12(8) for the tax year.

Ring-fenced amounts

(5) This section, and sections IA 3 and IA 4, do not apply to the amounts referred to in section IA 7, which are subject to particular rules in other Parts or subparts that limit the way in which a person may use them.

Exclusion: net losses from schedular income

[Repealed]

(6) *[Repealed]*

Meaning of tax loss component

(7) A **tax loss component**, for a tax year,—

(a) means an amount included in a tax loss for the tax year under subsection (3) or (4):

(b) includes—

(i) an unused amount of a net loss or an amount treated as a net loss or as an available net loss of a person arising before the 2008–09 tax year which the person was entitled to have carried forward under section IE 1 (Net losses may be offset against future net income) of the Income Tax Act 2004 to that tax year:

(ii) an amount included in a company's loss balance at the end of the tax year to which sections IZ 4 to IZ 6 (which relate to tax losses for tax years before 1992) apply, or other amounts in relation to which modified continuity rules apply.

Defined in this Act: amount, annual gross income, attributed CFC net loss, Australian ICA company, company, deduction, FIF net loss, imputation credit, income, loss balance, net income, net loss, pay, supplementary dividend, tax loss, tax loss component, tax year, trustee, unused specified activity net loss

Compare: 2004 No 35 ss BC 4(4), DV 5(4)(b), DV 7(2), IE 1(1), (3)(a), IE 2(1), IE 3(5), IE 4(6), LB 2(3), (3A), LE 4(5), ME 9(5B)

Section IA 2(2): amended (with effect on 1 April 2008), on 7 December 2009, by section 54(1)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(2): amended (with effect on 1 April 2008), on 7 December 2009, by section 54(1)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(4)(b): substituted (with effect on 1 April 2008), on 7 December 2009, by section 54(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(4)(c): amended (with effect on 1 April 2008), on 7 December 2009, by section 54(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(4)(d): amended (with effect on 1 April 2008), on 7 December 2009, by section 54(4) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(4)(e): amended (with effect on 1 April 2008), on 7 December 2009, by section 54(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(4)(f): amended (with effect on 1 April 2008), on 7 December 2009, by section 54(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(4)(f): amended (with effect on 1 April 2008), on 7 December 2009, by section 54(6) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(4)(g): replaced, on 1 April 2018, by section 140(1) (and see section 140(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 2(4)(h): inserted, on 1 July 2018, by section 44(1) (and see section 44(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section IA 2(6) heading: repealed (with effect on 1 April 2008), on 7 December 2009, pursuant to section 54(8) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(6): repealed (with effect on 1 April 2008), on 7 December 2009, by section 54(8) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(7): substituted (with effect on 1 April 2008), on 7 December 2009, by section 54(9) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2(7): amended (with effect on 1 April 2008), on 30 March 2021, by section 94(1) (and see section 94(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 2 list of defined terms **corresponding income year**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2 list of defined terms **schedular income**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2 list of defined terms **schedular income tax liability**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2 list of defined terms **specified activity net loss**: repealed, on 1 April 2018, by section 140(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 2 list of defined terms **trustee**: added (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 2 list of defined terms **unused specified activity net loss**: inserted, on 1 April 2018, by section 140(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

IA 3 Using tax losses in tax year

Paying shortfall penalties

(1) A person who has a tax loss for a tax year may use some or all of the amount of the tax loss under section IW 1 (Shortfall penalties) to pay a shortfall penalty.

Companies using tax losses

(2) A company that has a tax loss for a tax year may—

(a) make the amount available to another company under section IC 5 (Company B using company A's tax loss) to subtract from the other company's net income for the tax year.

(b) *[Repealed]*

(c) *[Repealed]*

Taxable distributions

(3) The amount of a tax loss for a tax year of a beneficiary of a non-complying trust may be used under section HC 22 (Use of tax losses to reduce taxable distributions from non-complying trusts) to adjust the amount of a taxable distribution derived in the corresponding income year.

Remaining loss balances carried forward

(4) If a person has a balance of tax loss remaining for a tax year after the uses described in this section, the balance is carried forward to the next tax year as a loss balance.

Relationship with other provisions in this subpart

(5) Sections IA 3B, IA 5, IA 8, and IA 10 override this section.

Relationship with section IB 3

(6) Section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) modifies the application of this section when the person is a company.

Defined in this Act: amount, company, corresponding income year, loss balance, net income, non-complying trust, pay, shortfall penalty, tax loss, tax year, taxable distribution

Compare: 2004 No 35 ss BC 4(4), HH 3(4), IE 1(1), (2), IG 10, NH 3(2), NH 4(5), (6), NH 5(6), (7)

Section IA 3(2)(a): amended, on 1 April 2017, by section 147(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 3(2)(b): repealed, on 1 April 2017, by section 147(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 3(2)(c): repealed, on 1 April 2017, by section 147(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 3(5) heading: substituted (with effect on 1 April 2008), on 7 December 2009, by section 55(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 3(5): amended, on 30 March 2017, by section 147(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 3(5): amended (with effect on 1 April 2008), on 7 December 2009, by section 55(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 3(6) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 95 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 3(6): inserted (with effect on 1 April 2020), on 30 March 2021, by section 95 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 3 list of defined terms **FDP**: repealed, on 1 April 2017, by section 147(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 3 list of defined terms **foreign dividend**: repealed, on 1 April 2017, by section 147(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

IA 3B Tax losses and procedures under Insolvency Act 2006

When this section applies

(1) This section applies when a person has a tax loss for a period ending before a date (the **loss cancellation date**) on which the person—

(a) is discharged from bankruptcy:

(b) is released under Part 5, other than subpart 1, of the Insolvency Act 2006 from liability for each debt that is a provable debt under that Act and is not a debt of a type for which the person's liability is specifically preserved by that Act.

When tax loss cannot be used

(2) The person cannot use the tax loss to pay a shortfall penalty that is incurred after the loss cancellation date or carry the tax loss forward as part of a loss balance to a period ending after the loss cancellation date.

Section IA 3B: inserted, on 30 March 2017, by section 148(1) (and see section 148(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

IA 4 Using loss balances carried forward to tax year

Priority uses

(1) A person's loss balance carried forward under section IA 3(4) to a tax year, must—

(a) first, be subtracted from their net income, so far as it extends, for the tax year; and

(b) secondly, to the extent of a remaining loss balance carried forward under section IA 2(2), be included in their tax loss for the tax year.

Unused specified activity net losses subtracted before loss balance

[Repealed]

(1B) *[Repealed]*

Order for unused specified activity net losses

[Repealed]

(1C) *[Repealed]*

Relationship with other provisions in this subpart

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

Defined in this Act: company, loss balance, net income, tax loss, tax year

Compare: 2004 No 35 s IE 1(2)

Section IA 4(1): amended, on 1 April 2019, by section 142(1) (and see section 142(5) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 4(1)(b): amended, on 1 April 2019, by section 142(2) (and see section 142(5) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 4(1)(b): amended (with effect on 1 April 2008), on 7 December 2009, by section 56(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 4(1B) heading: repealed, on 1 April 2019, pursuant to section 142(3) (and see section 142(5) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 4(1B): repealed, on 1 April 2019, by section 142(3) (and see section 142(5) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 4(1C) heading: repealed, on 1 April 2019, pursuant to section 142(3) (and see section 142(5) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 4(1C): repealed, on 1 April 2019, by section 142(3) (and see section 142(5) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 4(2) heading: substituted (with effect on 1 April 2008), on 7 December 2009, by section 56(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 4(2): substituted (with effect on 1 April 2008), on 7 December 2009, by section 56(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 4 list of defined terms **tax loss component**: repealed, on 1 April 2019, by section 142(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 4 list of defined terms **unused specified activity net loss**: repealed, on 1 April 2019, by section 142(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

IA 5 Restrictions on companies' loss balances carried forward: continuity of ownership

General statement

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

Continuity of voting interests

(2) A tax loss component is carried forward in a loss balance under section IA 3(4) only if a group of persons holds for the continuity period minimum voting interests in the company that add up to at least 49%.

Continuity of market value interests

(3) If a market value circumstance exists for the company at any time during the continuity period, the group of persons must also hold for the continuity period, minimum market value interests in the company that add up to at least 49%.

Breach of continuity of ownership in period

(4) If a tax loss component cannot be carried forward because the requirements of subsections (2) and (3) are not met, the company may apply section IB 3, IP 3, or IP 3B (which relate to the carrying forward of tax losses for companies) to determine whether some or all of the tax loss component is carried forward in a loss balance.

Avoidance arrangements

(5) Section GB 3 (Arrangements for carrying forward loss balances: companies' ownership) may apply to treat a company as not meeting the requirements of subsection (2) or (3).

Some definitions

(6) In this section,—

continuity period means the period of time from the start of the income year that corresponds to the tax year in which a tax loss component is included in the tax loss to the end of the income year that corresponds to the tax year in which the company uses the tax loss component

minimum market value interest, for a person and a continuity period, means the lowest market value interest they have in the company during the continuity period

minimum voting interest, for a person and a continuity period, means the lowest voting interest they have in the company during the continuity period.

Defined in this Act: company, continuity period, corresponding income year, group of persons, income year, loss balance, market value circumstance, market value interest, minimum market value interest, minimum voting interest, tax loss component, tax year, voting interest

Compare: 2004 No 35 s IF 1(1)

Section IA 5 heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 96(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 5(1): substituted (with effect on 1 April 2008), on 7 December 2009, by section 57(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 5(4): substituted (with effect on 1 April 2008), on 7 December 2009, by section 57(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 5(4): amended (with effect on 1 April 2020), on 30 March 2022, by section 118(1) (and see section 118(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IA 5(4): amended (with effect on 1 April 2020), on 30 March 2021, by section 96(2) (and see section 96(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 5(5): amended (with effect on 1 April 2020), on 30 March 2021, by section 96(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 5(6) **minimum market value interest**: amended (with effect on 1 April 2008), on 7 December 2009, by section 57(3)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 5(6) **minimum voting interest**: amended (with effect on 1 April 2008), on 7 December 2009, by section 57(3)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IA 6 Restrictions on companies grouping tax losses

Groups of companies

(1) A company that is part of a group of companies may use under section IA 3(2) a tax loss under subpart IC (Grouping tax losses) only if it meets the requirements of section IC 5 (Company B using company A's tax loss).

Consolidated groups

(2) Subpart ID (Use of tax losses by consolidated groups) applies to the grouping of tax losses by a consolidated group of companies.

Avoidance arrangements

(3) Section GB 4 (Arrangements for grouping tax losses: companies) may apply to treat a company as not meeting the requirements referred to in subsection (1).

Defined in this Act: company, consolidated group, group of companies, tax loss

Compare: 2004 No 35 ss IG 1(1), GC 4

Section IA 6(1): amended (with effect on 1 April 2008), on 7 December 2009, by section 58(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IA 7 Restrictions relating to ring-fenced tax losses

Non-application of sections IA 2 to IA 4

(1) Sections IA 2 to IA 4 (the **general rules**) do not apply to an amount referred to in subsections (2) to (8).

Treatment as tax loss component

(1B) For the purposes of the application of sections IA 5, IA 6, IA 9, and IA 10, and subpart IB (Carrying forward companies' loss balances: continuity of business activities), a ring-fenced tax loss under this section is treated as if it were a tax loss component.

Tax losses of LAQCs

[Repealed]

(2) *[Repealed]*

Policyholder net losses

[Repealed]

(3) *[Repealed]*

Investment funds' excess expenditure

(4) The general rules do not apply to excess expenditure of an investment fund under sections DV 5 and DV 7 (which relate to investment funds) except for—

(a) the amount under section DV 5(4)(a) that the fund must treat as a tax loss component under section IA 2(4)(a)(i); and

(b) the amount under section DV 7(2) that the fund chooses to treat as a tax loss component under section IA 2(4)(a)(ii).

Attributed CFC net losses

(5) The general rules do not apply to an attributed CFC net loss except a surplus under section IQ 2(3) (Ring-fencing cap on attributed CFC net losses). The provisions that deal with this net loss, other than the surplus amount, are sections IQ 2, IQ 4, and IQ 6 to IQ 9 (which relate to foreign losses).

FIF net losses

(6) The general rules do not apply to a FIF net loss except a surplus amount under section IQ 3(3) (Ring-fencing cap on FIF net losses). The provisions that deal with this net loss are sections IQ 3 and IQ 6 to IQ 9.

Mining net losses

(7) The general rules do not apply to a net loss of a mineral miner to the extent to which the net loss relates to a permit area. The provisions that deal with these net losses are sections IS 1 to IS 4 and IS 6 (which relate to mineral miner's tax losses).

Petroleum net losses

[Repealed]

(8) *[Repealed]*

Amounts remitted

[Repealed]

(9) *[Repealed]*

Net losses of multi-rate PIEs

(10) The general rules do not apply to a multi-rate PIE's net loss when the PIE does not calculate and pay tax using the provisional tax calculation option under section HM 44 (Provisional tax calculation option).

Defined in this Act: amount, associated person, attributed CFC net loss, FIF net loss, loss balance, mineral miner, multi-rate PIE, net loss, pay, permit area, PIE, provisional tax, ring-fenced tax loss, tax, tax loss component

Compare: 2004 No 35 ss DV 5(4)(b), DV 7(2), EY 42(10), HG 16, IE 1(2BB), (2C), IE 3(5), IE 4(6), IG 4(4), IG 5(4), IG 7(2), (3), IH 1, IH 2(1), IH 3–IH 5, II 1(1), (2)

Section IA 7(1B) heading: inserted (with effect on 1 April 2008), on 7 December 2009, by section 59(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 7(1B): inserted (with effect on 1 April 2008), on 7 December 2009, by section 59(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 7(1B): amended (with effect on 1 April 2020), on 30 March 2021, by section 97(1) (and see section 97(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8)

Section IA 7(2) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section IA 7(2): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section IA 7(3) heading: repealed, on 1 July 2010, pursuant to section 296(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7(3): repealed, on 1 July 2010, by section 296(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7(5): amended (with effect on 1 April 2008), on 6 October 2009, by section 296(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7(6): amended, on 30 March 2025, by section 98 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section IA 7(6): amended (with effect on 1 April 2008), on 7 December 2009, by section 59(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 7(6): amended (with effect on 1 April 2008), on 6 October 2009, by section 296(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7(7): amended (with effect on 1 April 2008 and applying for the 2008–09 income year and later income years beginning before 1 April 2011), on 30 March 2017, by section 149(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 7(7): amended (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 30 March 2017, by section 149(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 7(7): amended, on 1 April 2014, by section 94(1)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7(7): amended, on 1 April 2014, by section 94(1)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7(7): amended, on 1 April 2014, by section 94(1)(c) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7(8) heading: repealed, on 1 April 2018, pursuant to section 143(1) (and see section 143(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 7(8): repealed, on 1 April 2018, by section 143(1) (and see section 143(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 7(9) heading: repealed, on 30 March 2017, pursuant to section 149(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14)..

Section IA 7(9): repealed, on 30 March 2017, by section 149(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 7(10) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 296(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7(10): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 296(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section IA 7 list of defined terms **life insurer**: repealed, on 1 July 2010, by section 296(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7 list of defined terms **loss-attributing qualifying company**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section IA 7 list of defined terms **loss balance**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IA 7 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 94(2)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7 list of defined terms **mining company**: repealed, on 1 April 2014, by section 94(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7 list of defined terms **mining permit area**: repealed, on 1 April 2014, by section 94(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 296(6)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7 list of defined terms **new start grant**: repealed, on 30 March 2017, by section 149(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IA 7 list of defined terms **non-resident mining operator**: repealed, on 1 April 2014, by section 94(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7 list of defined terms **petroleum mining company**: repealed, on 1 April 2018, by section 143(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 7 list of defined terms **PIE**: inserted, on 1 April 2010, by section 296(6)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7 list of defined terms **policyholder net loss**: repealed, on 1 July 2010, by section 296(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 296(6)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7 list of defined terms **provisional tax**: inserted, on 1 April 2010, by section 296(6)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 7 list of defined terms **resident mining operator**: repealed, on 1 April 2014, by section 94(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IA 7 list of defined terms **ring-fenced tax loss**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IA 8 Restrictions relating to schedular income

Certain schedular income

(1) For the purposes of section BC 7 (Income tax liability of person with schedular income), a person must not take a tax loss into account in calculating a schedular income tax liability for a tax year for income described in the following paragraphs of the definition of **schedular income**:

(aa) paragraph (a), which relates to life insurers' schedular policyholder base income; or

(a) *[Repealed]*

(b) paragraph (f), for non-resident passive income described in section RB 3 (Schedular income tax liability for filing taxpayers for non-resident passive income); or

(c) paragraph (g), which relates to non-resident shippers; or

(d) *[Repealed]*

(e) paragraph (i), which relates to non-resident general insurers; or

(f) paragraph (k), which relates to companies carrying forward loss balances.

Grouping tax losses

(2) For the purposes of subsection (1), a company that is part of a group of companies must not take a tax loss of another company in the same group into account under section IC 5 or ID 2 (which relate to companies' use of tax losses) in calculating a schedular income tax liability for the tax year.

Relationship with sections IA 3 to IA 7

(3) This section overrides sections IA 3 to IA 7.

Defined in this Act: company, general insurance, group of companies, income, insurer, loss balance, non-resident, non-resident passive income, schedular income, schedular income tax liability, schedular policyholder base income, tax loss, tax year

Compare: 2004 No 35 s ID 1(1)

Section IA 8(1)(aa): inserted, on 1 July 2010, by section 297(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 8(1)(a): repealed (with effect on 1 April 2008), on 6 October 2009, by section 297(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IA 8(1)(d): repealed, on 2 November 2012, by section 113 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section IA 8(1)(e): amended (with effect on 1 April 2020), on 30 March 2021, by section 98(1) (and see section 98(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 8(1)(f): inserted (with effect on 1 April 2020), on 30 March 2021, by section 98(2) (and see section 98(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 8 list of defined terms **loss balance**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 98(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IA 8 list of defined terms **non-resident entertainer**: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 144 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 8 list of defined terms **schedular policyholder base income**: inserted, on 1 July 2010, by section 297(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

IA 9 Ordering rules

Tax loss components

(1) Tax loss components that are included in a tax loss must be used in the order in which they arose.

Ring-fenced tax losses

(2) Ring-fenced tax losses must be used in the order in which they arose.

Losses in same tax year: consolidated groups and amalgamated companies

(3) For a consolidated group or on the amalgamation of companies, tax loss components that the consolidated group or the companies have for the same tax year must be used in the order decided, as applicable, by the consolidated group or the amalgamated company, who must also notify the Commissioner of the decision. Without notification, the amounts must be used on a pro rata basis.

Order for tax loss component from unused specified activity net loss

(4) For the purposes of subsection (1), the tax loss component under section IA 2(4)(g) arose when the specified activity net loss, that is referred to in the definition of unused specified activity net loss and that makes up the tax loss component, arose.

Defined in this Act: amalgamated company, amalgamation, amount, Commissioner, company, consolidated group, notify, ring-fenced tax loss, tax loss, tax loss component, tax year, unused specified activity net loss

Compare: 2004 No 35 ss IE 1(3)(b), IF 5, IG 6(5)

Section IA 9(4) heading: inserted, on 1 April 2018, by section 145(1) (and see section 145(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 9(4): inserted, on 1 April 2018, by section 145(1) (and see section 145(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IA 9 list of defined terms **unused specified activity net loss**: inserted, on 1 April 2018, by section 145(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

IA 10 Amended assessments

When this section applies

(1) This section applies if, in a tax year, the Commissioner amends under section 113 of the Tax Administration Act 1994 a person's assessment for an earlier tax year, and the amendment adjusts the amount of a tax loss component or a ring-fenced tax loss for the earlier tax year.

Reduced losses

(2) If the amount is reduced in the adjustment, the person must reduce their loss balance or ring-fenced tax loss for the earlier tax year by the amount of the adjustment. If the loss balance or ring-fenced tax loss has been used in earlier

tax years, they must similarly apply the reduction to the use of the loss balance or ring-fenced tax loss.

Increased losses

(3) If the amount is increased in the adjustment, the person must add an amount to their loss balance or ring-fenced tax loss for the earlier tax year.

Defined in this Act: amount, assessment, Commissioner, loss balance, ring-fenced tax loss, tax loss component, tax year

Subpart IB—Carrying forward companies' loss balances: continuity of business activities

Subpart IB: inserted (with effect on 1 April 2020), on 30 March 2021, by section 99(1) (and see section 99(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

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IB 1 Purpose

The purpose of this subpart and sections GB 3BA to GB 3BAC (which relate to arrangements involving tax losses) is—

(a) to enable companies to carry forward tax loss components in loss balances despite not meeting the requirements for continuity of ownership of section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership), in order to reduce impediments to—

(i) innovation and economic growth:

(ii) corporate reorganisations:

(iii) changes in the direct or indirect ownership of companies:

(iv) companies accessing new sources of share capital:

(v) companies adapting their business activities in order to grow or be resilient; but

(b) not to encourage tax avoidance arrangements involving the acquisition of ownership interests in companies.

Defined in this Act: business, company, loss balance, ownership interest, tax avoidance arrangement, tax loss component

Section IB 1: inserted (with effect on 1 April 2020), on 30 March 2021, by section 99(1) (and see section 99(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IB 2 Meaning of ownership continuity breach

In this subpart, an **ownership continuity breach**, for a company, means a breach of the requirements for continuity of ownership of section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership) that, if met, enable a tax loss component of the company to be carried forward in a loss balance.

Defined in this Act: company, loss balance, ownership continuity breach, tax loss component, tax year

Section IB 2: inserted (with effect on 1 April 2020), on 30 March 2021, by section 99(1) (and see section 99(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IB 2B When subsequent ownership continuity breach regarded as occurring

For the purposes of this subpart, once an ownership continuity breach has occurred for a company that, in the absence of section IB 3, prevents a tax loss component of the company from being carried forward to a tax year in a loss balance, a subsequent change in the holders of voting interests or market value interests in the company is not regarded as resulting in a subsequent ownership continuity breach unless the company would not meet the minimum continuity requirements of section IA 5(2) and (3) for the carrying forward of the tax loss component to the tax year in a loss balance if the meaning of **continuity period** in that section is modified by replacing the words "the start of the income year that corresponds to the tax year in which a tax loss component is included in the tax loss" with the words "immediately after the company's last ownership continuity breach occurred that, in the absence of section IB 3, prevents the tax loss component from being carried forward to the tax year in a loss balance".

Defined in this Act: company, continuity period, income year, loss balance, market value interest, ownership continuity breach, tax loss, tax loss component, tax year, voting interest

Section IB 2B: inserted (with effect on 1 April 2020), on 31 March 2023, by section 83(1) (and see section 83(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

IB 3 When tax loss components of companies carried forward despite ownership continuity breach

When this section applies

(1) This section applies when an ownership continuity breach occurs for a company.

Tax loss components for earlier income years carried forward

(2) Despite the ownership continuity breach, a tax loss component arising in an earlier income year is carried forward to a tax year in a loss balance under section IA 3(4) (Using tax losses in tax year) if—

(a) the earlier income year is the 2013–14 income year or a later income year; and

(b) the company does not cease to carry on business activities during the relevant period described in section IB 4 (the **business continuity period**); and

(c) no major change in the nature of the business activities carried on by the company occurs during the business continuity period, other than 1 or more major changes that are permitted under subsection (5); and

(d) subsection (3) does not apply to prevent the tax loss component being carried forward to the tax year.

Tax loss components for earlier income years not carried forward

(3) The tax loss component is not carried forward to the tax year if—

(a) before the beginning of the business continuity period,—

(i) the business activities carried on by the company have ceased; and

(ii) the business activities have not been revived:

(b) the company has had another ownership continuity breach—

(i) since the later of the beginning of the earlier income year and the beginning of the 2020–21 income year; and

(ii) in relation to which the requirements of subsection (2)(b) and (c) for the carrying forward to the tax year of the tax loss component are not met:

(c) the earlier income year is before the 2020–21 income year and the tax loss component could not be carried forward to the 2020–21 tax year in the absence of this subpart.

Major change: factor that must be taken into account

(4) For the purposes of subsection (2), without limiting the factors that may be taken into account in determining whether a major change in the nature of the business activities carried on by the company has occurred during the business continuity period, the extent to which the assets used in deriving the company's assessable income have remained the same or similar over the business continuity period must be taken into account.

Permitted major changes

(5) A major change in the nature of the business activities carried on by the company during the business continuity period does not breach the requirement set out in subsection (2)(c) if the major change is—

(a) made to increase the efficiency of a business activity that the company carried on immediately before the beginning of the business continuity period:

(b) made to keep up to date with advances in technology relating to a business activity that the company carried on immediately before the beginning of the business continuity period:

(c) caused by an increase in the scale of a business activity that the company carried on immediately before the beginning of the business continuity period, including as a result of the company entering a new market for a product or service that it produced or provided at that time:

(d) caused by a change in the type of products or services the company produces or provides that involves the company starting to produce or provide a product or service using the same, or mainly the same, assets as, or that is otherwise closely connected with, a product or service that the company produced or provided immediately before the beginning of the business continuity period.

Exclusion: mining net losses

(5B) This section does not apply to an amount referred to in section IA 7(7) (Restrictions relating to ring-fenced tax losses) that is treated by subsection (1B) of that section as if it were a tax loss component.

Avoidance arrangements

(6) Section GB 3BA (Arrangements for carrying forward loss balances: companies' business activities) may apply to treat a company as not meeting the requirements of subsection (2).

A definition

(7) In subsection (5), **asset** does not include land other than buildings and fixtures.

Defined in this Act: amount, assessable income, asset, business, company, income year, land, loss balance, ownership continuity breach, tax loss component, tax year

Section IB 3: inserted (with effect on 1 April 2020), on 30 March 2021, by section 99(1) (and see section 99(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IB 3(3)(b): replaced (with effect on 1 April 2020), on 30 March 2022, by section 119(1) (and see section 119(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 3(3)(c): replaced (with effect on 1 April 2020), on 30 March 2022, by section 119(1) (and see section 119(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 3(5)(a): amended (with effect on 1 April 2020), on 30 March 2022, by section 119(2) (and see section 119(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 3(5)(b): amended (with effect on 1 April 2020), on 30 March 2022, by section 119(3) (and see section 119(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 3(5)(c): replaced (with effect on 1 April 2020), on 30 March 2022, by section 119(4) (and see section 119(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 3(5B) heading: inserted (with effect on 1 April 2020), on 30 March 2022, by section 119(5) (and see section 119(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 3(5B): inserted (with effect on 1 April 2020), on 30 March 2022, by section 119(5) (and see section 119(7) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 3 list of defined terms **amount**: inserted (with effect on 1 April 2020), on 30 March 2022, by section 119(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

IB 4 Business continuity period

Period

(1) The period referred to in section IB 3(2)(b), for an ownership continuity breach and a tax loss component of a company, is the period beginning immediately before the ownership continuity breach occurs and ending on,—

(a) for a company for which the amount calculated using the formula in subsection (2) is 0.50 or greater, the last day of the income year that corresponds to the tax year in which the company uses the tax loss component; or

(b) in any other case, the earlier of—

(i) the last day of the income year that corresponds to the tax year in which the company uses the tax loss component; and

(ii) the last day of the income year in which the fifth anniversary of the ownership continuity breach falls.

Formula

(2) The formula is—

(bad debt deductions – bad debt repayment income) ÷ (total deductions – bad debt repayment income).

Definition of items in formula

(3) In the formula,—

(a) **bad debt deductions** is the total amount of deductions that the company has been allowed under section DB 31(3) (Bad debts) for income years between the 2013–14 income year and the income year corresponding to the tax year immediately preceding the ownership continuity breach, both income years inclusive, in which a tax loss component included in the company's tax loss for that tax year arose:

(b) **bad debt repayment income** is the total amount of income that the company has under section CG 3 (Bad debt repayment)—

(i) for income years between the earliest and the latest of the income years described in paragraph (a), both income years inclusive; and

(ii) that relates to deductions that the company has been allowed under section DB 31(3):

(c) **total deductions** is the total amount of deductions that the company has been allowed for the income years described in paragraph (a).

Defined in this Act: amount, company, deduction, income, income year, ownership continuity breach, tax loss, tax loss component, tax year

Section IB 4: inserted (with effect on 1 April 2020), on 30 March 2021, by section 99(1) (and see section 99(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IB 5 When group companies treated as single company

New Zealand resident companies that are part of the same group of companies immediately before and immediately after an ownership continuity breach occurs for each of the companies are treated as a single company for the purposes of this subpart and sections GB 3BA to GB 3BAC (which relate to arrangements involving tax losses).

Defined in this Act: company, group of companies, New Zealand resident, ownership continuity breach

Section IB 5: inserted (with effect on 1 April 2020), on 30 March 2021, by section 99(1) (and see section 99(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IB 5: amended (with effect on 1 April 2020), on 30 March 2022, by section 120(1) (and see section 120(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IB 5 list of defined terms **New Zealand resident**: inserted (with effect on 1 April 2020), on 30 March 2022, by section 120(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Subpart IC—Grouping tax losses

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Introductory provisions

IC 1 Company A making tax loss available to company B

When this subpart applies

(1) This subpart applies if 1 company that is part of a group of companies (**company A**) has a tax loss for a tax year that it makes available to another group company (**company B**) to subtract from its net income for the tax year.

Requirements for grouping tax losses

(2) The amount of a tax loss that company A has for a tax year may be made available to company B to subtract from its net income for the tax year only if—

(a) the threshold levels in section IC 2 are met; and

(b) the companies meet all the requirements of section IC 5.

Losing continuity or commonality in tax year

(3) If company A or company B fail to meet 1 or both of the threshold levels referred to in subsection (2)(a), a tax loss may not be grouped unless section IP 4 or IP 5 (which relate to the grouping of part-year losses) applies.

References to years

(4) In this subpart, a reference to a tax year of a company includes a reference to a non-standard accounting year of the company that corresponds with the tax year.

Relationship with sections IA 3 and IA 4

(5) This section overrides sections IA 3 and IA 4 (which relate to the general use of tax losses).

Defined in this Act: amount, company, group of companies, net income, non-standard accounting year, tax loss, tax year

Compare: 2004 No 35 ss IG 1(1), (3), IG 2(1), (2)(c), (e)

IC 2 Threshold levels for grouping tax losses in tax year

Company A: continuity of ownership or business activities

(1) Company A may group a tax loss in a tax year under section IC 5 only if the requirements of section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies) are met.

Company A and company B: common ownership

(2) In addition to meeting the requirements referred to in subsection (1), company A and company B must have the required common ownership under section IC 3 for the period referred to in section IC 6.

Part years: relationship with subpart IP

(3) Subpart IP (Meeting requirements for part-years) applies in a tax year that is part of the commonality period if the following requirements are met for the relevant part-year:

(a) continuity of ownership in company A for the purposes of subsection (1); and

(b) common ownership of company A and company B for the purposes of subsection (2).

Defined in this Act: commonality period, company, tax loss, tax year

Compare: 2004 No 35 ss IG 1(1), (3), IG 2(1), (2)(c), (e)

Section IC 2(1) heading: amended (with effect on 1 April 2020), on 30 March 2021, by section 100(1) (and see section 100(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IC 2(1): amended (with effect on 1 April 2020), on 30 March 2021, by section 100(2) (and see section 100(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IC 3 Common ownership: group of companies

Meaning

(1) A **group of companies** means 2 or more companies, none of which is a multi-rate PIE or a listed PIE, in relation to which a group of persons holds—

(a) common voting interests that add up to at least 66%; and

(b) if a market value circumstance exists for a company that is part of a group of companies, common market value interests that add up to at least 66%.

Part of group at time or for period

(2) A company is treated as part of a group of companies at a particular time or for a particular period if the minimum common interests referred to in subsection (1) exist at the relevant time or are kept for the whole of the relevant period. But it is not necessary that the group of persons holding the interests stays the same for the whole of the relevant period.

Restriction for mixed-ownership enterprises

(2A) A mixed-ownership enterprise may be included in a group of companies only if, at the particular time or for the particular period, no other company in the group is a mixed-ownership enterprise.

When multi-rate PIEs included in group

(2B) In relation to 2 or more companies of which 1 is a multi-rate PIE, the companies are treated as a group of companies at a particular time or for a particular period if—

(a) the PIE owns 100% of the voting interests in the other companies; and

(b) the other companies in the group are—

(i) multi-rate PIEs:

(ii) land investment companies:

(iii) subsidiary companies that meet the requirements of section HM 7(a) and (d) (Requirements):

(iv) foreign PIE equivalents.

When listed PIEs included in group

(2C) In relation to 2 or more companies of which 1 is a listed PIE, the companies are treated as a group of companies at a particular time or for a particular period if the PIE owns 100% of the voting interests in the other companies.

When foreign investment PIEs included in group

(2D) For the purposes of subsection (2B)(b), a multi-rate PIE that chooses under section HM 71B (Choosing to become foreign investment PIE) to become a foreign investment PIE, must not be part of a group of companies that includes a land investment company.

Measuring common voting interests

(3) In subsection (1)(a) and section IC 4(1)(a), a person's common voting interest in the relevant companies at a particular time is the percentage of their voting interests under sections YC 2, YC 4(1) to (3), YC 5, and YC 6 (which relate to voting interests) in each of the companies at the time.

Measuring common market value interests

(4) In subsection (1)(b), a person's common market value interest in the relevant companies at a particular time is the percentage of their market value interests under sections YC 3, YC 4(1) to (3), YC 5, and YC 6 (which relate to market value interests) in each of the companies at the time.

Common interest percentages

(5) For the purposes of this section, in measuring a person's common voting interest or common market value interest in 2 or more companies at a particular time,—

(a) for percentages that are the same in relation to each company, the person's percentage interest at the time:

(b) for percentages that differ as between the companies, the lowest percentage interest in each company at the time.

Defined in this Act: common market value interest, common voting interest, company, foreign investment PIE, foreign PIE equivalent, group of companies, group of persons, listed PIE, land investment company, market value circumstance, market value interest, mixed-ownership enterprise, multi-rate PIE, voting interest

Compare: 2004 No 35 s IG 1(2), (5)

Section IC 3(1): amended, on 29 August 2011, by section 90(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3(1): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 105(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section IC 3(2A) heading: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section IC 3(2A): inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section IC 3(2B) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 298(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IC 3(2B): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 298(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IC 3(2B)(b): substituted, on 29 August 2011, by section 90(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3(2C) heading: inserted, on 29 August 2011, by section 90(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3(2C): inserted, on 29 August 2011, by section 90(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3(2D) heading: inserted, on 29 August 2011, by section 90(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3(2D): inserted, on 29 August 2011, by section 90(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3(3) heading: substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 82(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 3(3): replaced, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 146(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IC 3(4) heading: substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 82(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 3(4): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 82(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 3(4): amended, on 29 March 2018 (with effect on 1 April 2008), by section 146(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section IC 3(5) heading: added (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 82(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 3(5): added (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 82(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 3 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 90(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3 list of defined terms **foreign PIE equivalent**: inserted, on 29 August 2011, by section 90(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3 list of defined terms **land investment company**: inserted, on 1 April 2010, by section 298(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IC 3 list of defined terms **listed PIE**: inserted, on 29 August 2011, by section 90(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IC 3 list of defined terms **mixed-ownership enterprise**: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section IC 3 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 298(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IC 3 list of defined terms **portfolio land company**: repealed, on 1 April 2010, by section 298(3)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IC 3 list of defined terms **portfolio land company**: inserted, on 1 April 2008, by section 432(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section IC 3 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 298(3)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IC 3 list of defined terms **voting interest**: inserted, on 1 April 2010, by section 298(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

IC 4 Common ownership: wholly-owned groups of companies

Interests held

(1) A **wholly-owned group of companies** means 2 or more companies in relation to which a group of persons holds, for the relevant period,—

(a) common voting interests that add up to 100%; and

(b) if a market value circumstance exists for a company that is part of a group of companies, common market value interests that add up to 100%.

Exempt employee share schemes

(2) In subsection (1), company shares held by the trustee of, or by employees or former employees of the company as a consequence of the operation of, an exempt ESS are disregarded to the extent to which they represent voting

interests in the company that add up to no more than 3%, or, as applicable, market value interests in the company that add up to no more than 3%.

Defined in this Act: common market value interest, common voting interest, company, employee, exempt ESS, group of companies, group of persons, market value circumstance, market value interest, share, trustee, voting interest, wholly-owned group of companies

Compare: 2004 No 35 s IG 1(3)

Section IC 4(2) heading: replaced (with effect on 29 March 2018), on 31 March 2023, by section 84(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 4(2): amended (with effect on 29 March 2018), on 31 March 2023, by section 84(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 4 list of defined terms **exempt ESS**: inserted (with effect on 29 March 2018), on 31 March 2023, by section 84(3)(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 4 list of defined terms **share purchase scheme**: repealed (with effect on 29 March 2018), on 31 March 2023, by section 84(3)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Requirements and methods

IC 5 Company B using company A's tax loss

Requirements

(1) Company A may make a tax loss available to company B to subtract from its net income under section IA 3(2) (Using tax losses in tax year) only if—

(a) company A and company B have minimum common ownership for the relevant period as set out in sections IC 2(2) and IC 6; and

(b) company A meets the requirements of section IC 7; and

(c) company A has the required continuity of ownership or business activities under section IC 2(1) and, if it applies, section IC 10(2)(a); and

(d) the amount falls within the limits set by section IC 8(1) and (2); and

(e) the payment and notification requirements of section IC 9 are met.

Method: election or subvention payment

(2) Having met all the requirements set out in subsection (1), company A may—

(a) choose to make a tax loss that it has in a tax year available to company B to use in the tax year, notifying the Commissioner as described in section IC 9; or

(b) agree with company B that company B should bear the amount of company A's tax loss, or take a share in it, in return for a payment by company B to company A by the date set out in section IC 9; or

(c) apply both paragraphs (a) and (b) in relation to the tax loss.

Amounts used in tax year

(3) Company B must subtract the amount of the tax loss referred to in subsection (2)(a) or the payment referred to in subsection (2)(b), as applicable, from its net income for the tax year in relation to which company A makes the amount available or receives the payment.

When decisions made

(4) If company A chooses to make the amount available to company B under subsection (2)(a), the decision is irrevocable.

Nature of payment

(5) To the extent to which an amount of tax loss is subtracted from net income, a payment from company B to company A under subsection (2)(b) is not a dividend.

Part-year tax losses

(6) Sections IP 4 and IP 5 (which relate to losses in part-years) modify this section for part-year calculations.

Tax years before 1981–82 and between 1981–82 and 1991–92

(7) Section IZ 7 (Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92) modifies the requirements of—

(a) subsection (1)(a) for a tax loss component that arises in tax years between 1981–82 and 1991–92; and

(b) subsection (1)(b) for a tax loss component that arises in tax years before the 1991–92 tax year; and

(c) subsection (1)(a) for a tax loss component that arises in tax years before the 1981–82 tax year.

Commonality periods starting before 15 March 2017 for tax years after 1990–91

(8) Section IZ 7B (Grouping tax losses for commonality periods starting before 15 March 2017 for tax years after 1990–91) modifies the requirements of subsection (1)(b) for a commonality period starting before 15 March 2017 for a tax loss component that arises after the 1990–91 tax year.

Defined in this Act: amount, Commissioner, commonality period, company, dividend, net income, notify, pay, tax loss, tax loss component, tax year

Compare: 2004 No 35 s IG 2(2)

Section IC 5(1)(b): amended (with effect on 15 March 2017), on 31 March 2023, by section 85(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 5(1)(c): amended (with effect on 1 April 2020), on 30 March 2021, by section 101(1) (and see section 101(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IC 5(8) heading: inserted (with effect on 15 March 2017), on 31 March 2023, by section 85(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 5(8): inserted (with effect on 15 March 2017), on 31 March 2023, by section 85(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 5 list of defined terms **commonality period**: inserted (with effect on 15 March 2017), on 31 March 2023, by section 85(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

IC 6 Common ownership for period

Commonality period

(1) For the purposes of section IC 2(2), common ownership under section IC 3 must exist from the start of the income year in which company A has a tax loss component that is included in the tax loss to the end of the income year in which company B subtracts the amount of the tax loss component from its net income. In this Part, this length of time is called the **commonality period**.

Multiple net losses

(2) The requirement set out in subsection (1) applies to net losses as they arise in an income year on an individual basis.

When companies have different balance dates

(3) If the balance dates of company A and company B are different, section IC 10(2)(b) applies to extend the commonality period.

Relationship with section IZ 7

(4) Section IZ 7(1) and (2)(Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92) overrides subsections (1) and (2).

Defined in this Act: commonality period, company, income year, net income, tax loss, tax loss component

Compare: 2004 No 35 ss IG 1(1), (2), IG 2(2)(c), (4)(d)(ii), (5)(c)(ii)

IC 7 Place of incorporation or carrying on business

Incorporation or carrying on business

(1) Company A, for the commonality period, must be either—

(a) incorporated in New Zealand; or

(b) carrying on a business in New Zealand through a fixed establishment in New Zealand.

Residence in New Zealand

[Repealed]

(2) *[Repealed]*

Relationship with section IZ 7

(3) Section IZ 7(4) (Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92) overrides this section.

Defined in this Act: business, commonality period, company, fixed establishment, New Zealand

Compare: 2004 No 35 s IG 2(2)(d), (11)

Section IC 7 heading: replaced (with effect on 15 March 2017), on 31 March 2023, by section 86(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 7(2) heading: repealed (with effect on 15 March 2017), on 31 March 2023, pursuant to section 86(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 7(2): repealed (with effect on 15 March 2017), on 31 March 2023, by section 86(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 7 list of defined terms **double tax agreement**: repealed (with effect on 15 March 2017), on 31 March 2023, by section 86(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 7 list of defined terms **income tax**: repealed (with effect on 15 March 2017), on 31 March 2023, by section 86(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section IC 7 list of defined terms **resident in New Zealand**: repealed (with effect on 15 March 2017), on 31 March 2023, by section 86(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

IC 8 Limitations on amounts used

Limit on amounts

(1) A tax loss made available, or a payment made, under section IC 5(2) must be no more than the amount that would be company B's net income for the tax year in which it subtracts the amount of the tax loss.

Limit for payments

(2) An amount that company B agrees to pay company A under section IC 5(2)(b) must be no more than the amount of company A's tax loss.

No accounting for amount by companies

(3) Company A and company B must ignore this section in calculating their net incomes, but for the purposes of grouping tax losses, company B's net income is found after taking into account—

(a) first, its own losses; and

(b) secondly, a tax loss made available to company B by another company.

Defined in this Act: amount, company, loss, net income, pay, tax loss, tax year

Compare: 2004 No 35 s IG 2(2)(f), (g)

IC 9 Date for payment and notice to Commissioner

Last date for payment

(1) A payment under section IC 5(2)(b) must be made no later than the extended return date, or by a later date if the Commissioner allows.

Date and method for notifying Commissioner

(2) Company A must notify the Commissioner of an election or payment under section IC 5(2) by the extended return date or, if applicable, a later date

allowed by the Commissioner for the notice. The notification may be made in the company's annual return of income.

Extended return date

(3) In subsections (1) and (2), **extended return date** means the 31 March that, for company A and the tax year in which the amount of the tax loss is subtracted, is the latest date to which the time for providing the return of income may be extended under section 37(5) of the Tax Administration Act 1994.

Exception for payment arising from election under section IZ 8

(4) Despite subsection (3), for a company that is a member of a group of companies and a tax year in which the company uses a tax loss that arises from an election by another group member under section IZ 8 (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year) and is made available by the other group member, the extended return date is determined using the tax year in which the net loss affected by the election arises for the other group member.

Defined in this Act: amount, Commissioner, company, extended return date, group of companies, net loss, notice, notify, pay, return of income, tax loss, tax year

Compare: 2004 No 35 s IG 2(2)(g), (3)

Section IC 9(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 150(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IC 9(4) heading: inserted (with effect on 15 April 2020), on 30 April 2020, by section 9(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section IC 9(4): inserted (with effect on 15 April 2020), on 30 April 2020, by section 9(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section IC 9 list of defined terms **group of companies**: inserted (with effect on 15 April 2020), on 30 April 2020, by section 9(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section IC 9 list of defined terms **net loss**: inserted (with effect on 15 April 2020), on 30 April 2020, by section 9(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section IC 9 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

IC 10 When companies have different balance dates

When this section applies

(1) This section applies in a tax year when company A and company B do not have the same balance date.

Extensions for continuity and common ownership

(2) If company B's income year ends after the last day of company A's income year, for section IC 5 to apply to a tax loss in a corresponding tax year,—

(a) continuity of ownership in company A, or continuity of company A's business activities, under section IC 2(1) must extend to the end of company B's income year; and

(b) common ownership of company A and company B under section IC 3 or IC 4 must extend to the end of company B's income year.

Part-year tax losses

(3) This section applies for part-year calculations through section IP 2(2) (Group companies' common span).

Defined in this Act: company, income year, tax loss, tax year

Compare: 2004 No 35 s IG 2(2)(c), (e)

Section IC 10(2)(a): amended (with effect on 1 April 2020), on 30 March 2021, by section 102(1) (and see section 102(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IC 11 Reduction of amounts used by companies

When this section applies

(1) This section applies in a tax year if—

(a) company A has a tax loss for the tax year that is made available to, and subtracted by, more than 1 company that is part of the group of companies; and

(b) the Commissioner determines under section 113 of the Tax Administration Act 1994 that the actual total tax loss for the tax year is less than the sum of the amounts subtracted by the companies in the group, and notifies company A.

Reduced amounts

(2) The relevant companies must reduce the amounts they subtracted either in the way company A allocates under subsection (3) or, if no allocation is made, proportionately under subsection (4).

Company A's allocation

(3) Company A may choose how the amount by which the total must be reduced is allocated between or among the companies. But if company A allocates an amount to a company that is no longer part of the group at the time of the allocation, and the amount is more than a proportionate amount, the allocation is disregarded. Subsection (6) sets out the notice requirements for this subsection.

Proportionate amounts

(4) If company A does not allocate the amounts by which the total must be reduced, the amounts subtracted by the group companies are reduced in the same proportion as that by which the total amount was reduced in determining the actual total tax loss.

Subvention payments

(5) If the reduction results in a payment under section IC 5(2)(b) being treated as a dividend, the dividend is reduced to the extent to which the payment is repaid by company A within the notification period referred to in subsection (6).

Notifying Commissioner

(6) For the purposes of subsections (3) and (5), company A must notify the Commissioner of the allocation within 6 months after the date on which the Commissioner notifies company A that the reduction is required. However, the Commissioner may agree to extend this notification period.

Defined in this Act: amount, Commissioner, company, dividend, group of companies, notify, tax loss, tax year

Compare: 2004 No 35 s IG 2(7)

IC 12 Bad debts or decline in value of shares

When this section applies

(1) This section applies to companies that are part of a group of companies in a tax year when—

(a) a company (**company C**) in the group has in the tax year a deduction—

(i) under section DB 31 (Bad debts) for a loan to another company in the group:

(ii) for a decline in the value of shares in another company in the group; and

(b) a company (**company A**) in the group, other than company C, has a tax loss for the tax year that includes a tax loss component arising from a deduction—

(i) for expenditure funded by the loan referred to in paragraph (a)(i) or by the issue to company A of the shares referred to in paragraph (a)(ii); and

(ii) taken into account in calculating company A's tax loss for the 1993–94 tax year or a later tax year.

Limitation on loss grouping

(2) The amount of company A's tax loss cannot be made available to another company in the group to use except to the extent to which the amount of the tax loss is more than the total amount of the deductions referred to in subsection (1)(a). To that extent, company A may choose to make the excess amount available to a group company to use under sections IA 3(2), IA 5, and IB 3 (which relate to using and carrying forward tax losses) if the requirements for grouping tax losses are met.

Determining decline in value of shares

(3) For the purposes of this section, shares are treated as declining in value if,—

(a) on the disposal of the shares, the amount for which they were disposed of is less than the deduction for the cost of the shares; or

(b) when the shares have not been disposed of, their value as calculated under subpart EB (Valuation of trading stock (including dealer's livestock)) or otherwise declines.

Defined in this Act: amount, company, deduction, group of companies, loan, loss balance, pay, share, tax loss, tax year

Compare: 2004 No 35 s IG 2(6)

Section IC 12(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 83(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 12(2) heading: substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 83(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 12(2): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 83(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IC 12(2): amended (with effect on 1 April 2020), on 30 March 2021, by section 103(1) (and see section 103(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IC 12 list of defined terms **loan**: inserted (with effect on 1 April 2008), on 7 September 2010, by section 83(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

IC 13 Variation of requirements for development companies in Niue

When this section applies

(1) This section applies in relation to the required common ownership of group companies set out in sections IC 2(2), IC 3, and IC 5(1)(a) for the purposes of providing relief to company A for losses incurred in connection with development work in Niue.

Order in Council

(2) The Governor-General may make an Order in Council varying the threshold in section IC 3(1)(a) and (b) applying to company A if satisfied that the company—

(a) is carrying on a business or enterprise that—

(i) has been or is carried on wholly or mainly for the development of Niue:

(ii) has been or is important to the development of Niue; and

(b) has incurred expenditure wholly or mainly in deriving income from Niue or in the course of carrying on a business or enterprise in Niue for the purpose of deriving income.

Named company

(3) For the purposes of subsection (2), company A must be a company named in the order.

Application of order

(4) The order may specify a period or periods to which it applies. If no period is specified, the order applies to the whole commonality period.

Secondary legislation

(5) An Order in Council under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: business, commonality period, company, group of companies, income

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section IC 13: added (with effect on 1 April 2008), on 6 October 2009, by section 299 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IC 13(5) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section IC 13(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart ID—Use of tax losses by consolidated groups

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ID 1 Treatment of tax losses by consolidated groups

Consolidated group's net losses

(1) A tax loss of a consolidated group of companies is treated as the consolidated group's tax loss, not the tax loss of a company that is part of the consolidated group. Subparts IA to IC (which relate to the general use and grouping of tax losses) and section IZ 8 (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year), as modified by this subpart, apply as if the consolidated group were 1 company.

Ring-fenced tax losses

(2) Nothing in this subpart applies to a consolidated group whose companies are mining companies or mineral miners.

Defined in this Act: company, consolidated group, mineral miner, mining company, tax loss

Compare: 2004 No 35 s IG 6(1A)–(3)

Section ID 1(1): amended (with effect on 1 April 2020), on 30 March 2021, by section 104(1) (and see section 104(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section ID 1(1): amended (with effect on 15 April 2020), on 30 April 2020, by section 10 of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section ID 1(2): amended, on 1 April 2014, by section 95(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section ID 1 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 95(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

ID 2 Pre-consolidation losses: general treatment

When this section applies

(1) This section applies in a tax year when a company that meets the requirements of section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies) and is part of a consolidated group has a pre-consolidation loss balance carried forward to the tax year.

First use

(2) The first use of the loss balance must be to make the amount of the loss balance available to the consolidated group to subtract from its net income, so far as it extends, for the tax year.

Second use

(3) If, after subsection (2) is applied, some of the loss balance remains, the company may choose to do 1 or more of the following:

(a) subtract the remaining amount from its net income for the tax year:

(b) make the remaining amount available to another consolidated group to subtract from its net income for the tax year:

(c) make the remaining amount available under section IC 5 (Company B using company A's tax loss).

Third use

(4) If, after subsections (2) and (3) are applied, a loss balance remains, the remaining amount is carried forward to the next tax year.

Relationship with sections IA 3, IA 4, IC 5, and provisions in this subpart

(5) This section overrides sections IA 3, IA 4, and IC 5 (which relate to the general use and grouping of tax losses). Sections ID 3 to ID 5 override this section.

Defined in this Act: amount, company, consolidated group, net income, loss balance, tax year

Compare: 2004 No 35 s IG 6(4), (6), (7)

Section ID 2(1): amended (with effect on 1 April 2020), on 30 March 2021, by section 105(1) (and see section 105(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

ID 3 Pre-consolidation losses: use by group companies

When this section applies

(1) This section applies in a tax year when—

(a) a company (**company A**) that is part of a consolidated group has a loss balance to which section ID 2 applies; and

(b) company A, in the continuity period relating to a tax loss component included in the loss balance, does not have the required common ownership under section IC 3 (Common ownership: group of companies) with 1 or more companies in the consolidated group.

Limit on amount available

(2) The amount made available under section ID 2(2) to the consolidated group is limited as follows:

(a) if all the companies, including company A, in the consolidated group meet the requirements of section IC 6(1) (Common ownership for period): the amount available is limited to the amount of the loss balance to the extent of the net income of the consolidated group for the tax year:

(b) if some of the companies in the consolidated group meet the requirements of section IC 6(1): the amount available is limited to the total of—

(i) the amount that company A could subtract from its net income for the tax year if it were not in the tax year part of a consolidated group; and

(ii) the amount that could be made available under section IC 5 (Company B using company A's tax loss) to the other group companies in the tax year, ignoring the consolidation of the companies and presuming all steps required under section IC 5 were taken in order for the section to apply.

Relationship with section FM 3

(3) In subsection (2), the calculation of the consolidated group's net income must be made in accordance with section FM 3 (Liability of consolidated groups and group companies).

Relationship with section ID 2

(4) This section overrides section ID 2.

Defined in this Act: amount, company, consolidated group, continuity period, group of companies, loss balance, net income, tax loss component, tax year

Compare: 2004 No 35 s IG 6(6)

Section ID 3(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 300(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ID 3 list of defined terms **tax loss component**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 300(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

ID 4 Pre-consolidation losses on entry: part-year rule

When this section applies

(1) This section applies if a company that is part of a consolidated group has a loss balance to which section ID 2 applies in a tax year when the company joins the consolidated group.

Limit on amount available

(2) The amount of the loss balance to be made available to the consolidated group under section ID 2(2) is the lesser of the amount the company establishes in financial statements under subsection (3), or the amount calculated using the formula in subsection (4), but in either case, it must not be more than the limit set out in section ID 3(2).

Financial statements

(3) The company may establish the amount to be made available by providing the Commissioner, at the time of providing the consolidated group's return of income, with adequate financial statements that—

(a) relate to the part of the tax year when the company was part of the consolidated group; and

(b) disclose the amount that would be the net income attributable to the part of the tax year when the company was part of the consolidated group, determined on a fair and reasonable basis of attribution.

Formula

(4) The amount that may be made available under section ID 2(2) and referred to in subsection (2) is calculated using the formula—

unused amount − (part-year net income + part-year net loss).

Definition of items in formula

(5) In the formula,—

(a) **unused amount** is the loss balance carried forward from an earlier tax year or years that would be subtracted from the consolidated group's net income for the tax year in the absence of section ID 3 or this section:

(b) **part-year net income** is the company's net income for the part of the tax year before the company joins the consolidated group:

(c) **part-year net loss** is the amount of a pre-consolidation tax loss that must be subtracted under section ID 2 from the net income of another consolidated group of which the company was part in the tax year before joining the consolidated group referred to in subsection (1).

Relationship with section ID 2

(6) This section overrides section ID 2.

Defined in this Act: amount, Commissioner, company, consolidated group, loss balance, net income, return of income, tax loss, tax year

Compare: 2004 No 35 s IG 6(7)

ID 5 Pre-consolidation losses on exit: part-year rule

When this section applies

(1) This section applies if a company that is part of a consolidated group has a loss balance to which section ID 2 applies in a tax year when the company leaves the consolidated group.

Limit on amount available

(2) In addition to the amount available under section IP 3(3) or IP 3B(3) (which relate to the carrying forward of tax losses for companies) but subject to the limit in section ID 3(2), the amount of the company's loss balance that is carried forward to the tax year must be no more than the consolidated group's net income for the relevant part of the tax year. For part-year calculations, *see* subpart IP (Meeting requirements for part-years).

Financial statements

(3) The consolidated group must provide the Commissioner with adequate financial statements that disclose the amount that would be the consolidated group's net income for the relevant part of the tax year, determined on a fair and reasonable basis of attribution. The statements must be filed with the consolidated group's return of income for the tax year.

Continuity requirements

(4) For the purposes of this section, the company must meet the threshold level set out in section IC 2(1) (Threshold levels for grouping tax losses in tax year) for the relevant part of the tax year.

Relationship with section ID 2

(5) This section overrides section ID 2.

Defined in this Act: amount, Commissioner, company, consolidated group, loss balance, net income, return of income, tax year

Compare: 2004 No 35 s IG 6(8)

Section ID 5(2): amended (with effect on 1 April 2020), on 30 March 2022, by section 121(1) (and see section 121(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Subpart IE—Treatment of tax losses on amalgamation of companies

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IE 1 When this subpart applies

This subpart applies if, in an amalgamation,—

(a) either the amalgamating company or the amalgamated company has, before the date of the amalgamation, a tax loss component or ring-fenced tax loss:

(b) a company that is part of a group of companies has a tax loss for the tax year of amalgamation that may be made available to the amalgamated company to subtract from its net income for the tax year.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, group of companies, net income, ring-fenced tax loss, tax loss, tax loss component, tax year

Compare: 2004 No 35 ss IF 4–IF 6

IE 2 Treatment of tax losses by amalgamating company

When this section applies

(1) This section applies if an amalgamating company that meets the requirements of section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies) ends its existence on a resident's restricted amalgamation, and has a tax loss for a tax year that—

(a) has not, before the date of amalgamation, been used by the company; and

(b) could be made available and subtracted from the amalgamated company's net income for the part of the tax year that ends with the date of amalgamation.

Attributing losses to amalgamated company

(2) If the amalgamated company meets the requirements of section IE 5, the tax loss is attributed to the amalgamated company. The amalgamated company may, after the date of amalgamation, subtract the amount of the tax loss from its net income for the tax year, or make it available to another company to subtract from its net income for the tax year.

Other amalgamating companies

(3) In subsection (1)(b), the amalgamated company includes a company that has amalgamated with the amalgamated company before or during the tax year in which the amount is used. The tax year referred to in that subsection means the tax year of the relevant company.

New companies

(4) Subsection (1)(b) does not apply if the amalgamated company is incorporated only on the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amount, company, net income, resident's restricted amalgamation, tax loss, tax year

Compare: 2004 No 35 s IF 4

Section IE 2(1): amended (with effect on 1 April 2020), on 30 March 2021, by section 106(1) (and see section 106(4) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IE 2(3): amended (with effect on 1 April 2008), on 30 March 2021, by section 106(2) (and see section 106(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IE 3 Treatment of tax losses by amalgamated company

When this section applies

(1) This section applies for an amalgamated company, and the tax year (the **amalgamation tax year**) corresponding to the income year in which the amalgamation takes place, when the amalgamated company has, for the part of the amalgamation tax year (the **pre-amalgamation part year**) that corresponds to the part of the income year ending with the date of the amalgamation, tax loss components (the **pre-amalgamation loss**) that—

(a) arise from the pre-amalgamation part year:

(b) meet the requirements of section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies) for being carried forward from the tax year before the amalgamation tax year to the pre-amalgamation part year.

Requirements for tax loss components to be used or made available before amalgamation

(2) A tax loss component included in the pre-amalgamation loss may be used or made available by the amalgamated company for subtraction from net income calculated for the pre-amalgamation part year, if the requirements of sections IA 5, IB 3, IC 2, and IC 5 (which relate to the use and grouping of tax losses) for the use or availability are met.

Requirements for amounts to be used or made available after amalgamation

(3) A tax loss component included in the pre-amalgamation loss may be used or made available by the amalgamated company for subtraction from net income calculated for the part of the amalgamation tax year (the **post-amalgamation part year**) that corresponds to the part of the income year beginning from the date of amalgamation, if—

(a) section IA 5 or IB 3 allows the tax loss component to be carried forward from the pre-amalgamation part year to the post-amalgamation part year; and

(b) sections IC 2 and IC 5 would have allowed the tax loss component to be made available to an amalgamating company for subtraction from net income calculated for the pre-amalgamation part year; and

(c) for a tax loss component that is an attributed CFC net loss or a FIF net loss and is made available by the amalgamated company, the tax loss component is made available to a wholly-owned group of companies.

Treatment of part years

(4) The pre-amalgamation part year and the post-amalgamation part year are treated as separate tax years for the purposes of applying this section.

Relationship with sections IA 3, IA 4, IA 5, and IB 3

(5) This section overrides—

(a) sections IA 3 and IA 4 (which relate to the general use of tax losses); and

(b) sections IA 5 and IB 3 (which relate to the carrying forward of tax losses for companies).

Defined in this Act: amalgamated company, amalgamating company, amalgamation, attributed CFC net loss, FIF net loss, income year, net income, tax loss component, tax year, wholly-owned group of companies

Section IE 3: replaced (with effect on 1 April 2008), on 30 March 2017, by section 151(1) (and see section 151(2)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IE 3(1)(b): amended (with effect on 1 April 2020), on 30 March 2021, by section 107(1) (and see section 107(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IE 3(2): amended (with effect on 1 April 2020), on 30 March 2021, by section 107(2) (and see section 107(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IE 3(3)(a): amended (with effect on 1 April 2020), on 30 March 2021, by section 107(3) (and see section 107(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IE 3(5) heading: replaced (with effect on 1 April 2020), on 30 March 2021, by section 107(4) (and see section 107(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IE 3(5): replaced (with effect on 1 April 2020), on 30 March 2021, by section 107(4) (and see section 107(5) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IE 4 Group companies' treatment of tax losses on amalgamation

When this section applies

(1) This section applies on an amalgamation if a company that is part of a group of companies—

(a) meets the requirements of section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies); and

(b) has a tax loss for part of a tax year before the date of amalgamation; and

(c) may use the tax loss under section IC 5 or IQ 4 (which relate to a company's use of another company's loss, including foreign losses).

Use by amalgamated company

(2) The amount of the tax loss may be subtracted from the net income of the amalgamated company for the tax year only if both the company and the amalgamated company, and each company that before or during the amalgamation amalgamated with the amalgamated company, meet the requirements of subparts IA, IC, and IQ (which relate to the general loss rules and certain foreign losses) that allow companies to group tax losses.

Defined in this Act: amalgamated company, amalgamation, amount, company, group of companies, net income, tax loss, tax year

Compare: 2004 No 35 s IG 9

Section IE 4(1)(a): amended (with effect on 1 April 2020), on 30 March 2021, by section 108(1) (and see section 108(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IE 4(1)(c): amended, on 30 March 2025, by section 99 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

IE 5 Applying the continuity provisions when companies amalgamate

The provisions of this Act apply as if the amalgamated company did not exist separately before amalgamation, and was instead the amalgamating companies with the same holders of shares and options over shares, each with the same number and class of shares and options over shares, as they held in the amalgamating company, to determine whether a tax loss or loss balance,—

(a) may be used or is carried forward under sections IA 3 and IA 4 (which relate to the general use of tax losses):

(b) may be subtracted from the net income of another company under section IC 5 or IQ 4 (which relate to a company's use of another company's loss, including foreign losses):

(c) in the case of a group company, may be subtracted from the net income of the amalgamated company under section IC 5 or IQ 4.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, company, loss balance, net income, share, tax loss

Compare: 2004 No 35 ss IF 4, IG 8, IG 9

Section IE 5(b): amended, on 30 March 2025, by section 100 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section IE 5(c): amended, on 30 March 2025, by section 100 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Subpart IP—Meeting requirements for part-years

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Introductory provisions

IP 1 When this subpart applies

Breaches of continuity and commonality

(1) This subpart applies if 1 or more of the following breaches occur:

(a) when commonality of ownership required by section IC 5(1)(a) (Company B using company A's tax loss) is not met during a tax year (a **commonality breach**):

(b) when continuity of ownership required by section IA 5(1) (Restrictions on companies' loss balances carried forward: continuity of ownership) is broken during a tax year, or when a new or existing company joins a group of companies during a tax year (an **ownership continuity breach**):

(c) when a company to which section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) applies breaches, during an income year, the requirement of section IB 3(2)(b) or (c) for the carrying forward of a tax loss component to the tax year that corresponds to the income year (a **business continuity breach**).

Relationship with subparts IA, IB, IC, and ID: part-year calculations

(2) The general rules for the treatment of tax losses in subparts IA, IB, IC, and ID (which relate to the general use and grouping of tax losses) apply, as modified or overridden by the provisions of this subpart, to—

(a) a part-year tax loss as if it were a tax loss for a tax year:

(b) part-year net income as if it were net income for a tax year:

(c) the common span as if the period of time were a tax year.

Defined in this Act: common span, company, income year, net income, tax loss, tax loss component, tax year

Compare: 2004 No 35 s IG 2(4)(e), (f), (5)(e), (f)

Section IP 1(1): amended (with effect on 1 April 2020), on 30 March 2022, by section 122(1)(a) (and see section 122(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 1(1)(a): substituted (with effect on 1 April 2009), on 6 October 2009, by section 301(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IP 1(1)(b): substituted (with effect on 1 April 2009), on 6 October 2009, by section 301(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IP 1(1)(b): amended (with effect on 1 April 2020), on 30 March 2022, by section 122(1)(b) (and see section 122(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 1(1)(b): amended (with effect on 1 April 2020), on 30 March 2021, by section 109 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IP 1(1)(c): inserted (with effect on 1 April 2020), on 30 March 2022, by section 122(1)(c) (and see section 122(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 1(2) heading: amended (with effect on 1 April 2020), on 30 March 2022, by section 122(2) (and see section 122(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 1(2): amended (with effect on 1 April 2020), on 30 March 2022, by section 122(3) (and see section 122(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 1 list of defined terms **company**: inserted (with effect on 1 April 2020), on 30 March 2022, by section 122(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 1 list of defined terms **income year**: inserted (with effect on 1 April 2020), on 30 March 2022, by section 122(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 1 list of defined terms **tax loss component**: inserted (with effect on 1 April 2020), on 30 March 2022, by section 122(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

IP 2 Group companies' common span

Common span

(1) In this subpart, the corresponding parts of company A's income year and company B's income year when the requirements for commonality of ownership

under section IC 5(1)(a) (Company B using company A's tax loss) are met is called the **common span**.

Common span when balance dates differ

(2) If the income years of company A and company B do not end on the same date, the common span is that part of company B's income year or income years in which the requirements for commonality are met. Section IC 10(2)(b) (When companies have different balance dates) may apply to extend the period.

Calculating group companies' tax losses

(3) For the purposes of this subpart and the grouping of tax losses, the amount of a tax loss component is found after taking into account any amount of the tax loss component subtracted from the net income of any group company.

Defined in this Act: amount, common span, company, income year, net income, tax loss, tax loss component

Compare: 2004 No 35 s IG 2(2)(e), (4)(c), (d), (5)(b), (c)

Tax loss components carried forward

IP 3 Ownership continuity breach: tax loss components of companies carried forward

When this section applies

(1) This section applies for the purposes of section IA 4 (Using loss balances carried forward to tax year) if a breach occurs in the requirements for continuity of ownership of section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership) that enable a tax loss component included in a company's loss balance to be carried forward to or from a tax year.

Tax loss components for earlier income years

(2) Despite the breach, a tax loss component arising in an earlier income year is carried forward to a tax year (**year A**) to the extent to which—

(a) the requirements for continuity of ownership would be met if the continuity period included only part of the income year of the company that corresponds to year A; and

(b) the company has net income for part of the corresponding income year; and

(c) the company provides the Commissioner with adequate financial statements under section IP 6 calculating the amount of the company's net income for the relevant part of the corresponding income year.

Limit on tax loss components carried forward to year A

(3) The total tax loss components carried forward under subsection (2) must be no more than the amount calculated under subsection (2)(b) and (c), although the amount may be increased if section IP 5 applies.

Tax loss components of year of breach

(4) Despite the breach, a tax loss component is carried forward to the tax year (**year B**) from year A to the extent to which—

(a) the requirements for continuity of ownership would be met if the continuity period included only part of the income year that corresponds to year A; and

(b) the company provides the Commissioner with adequate financial statements under section IP 6 calculating the amount of the company's net loss for the part of year A.

Limit on tax loss components carried forward to year B

(5) The amount of the tax loss component carried forward under subsection (4) must be the least of—

(a) the part-year net loss calculated under subsection (4)(b):

(b) if the company has net income for year A, zero:

(c) if the company has a net loss for year A, the company's net loss for year A.

Defined in this Act: amount, Commissioner, company, continuity period, corresponding income year, income year, loss balance, net income, net loss, tax loss component, tax year

Compare: 2004 No 35 s IF 1(2), (3)

Section IP 3 heading: amended (with effect on 1 April 2020), on 30 March 2022, by section 123 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 3(1): amended (with effect on 1 April 2020), on 30 March 2021, by section 110 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IP 3B Business continuity breach: tax loss components of companies carried forward

When this section applies

(1) This section applies for the purposes of section IA 4 (Using loss balances carried forward to tax year) if a tax loss component of a company would have been carried forward under section IB 3 (When tax loss components of companies carried forward despite ownership continuity breach) to a tax year but for a breach or breaches, during the income year that corresponds to the tax year, of either or both of the requirements of section IB 3(2)(b) and (c).

Tax loss components for earlier income years

(2) Despite the breach or breaches, the tax loss component is carried forward to the tax year to the extent to which—

(a) the requirements of section IB 3(2)(b) and (c) would be met if the relevant period described in section IB 4 (Business continuity period) included only part of the income year of the company that corresponds to the tax year; and

(b) the company has net income for part of the corresponding income year; and

(c) the company provides the Commissioner with adequate financial statements under section IP 6 calculating the amount of the company's net income for the relevant part of the corresponding income year.

Limit on tax loss components carried forward

(3) The total tax loss components carried forward under subsection (2) must be no more than the amount calculated under subsection (2)(b) and (c), although the amount may be increased if section IP 5 applies.

Defined in this Act: amount, Commissioner, company, corresponding income year, income year, net income, tax loss component, tax year

Section IP 3B: inserted (with effect on 1 April 2020), on 30 March 2022, by section 124(1) (and see section 124(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Grouping part-year tax losses

IP 4 Breach in income year in which tax loss component arises

When this section applies

(1) This section applies for the purposes of sections IA 6 and IC 5 (which relate to the use and grouping of tax losses) when company A has a tax loss component arising in an income year in which either the continuity or commonality requirements for grouping tax losses are breached.

Modified requirements

(2) The tax loss component is included in a tax loss that company A makes available under section IA 3(2) (Using tax losses in tax year) to company B only to the extent to which the following requirements, which modify those set out in section IC 5 (Company B using company A's tax loss), are met:

(a) the tax loss component arises in the common span; and

(ab) the amount of the tax loss component is no more than the net income that company B derives in the common span; and

(b) continuity of ownership in company A, or continuity of company A's business activities, under section IC 2(1) (Threshold levels for grouping tax losses in tax year) applies from the beginning to the end of the common span; and

(c) company A and company B provide the Commissioner with adequate financial statements under section IP 6; and

(d) company A notifies the Commissioner of the treatment of the tax loss under section IP 7.

Determining amounts

(3) For the purposes of determining the amount of tax loss that company A and company B may use, sections IC 5 and IC 8 (which relate to the treatment of tax losses by companies) apply as if the common span were a corresponding income year.

Relationship with section IC 8

(4) Despite subsection (2)(ab), section IC 8 overrides this section in limiting the amount that may be used when the net income derived in the common span is more than the net income of company B for the income year.

Defined in this Act: amount, Commissioner, common span, company, corresponding income year, income year, net income, notify, tax loss, tax loss component

Compare: 2004 No 35 s IG 2(4)

Section IP 4(2)(ab): inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 91(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IP 4(4) heading: added (with effect on 1 April 2008), on 29 August 2011, by section 91(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IP 4(4): added (with effect on 1 April 2008), on 29 August 2011, by section 91(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IP 4(2)(b): amended (with effect on 1 April 2020), on 30 March 2022, by section 125(1) (and see section 125(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

IP 5 Breach in tax year in which loss balance is grouped

When this section applies

(1) This section applies for the purposes of sections IA 6 and IC 5 (which relate to the use and grouping of tax losses) when company A has a loss balance carried forward to a tax year in which either the continuity or commonality requirements for grouping tax losses are breached.

Modified requirements

(2) The loss balance is included in a tax loss that company A makes available under section IA 3(2) (Using tax losses in tax year) to company B only to the extent to which the following requirements, which modify those set out in section IC 5 (Company B using company A's tax loss), are met:

(a) the amount of company A's loss balance carried forward to the tax year in which the breach occurred is not more than the amount of—

(i) company B's net income for the common span, if no company in the group other than company B has net income for the common span of more than zero; or

(ii) the total of the amounts of net income for the common span of companies in the group; and

(b) continuity of ownership in company A, or continuity of company A's business activities, under section IC 2(1) (Threshold levels for grouping tax losses in tax year) applies in the common span; and

(c) company B provides the Commissioner with adequate financial statements under section IP 6; and

(d) company A notifies the Commissioner of the treatment of the tax loss under section IP 7.

Determining amounts

(3) For the purposes of determining the amount of the loss balance that company A and company B may use, sections IC 5 and IC 8 (which relate to the treatment of tax losses by companies) apply as if the common span were a tax year.

Defined in this Act: amount, Commissioner, common span, company, loss balance, notify, tax loss, tax loss component, tax year

Compare: 2004 No 35 s IG 2(2)(b)–(f), (5)

Section IP 5(2)(a): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 84(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section IP 5(2)(b): amended (with effect on 1 April 2020), on 30 March 2022, by section 126(1) (and see section 126(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Statements and notices

IP 6 Financial statements required

Financial statements required from company: section IP 3

(1) For the purposes of this subpart, a company must provide the Commissioner with adequate financial statements under section IP 3(2)(c) and (4)(b) relating to the continuity period.

Financial statements required from company: section IP 3B

(1B) For the purposes of this subpart, a company must provide the Commissioner with adequate financial statements under section IP 3B(2)(c) relating to the continuity period.

Financial statements required from company A: section IP 4

(2) For the purposes of this subpart, company A must provide the Commissioner with adequate financial statements under section IP 4(2)(c) relating to the common span, calculating the amount of the tax loss component, determined on a fair and reasonable basis of attribution.

Financial statements required from company B: sections IP 4 and IP 5

(3) For the purposes of this subpart, company B must provide the Commissioner with adequate financial statements under sections IP 4(2)(c) and IP 5(2)(c) relating to the common span, calculating the amount of the net income in the common span, determined on a fair and reasonable basis of attribution.

Different balance dates

(4) For the purposes of subsections (2) and (3), if the balance dates of company A and company B differ, the common span is taken as the period of time in the tax year in which the tax loss or loss balance is used—

(a) that includes, but is not limited to, all or part of the tax year in which company A is in the same group of companies as company B; and

(b) in which company A and company B are at all times part of the same group of companies; and

(c) in which company A meets the continuity requirements of section IC 2(1) (Threshold levels for grouping tax losses in tax year).

Applying provisions to part-year periods

(5) In preparing the financial statements described in this section, the company must, to the extent possible, apply the provisions of this Act to the common span as if it were a tax year.

Defined in this Act: amount, Commissioner, common span, company, continuity period, group of companies, loss balance, net income, notify, tax loss, tax loss component, tax year

Compare: 2004 No 35 ss IF 1(2), (3), IG 2(4)(c), (d), (5)(c), (d), (10)

Section IP 6(1B) heading: inserted (with effect on 1 April 2020), on 30 March 2022, by section 127(1) (and see section 127(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IP 6(1B): inserted (with effect on 1 April 2020), on 30 March 2022, by section 127(1) (and see section 127(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

IP 7 Notices required

Notifying Commissioner

(1) In sections IP 4(2)(d) and IP 5(2)(d), company A must notify the Commissioner by its extended return date that it intends to treat a tax loss or loss balance in the way described in the relevant section.

Meaning of extended return date

(2) In subsection (1), **extended return date** has the meaning set out in section IC 9 (Date for payment and notice to Commissioner), and includes a later date allowed by the Commissioner.

Defined in this Act: Commissioner, company, extended return date, loss balance, notice, notify, pay, tax loss

Compare: 2004 No 35 s IG 2(4), (5)

Subpart IQ—Attributed controlled foreign company net losses and foreign investment fund net losses

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IQ 1A When this subpart applies

This subpart applies when, for a country or territory and a tax year, a person has—

(a) an amount of attributed CFC net loss or FIF net loss—

(i) for the tax year:

(ii) carried forward from an earlier tax year:

(b) an amount of attributed CFC income or FIF income calculated under the branch equivalent method or attributable FIF income method and another person makes available to the person an amount of attributed CFC net loss or FIF net loss.

Defined in this Act: attributable FIF income method, attributed CFC income, attributed CFC net loss, branch equivalent method, company, FIF income, FIF net loss, tax year

Section IQ 1A: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 92(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 1A(b): amended, on 24 February 2016, by section 197(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section IQ 1A(b): amended (with effect on 1 July 2011), on 29 August 2011, by section 92(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 1A list of defined terms **attributable FIF income method**: inserted, on 24 February 2016, by section 197(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section IQ 1A list of defined terms **attributed CFC income**: inserted, on 24 February 2016, by section 197(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section IQ 1A list of defined terms **attributed CFC net income**: repealed, on 24 February 2016, by section 197(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section IQ 1A list of defined terms **attributed FIF income method**: repealed, on 24 February 2016, by section 197(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section IQ 1A list of defined terms **group**: repealed, on 24 February 2016, by section 197(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

IQ 1 General treatment

General statement

(1) For an amount of a person's attributed CFC net loss or FIF net loss to be carried forward to a tax year,—

(a) the person, if a company, must meet the requirements of section IA 5(2) and (3) or IB 3(2) (which relate to the carrying forward of tax losses for companies); and

(b) the amount must be used in the order required by section IA 9 (Ordering rules); and

(c) the amount must be adjusted when required by section IA 10 (Amended assessments).

When net losses arise

(2) An attributed CFC net loss or a FIF net loss arises on the last day of the tax year in which the loss is attributed.

Treatment of net losses by consolidated groups

(3) If a consolidated group has an amount of attributed CFC net loss or FIF net loss, no part of the amount belongs to a company that is part of the consolidated group.

Treatment of net losses on amalgamation

(4) The treatment of tax losses, including amounts of attributed CFC net loss and FIF net loss, on the amalgamation of companies is dealt with under subpart IE (Treatment of tax losses on amalgamation of companies) and the provisions of this subpart do not apply.

Defined in this Act: amalgamation, amount, attributed CFC net loss, company, consolidated group, FIF net loss, tax loss, tax year

Compare: 2004 No 35 ss IE 3(1), IE 4(1), IF 3, IF 6, IG 4(1), IG 5(1), IG 7(1)

Section IQ 1(1): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 93(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 1(1)(a): amended (with effect on 1 April 2020), on 30 March 2021, by section 111(1) (and see section 111(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IQ 1B Losses carried forward to tax year

An attributed CFC net loss or a FIF net loss or both may be carried forward to a tax year. Section IA 5 and subpart IB (which relate to the carrying forward of tax losses for companies) apply for the purposes of this subpart as if the net loss were a tax loss component.

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

Section IQ 1B: inserted (with effect on 1 April 2008), on 7 December 2009, by section 61(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 1B: amended (with effect on 1 April 2020), on 30 March 2021, by section 112(1) (and see section 112(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

IQ 2 Ring-fencing cap on attributed CFC net losses

When this section applies

(1A) This section applies if a person, for a tax year and a country or territory (the **jurisdiction**),—

(a) derives an amount of attributed CFC income or FIF income calculated under the attributable FIF income method; and

(b) has an amount of attributed CFC net loss or FIF net loss—

(i) carried forward to the tax year:

(ii) made available under section IQ 4 to the person by another company in the same group.

Amount subtracted: losses not from elective attributing CFCs or elective attributing FIFs

(1) The total amount of attributed CFC net loss and FIF net loss, relating to a CFC or FIF (the **loss entity**) resident in the jurisdiction when the loss arises and not an elective attributing CFC or elective attributing FIF, that is subtracted from the person's net income for the tax year is the lesser of—

(a) the total amount of attributed CFC income, and FIF income calculated under the attributable FIF income method or branch equivalent method, that the person derives in the tax year in relation to a CFC or FIF that is resident in the jurisdiction for the accounting period corresponding to the tax year:

(b) the total amount of attributed CFC net loss and FIF net loss—

(i) relating to the loss entity and the jurisdiction; and

(ii) carried forward to the tax year or made available in the tax year to the person by another company in the same group; and

(iii) available to the person under subsection (1B), (1C), or section IQ 3.

Amount subtracted: losses from elective attributing CFCs or elective attributing FIFs

(1BA) The total amount of attributed CFC net loss and FIF net loss, relating to an elective attributing CFC or elective attributing FIF (the **loss entity**) resident in the jurisdiction when the loss arises, that is subtracted from the person's net income for the tax year is the lesser of—

(a) the total amount of attributed CFC income, and FIF income calculated under the attributable FIF income method or branch equivalent method, that the person derives in the tax year in relation to an elective attributing CFC or elective attributing FIF—

(i) with the same election commencement date as the loss entity; and

(ii) resident in the jurisdiction for the accounting period corresponding to the tax year:

(b) the total amount of attributed CFC net loss and FIF net loss—

(i) relating to the loss entity and the jurisdiction; and

(ii) carried forward to the tax year or made available in the tax year to the person by another company in the same group; and

(iii) available to the person under subsection (1B), (1C), or section IQ 3.

Losses from year after transition

(1B) If an amount of attributed CFC net loss or FIF net loss arises for a person in an income year for which section IQ 2B applies to the person, or is made available to the person by a company for which the loss arises in an income year for which section IQ 2B applies to the company, all of the attributed CFC net loss or FIF net loss is available for subtracting from the person's net income for the tax year.

Attributed CFC net losses from income year before transition

(1C) If an amount of attributed CFC net loss of a person, or made available to the person, relates to an income year before section IQ 2B applies to the person and is carried forward to a tax year in which section IQ 2B applies to the person,—

(a) the amount of the attributed CFC net loss available in the tax year for subtracting from the person's net income is equal to the equivalent CFC loss under section IQ 2B:

(b) the amount of the attributed CFC net loss is reduced by the converted BE loss under section IQ 2B.

Income only once

(2) In subsection (1), the person may take into account an amount of attributed CFC income or FIF income only to the extent to which they have not accounted for it in—

(a) calculating a deduction under sections DN 4 or DN 8 (which relate to ring-fencing caps); or

(b) establishing their entitlement to make available, under section IC 5 (Company B using company A's tax loss) or IQ 4, an amount of attributed CFC net loss or FIF net loss carried forward; or

(c) applying subsection (1) in relation to another attributed CFC net loss or FIF net loss.

Treatment of excess

(3) If the person cannot use all of the maximum amount referred to in subsection (1) because there is insufficient net income, the surplus is no longer available to them as a CFC net loss, but becomes a tax loss component under section IA 2(4) (Tax losses).

Defined in this Act: amount, attributable FIF income method, attributed CFC income, attributed CFC net loss, branch equivalent method, CFC, company, deduction, elective attributing CFC, elective attributing FIF, FIF, FIF income, FIF net loss, income year, net income, tax loss component, tax year

Compare: 2004 No 35 s IE 3(2), (3), (5)

Section IQ 2(1A) heading: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 94(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(1A): inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 94(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(1A)(a): amended (with effect on 1 July 2011), on 29 August 2011 (applying for income years beginning on or after 1 July 2011), by section 94(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(1) heading: replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 114(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section IQ 2(1): replaced (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 114(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section IQ 2(1BA) heading: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 114(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section IQ 2(1BA): inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 114(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section IQ 2(1B) heading: substituted (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), pursuant to section 94(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(1B): substituted (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 94(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(1C) heading: inserted (with effect on 30 June 2009), on 6 October 2009, by section 302(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 2(1C): inserted (with effect on 30 June 2009), on 6 October 2009, by section 302(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 2(1C): amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 94(6)(a) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(1C)(a): amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 94(6)(b) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(1C)(b): amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 94(6)(c) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(2)(b): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 94(7) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(2)(c): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 94(7) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 302(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 2 list of defined terms **attributable FIF income**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section IQ 2 list of defined terms **attributable FIF income method**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section IQ 2 list of defined terms **company**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 94(8) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2 list of defined terms **elective attributing CFC**: inserted (with effect on 30 June 2009), on 2 November 2012, by section 114(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section IQ 2 list of defined terms **elective attributing FIF**: inserted (with effect on 30 June 2009), on 2 November 2012, by section 114(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section IQ 2 list of defined terms **FIF net loss**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 94(8) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2 list of defined terms **income year**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 94(8) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2 list of defined terms **tax loss**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IQ 2B Effect of attributed CFC net loss and FIF net loss from before first affected year

When this section applies

(1) This section applies for a person and a country (the **jurisdiction**) when the person has an amount (the **available BE loss**) of attributed CFC net loss, or FIF net loss calculated using the branch equivalent method, that—

(a) relates to a tax year (the **loss year**) before the first tax year for which this section applies to the person; and

(b) relates to a CFC or FIF that is resident in the jurisdiction in the loss year; and

(c) is carried forward to a tax year (the **conversion year**) in which this section applies to the person or is made available to the person for the conversion year by another company in the same group.

What this section does

(2) In this section, subsection (3) gives the person an option that available BE loss for a jurisdiction not be carried forward and subsections (4) to (7) give, for whichever of the 4 possible alternative situations is relevant for the person,—

(a) the amount of the available BE loss (the **converted BE loss**) for the jurisdiction that is—

(i) treated as being converted into an amount referred to in paragraph (b) in the conversion year; and

(ii) not available to the person to be carried forward as available BE loss for the jurisdiction and a later tax year:

(b) the amount (the **equivalent CFC loss**) of attributed CFC net loss or FIF net loss for the jurisdiction that, for the purposes of the rest of this subpart, is treated as arising on the last day of the conversion year.

Option: loss not carried forward

(3) A person may choose by giving a notice in a form and at a time acceptable to the Commissioner that the available BE loss for a jurisdiction not be carried forward under this section.

Person not resident group member: more jurisdictional BE income

(4) For a person who is not a resident group member and has jurisdictional BE income for the conversion year that is greater than zero and greater than the person's jurisdictional attributed income for the conversion year,—

(a) the person's converted BE loss in the conversion year is the lesser of—

(i) the person's jurisdictional BE income for the conversion year:

(ii) the person's available BE loss for the conversion year:

(b) the person's equivalent CFC loss is the lesser of—

(i) the person's jurisdictional attributed income for the conversion year:

(ii) the amount calculated by dividing the person's available BE loss for the conversion year by the person's jurisdictional income ratio for the conversion year.

Person not resident group member: more jurisdictional attributed income

(5) For a person who is not a resident group member and has jurisdictional attributed income for the conversion year that is greater than or equal to zero and greater than or equal to the person's jurisdictional BE income for the conversion year,—

(a) the person's converted BE loss for the conversion year is the lesser of—

(i) the person's available BE loss for the conversion year:

(ii) the person's jurisdictional attributed income for the conversion year:

(b) the person's equivalent CFC loss is equal to the person's converted BE loss for the conversion year.

Resident group member: more jurisdictional BE income

(6) For a person who is a resident group member for a wholly-owned group of companies and has jurisdictional BE income for the conversion year that is greater than zero and greater than the person's jurisdictional attributed income for the conversion year,—

(a) the person's converted BE loss for the conversion year is the lesser of—

(i) the person's available BE loss for the conversion year:

(ii) the greater of the person's jurisdictional BE income for the conversion year and the amount calculated by multiplying the group's jurisdictional income ratio for the conversion year by the person's jurisdictional attributed income for the conversion year:

(b) the person's equivalent CFC loss is the amount calculated by dividing the person's converted BE loss for the conversion year by the group's jurisdictional income ratio for the conversion year.

Resident group member: more jurisdictional attributed income

(7) For a person who is a resident group member and has jurisdictional attributed income for the conversion year that is greater than or equal to zero and greater than or equal to the person's jurisdictional BE income for the conversion year,—

(a) the person's converted BE loss for the conversion year is the lesser of—

(i) the person's available BE loss for the conversion year:

(ii) the person's jurisdictional attributed income for the conversion year multiplied by the group's jurisdictional income ratio for the conversion year:

(b) the person's equivalent CFC loss is equal to the amount calculated by dividing the person's converted BE loss for the conversion year by the group's jurisdictional income ratio for the conversion year.

Election by person or group to fix jurisdictional income ratio

(8) A person or wholly-owned group may choose under this subsection by notice, in a form and at a time acceptable to the Commissioner, that the person or members of the group use a jurisdictional income ratio—

(a) equal to the average of the jurisdictional income ratios for the person or group, under paragraph (b) of the definition in subsection (9), for 2 consecutive tax years—

(i) corresponding to an income year beginning on or after 1 July 2011; and

(ii) in each of which the person or group has jurisdictional BE income; and

(b) for all tax years after the 2 tax years referred to in paragraph (a).

Some definitions

(9) For a person or wholly-owned group and a tax year for which the person or members of the wholly-owned group have an income interest in a CFC that is resident in a country or territory (the **jurisdiction**),—

jurisdictional attributed income means,—

(a) for a person and the tax year, the amount that is the greater of zero and the amount calculated by—

(i) finding, for each CFC resident in the jurisdiction, the attributed CFC income or loss of the person from the CFC for the tax year:

(ii) finding, for each FIF resident in the jurisdiction for which the person uses the attributable FIF income method, the FIF income or loss of the person from the FIF for the tax year:

(iii) subtracting the total of loss amounts under subparagraphs (i) and (ii) from the total of income amounts under subparagraphs (i) and (ii):

(b) for a wholly-owned group and the tax year, the amount that is the greater of zero and the attributed CFC income or loss and FIF income or loss, treating losses as negative, of members of the group who are New Zealand residents from CFCs and FIFs that are resident in the jurisdiction for the tax year, consolidated for the purposes of the financial statements of the group

jurisdictional BE income means,—

(a) for a person and the tax year, the amount that is the greater of zero and the amount calculated by—

(i) multiplying, for each CFC resident in the jurisdiction, the person's income interest in the CFC for the tax year by the branch equivalent income or loss of the CFC for the tax year or, if the person chooses, by the amount given by subsection (10) for the CFC for the tax year:

(ii) finding, for each FIF resident in the jurisdiction for which the person uses the attributable FIF income method, the FIF income or loss calculated under the branch equivalent method of the person from the FIF for the tax year:

(iii) subtracting the total of loss amounts under subparagraphs (i) and (ii) from the total of income amounts under subparagraphs (i) and (ii):

(b) for a wholly-owned group and the tax year, the amount that is the greater of zero and the amount calculated, treating losses as negative, by—

(i) multiplying, for each CFC resident in the jurisdiction, the income interest in the CFC of members of the group who are New Zealand residents for the tax year by the branch equivalent income or loss of the CFC for the tax year or, if the group chooses, by the amount given by subsection (10) for the CFC for the tax year:

(ii) consolidating the results for the purposes of the financial statements of the group

jurisdictional income ratio,—

(a) for a person that has not made an election under subsection (8), means the greater of 1 and the amount calculated by dividing the person's jurisdictional BE income for the tax year by the person's jurisdictional attributed income for the tax year:

(b) for a wholly-owned group that has not made an election under subsection (8) for the tax year, means the greater of 1 and the amount calculated by dividing the group's jurisdictional BE income for the tax year by the group's jurisdictional attributed income for the tax year:

(c) for a person or wholly-owned group that has made an election under subsection (8) for the tax year, means the amount given by subsection (8) for the person or group and the tax year

resident group member means a person who is a member of a wholly-owned group that has other New Zealand residents as members.

Option to determine jurisdictional BE income from accounts

(10) In determining the jurisdictional BE income of a person or wholly-owned group, the person or group may choose to use, instead of the branch equivalent income or loss of a CFC, the profit or loss of the CFC before taxation given by accounts—

(a) complying with generally accepted accounting practice in New Zealand or an equivalent standard for the consistent and undistorted reporting of net profits in the country in which the accounts are prepared; and

(b) audited by an accountant who is—

(i) a chartered accountant or an accountant of equivalent professional standard in the country in which the accounts are prepared; and

(ii) independent of the CFC and the person or wholly-owned group; and

(c) are given an unqualified opinion or an opinion of equivalent standard in the country in which the accounts are prepared.

Conversion of income from accounts into New Zealand currency

(11) If a person or wholly-owned group chooses under subsection (10) to use the profit or loss before taxation of a CFC given by accounts expressed in a currency other than New Zealand currency, the person or group must convert the profit or loss into New Zealand currency—

(a) by applying the close of trading spot exchange rate on the last day of the accounting period for the accounts; or

(b) applying the average of the close of trading spot exchange rates for the 15th day of each complete month that falls in the accounting period.

Defined in this Act: accounting period, attributed CFC income, attributed CFC loss, attributable FIF income method, branch equivalent income, branch equivalent loss, CFC, close of trading spot exchange rate, company, FIF net loss, group of companies, income interest, jurisdictional attributed income, jurisdictional BE income, jurisdictional income ratio, New Zealand resident, notice, resident group member, tax year, wholly-owned group, wholly-owned group of companies

Section IQ 2B: inserted (with effect on 30 June 2009), on 6 October 2009, by section 303(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 2B heading: substituted (with effect on 30 June 2009), on 29 August 2011, by section 95(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2B(1): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 77(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B(2): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 77(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B(8)(a)(i): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 77(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B(9) **jurisdictional attributed income** paragraph (a)(ii): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 77(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B(9) **jurisdictional BE income** paragraph (a)(ii): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 77(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B(11) heading: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 77(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B(11): inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 77(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B list of defined terms **accounting period**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 77(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 77(8) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B list of defined terms **close of trading spot exchange rate**: inserted (with effect on 1 July 2009), on 7 May 2012, by section 77(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 2B list of defined terms **company**: inserted (with effect on 30 June 2009), on 29 August 2011, by section 95(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2B list of defined terms **FIF net loss**: inserted (with effect on 30 June 2009), on 29 August 2011, by section 95(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 2B list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section IQ 2B list of defined terms **tax loss**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IQ 2C Effect of FIF net loss if attributed FIF income method not available

When this section applies

(1) This section applies for a person and a country (the **jurisdiction**) when—

(a) the person has an amount (the **available BE loss**) of FIF net loss calculated using the branch equivalent method—

(i) relating to a tax year (the **loss year**) before the first tax year for which this section applies to the person; and

(ii) relating to a FIF that is resident in the jurisdiction in the loss year; and

(iii) carried forward to a tax year (the **current year**) in which this section applies to the person; and

(b) the person is not able to use the attributable FIF income method in the current year for the person's interest in the FIF; and

(c) the person would be able to use the attributable FIF income method in the current year for the person's interest in the FIF if the interest met the requirements of section EX 46(3)(a)(ii) (Limits on choice of calculation methods); and

(d) the person does not have an income interest of 10% or more in a CFC in the jurisdiction in the current year; and

(e) the person does not have an attributing interest in a FIF in the jurisdiction in the current year for which the person can use the attributable FIF income method.

Use of FIF net loss

(2) The person's available BE loss is available to be subtracted from the person's FIF income, to the extent of the FIF income, in the current year from the FIF, if the FIF is resident in the jurisdiction in the current year.

Treatment of surplus

(3) If the person cannot use all of the available BE loss in the current year, the surplus is available to be carried forward for use under subsection (2) in another tax year.

Defined in this Act: amount, attributable FIF income method, attributing interest, branch equivalent method, CFC, FIF, FIF income, FIF net loss, income interest, tax year

Section IQ 2C: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 17 July 2013, by section 67(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

IQ 3 Ring-fencing cap on FIF net losses

Limit on amount: branch equivalent method

(1) If a person's FIF net loss is carried forward to a tax year (the **current tax year**) or FIF net loss is made available to the person in the current tax year,—

(a) FIF net loss relating to a tax year for which section IQ 2B applies to the person is available to be subtracted under section IQ 2 from the person's net income for the current tax year; and

(b) FIF net loss relating to a tax year for which section IQ 2B does not apply to the person—

(i) is available to be subtracted from the person's net income for the current tax year to the extent of the equivalent CFC loss under section IQ 2B; and

(ii) is reduced in the current tax year by the converted BE loss under section IQ 2B.

Relationship with section CQ 5

(2) Despite subsection (1) and section IQ 2, if the person's FIF net loss is carried forward to a tax year and section CQ 5(1)(d) or (e) (When FIF income arises) applies, they may subtract the amount from their net income for the tax year,

but only to the extent to which the amount is no more than their assessable income from interests that would be interests in a FIF for the tax year in the absence of that section.

Treatment of excess

(3) If the person cannot use all of the amount that is available tax loss under section IQ 2(1) because there is insufficient net income, the surplus is no longer available to them as a FIF net loss, but becomes a tax loss component under section IA 2(4) (Tax losses).

Defined in this Act: amount, assessable income, attributed CFC income, branch equivalent method, CFC, deduction, FIF, FIF income, FIF net loss, net income, tax year

Compare: 2004 No 35 s IE 4(2)–(6)

Section IQ 3(1): substituted (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 96(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 3(2): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 96(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 3(3) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 304(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 3(3): added (with effect on 1 April 2008), on 6 October 2009, by section 304(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 3(3): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 96(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 3 list of defined terms **attributed CFC income**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 304(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 3 list of defined terms **CFC**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 304(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IQ 3 list of defined terms **tax loss**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 34).

IQ 4 Group companies using attributed CFC net losses

What this section does

(1) This section supplements the general rules relating to the grouping of net losses when, for a tax year (the **current tax year**), a company (**company A**) that is part of a group of companies has an amount—

(a) of attributed CFC net loss for the current tax year or carried forward from an earlier tax year, or FIF net loss for the current tax year or carried forward from an earlier tax year; and

(b) remaining after section IQ 2 is applied for the current tax year and before any amount is made available to another company under this section.

Modifications to general rules for grouping net losses

(2) For determining whether company A may make available an amount of attributed CFC net loss or FIF net loss to another company (**company B**) in the group of companies, the general rules relating to the grouping of net losses are modified as follows:

(a) the group of companies must be a wholly-owned group of companies; and

(b) subpart IC (Grouping tax losses) and section GB 4 (Arrangements for grouping tax losses: companies) apply as if an amount of attributed CFC net loss or FIF net loss were a tax loss component; and

(c) subsection (3) overrides sections IC 5(1)(d) and IC 8 (which impose limits on the amount of transferred tax loss); and

(d) section IA 3(2) (Using tax losses in tax year) and subpart IP (Meeting requirements for part-years) do not apply.

Ring-fencing cap rule modified

(3) The amount of attributed CFC net loss or FIF net loss that company A may make available to company B in the tax year is limited by the following:

(a) the total amount made available by company A to group companies must not exceed the amount referred to in subsection (1); and

(b) the resulting reduction in company B's net income in the tax year must not exceed the total amount that company B derives in the tax year of attributed CFC income from CFCs, or FIF income calculated under the attributable FIF income method from FIFs, resident in the country or territory (the **jurisdiction**) in which the loss arose, reduced by the total of the following:

(i) the total amount of the attributed CFC income or FIF income taken into account in calculating a deduction of company B under section DN 4 or DN 8 (which relate to ring-fencing caps on deductions):

(ii) the total amount of attributed CFC net loss or FIF net loss that company B derives in the tax year from CFCs or FIFs resident in the jurisdiction:

(iii) the total amount of attributed CFC net loss or FIF net loss, from CFCs or FIFs resident in the jurisdiction, that company B carries forward to the tax year and is available tax loss for company B:

(iv) the total amount of attributed CFC net loss or FIF net loss, from CFCs or FIFs resident in the jurisdiction, that is made available to

company B for the tax year under this section by a company other than company A.

Defined in this Act: amount, attributed CFC income, attributed CFC net loss, available tax loss, branch equivalent method, CFC, company, deduction, FIF, FIF income, FIF net loss, group of companies, net income, net loss, tax loss component, tax year, wholly-owned group of companies

Compare: 2004 No 35 s IG 4

Section IQ 4(1): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 97(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4(2) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), pursuant to section 97(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4(2): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 97(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4(2)(c): amended (with effect on 1 April 2008), on 23 March 2020, by section 154(1) (and see section 154(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section IQ 4(3): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 97(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4(3)(b): amended (with effect on 1 July 2011), on 29 August 2011 (applying for income years beginning on or after 1 July 2011), by section 97(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4(3)(b)(iii): amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 97(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4 list of defined terms **available tax loss**: inserted (with effect on 30 June 2009), on 29 August 2011, by section 97(7) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4 list of defined terms **FIF net loss**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 97(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section IQ 4 list of defined terms **tax loss**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IQ 5 Group companies using FIF net losses

[Repealed]

Section IQ 5: repealed (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 98(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

IQ 6 Pre-consolidation losses: general treatment

When this section applies

(1) This section applies if a company that is part of a consolidated group has under section IQ 1B an attributed CFC net loss or FIF net loss carried forward to a tax year.

First use

(2) The first use of the amount must be by the company under subsection (3) or (4) in making the amount available to the consolidated group to subtract from its net income, so far as it extends, for the tax year.

CFC net losses

(3) If the amount is an attributed CFC net loss, it may be used only to the extent to which it is no more than the attributed CFC income that the consolidated group derives in the tax year from a CFC resident in the country in which the loss arose.

FIF net losses

(4) If the amount is a FIF net loss, it may be used only to the extent to which it is no more than the FIF income that the consolidated group derives in the tax year from a FIF resident in the country in which the loss arose.

Second use

(5) If, after applying subsection (2), some of the amount remains, the company may—

(a) subtract the remaining amount from its net income for the tax year; or

(b) make the remaining amount available to another consolidated group to subtract from its net income for the tax year under section IQ 4; or

(c) make the remaining amount available under section IC 5 (Company B using company A's tax loss).

Defined in this Act: amount, attributed CFC income, attributed CFC net loss, CFC, company, consolidated group, FIF, FIF income, FIF net loss, net income, tax year

Compare: 2004 No 35 s IG 7(2)

Section IQ 6(1): amended (with effect on 1 April 2008), on 7 December 2009, by section 65(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 6(5)(b): amended, on 30 March 2025, by section 101 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

IQ 7 When group membership lacking in loss period

When this section applies

(1) This section applies if—

(a) a company that is part of a consolidated group has a ring-fenced tax loss consisting of either an attributed CFC net loss or FIF net loss, or both, that is carried forward to a tax year and must be used under section IQ 6; and

(b) the company was not part of the consolidated group in the earlier tax year in which the net loss arose; and

(c) the company and 1 or more of the companies in the consolidated group do not meet the requirements for common ownership of section IC 5(1)(a) (Company B using company A's tax loss) for the loss period.

Limit on amount

(2) The amount that may be subtracted from the net income of the consolidated group in the tax year under section ID 2(2) must be no more than the total of—

(a) the amount of ring-fenced tax loss referred to in subsection (1) that the company could use to reduce its net income in the tax year under section IQ 2 or IQ 3 as applicable, if it were not in the tax year part of a consolidated group; and

(b) the amount of ring-fenced tax loss referred to in subsection (1) that the company could group with other companies in the group under section IQ 4, determining—

(i) the net income for each of the companies using the group's calculation of each company's net income; and

(ii) the maximum amount of tax loss to be made available, ignoring the consolidation of the companies and presuming all steps required under those sections were taken in order for them to apply.

Relationship with section FM 3

(3) In subsection (2), the amount of net income must be calculated in accordance with section FM 3 (Liability of consolidated groups and group companies).

Meaning of loss period

(4) In this section, the **loss period** means the tax year in which the ring-fenced tax loss arose and any tax years falling between that tax year and the tax year in which the amount is subtracted from net income.

Defined in this Act: amount, attributed CFC net loss, company, consolidated group, FIF net loss, loss period, net income, ring-fenced tax loss, tax loss, tax year

Compare: 2004 No 35 s IG 7(4)

Section IQ 7(1)(a): amended (with effect on 1 April 2008), on 7 December 2009, by section 66(1)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 7(1)(b): amended (with effect on 1 April 2008), on 7 December 2009, by section 66(1)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 7(2)(a): amended (with effect on 1 April 2008), on 7 December 2009, by section 66(2)(a)(i) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 7(2)(a): amended (with effect on 1 April 2008), on 7 December 2009, by section 66(2)(a)(ii) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 7(2)(b): amended, on 30 March 2025, by section 102 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section IQ 7(2)(b): amended (with effect on 1 April 2008), on 7 December 2009, by section 66(2)(b)(i) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 7(2)(b): amended (with effect on 1 April 2008), on 7 December 2009, by section 66(2)(b)(ii) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IQ 8 When group membership lacking in tax year of use

When this section applies

(1) This section applies if a company joins a consolidated group in a tax year with a ring-fenced tax loss consisting of an attributed CFC net loss or FIF net loss, or both, carried forward to the tax year, which must be used in the tax year under section IQ 6.

Limit on amount

(2) The amount that may be subtracted from the net income of the consolidated group for the tax year under section ID 2(2) is the lesser of—

(a) the amount of ring-fenced tax loss referred to in section IQ 7(1) that the company could subtract from—

(i) the amount that would be the company's net income for the part of the tax year in which it was not part of a consolidated group; and

(ii) the net income for the tax year of another consolidated group of which the company was part before joining the present group; and

(b) the amount that would be the group's net income for the part of the tax year in which the company was part of the consolidated group, established by giving the Commissioner, at the time of providing the group's return of income for the tax year, adequate financial statements that—

(i) relate to the part of the tax year when the company was part of the group; and

(ii) disclose the amount that would be the company's net income for the part of the tax year in which the company was part of the consolidated group, determined on a fair and reasonable basis of attribution.

Defined in this Act: amount, attributed CFC net loss, Commissioner, company, consolidated group, FIF net loss, net income, return of income, ring-fenced tax loss, tax year

Compare: 2004 No 35 s IG 7(5)

Section IQ 8(1): amended (with effect on 1 April 2008), on 7 December 2009, by section 67(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IQ 8(2)(a): amended (with effect on 1 April 2008), on 7 December 2009, by section 67(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IQ 9 When attributed CFC net loss becomes FIF net loss

When this section applies

(1) This section applies if, in a tax year, a person has an attributed CFC net loss that, under section 38 of the Income Tax Amendment Act (No 2) 1993, becomes a FIF net loss.

Treatment of net losses

(2) The attributed CFC net loss is treated as a FIF net loss of the person with effect from the tax year, as if the CFC were a FIF.

Calculation methods

(3) For the purposes of subsection (2) and the calculation of the amount of the loss, the attributable FIF income method is not used unless the person calculates their FIF income or net loss under the attributable FIF income method in relation to the interest on the date of the transition from an attributed CFC net loss to a FIF net loss.

Defined in this Act: amount, attributed CFC net loss, attributable FIF income method, CFC, FIF, FIF income, FIF net loss, tax year

Compare: 2004 No 35 s IE 3(4)

Section IQ 9(3): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 78(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 9 list of defined terms **attributable FIF income method**: inserted (with effect on 1 July 2011), on 7 May 2012, by section 78(2)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section IQ 9 list of defined terms **branch equivalent method**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 78(2)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Subpart IS—Mineral miners' and petroleum miners' tax losses

Subpart IS heading: replaced, on 1 April 2014, by section 96 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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IS 1 General treatment of mineral miners' net losses

Groups of companies

(1) In a tax year in which a company that is a mineral miner is included in a group of companies, the company may not make a tax loss available under section IC 5 (Company B using company A's tax loss) to another member of the group of companies.

Consolidated groups

(2) A net mining loss of a mineral miner that is part of a consolidated group is dealt with under this subpart and not subpart ID (Use of tax losses by consolidated groups).

Meaning of net mining loss

(3) For the purposes of this subpart, a **net mining loss** means that part of a net loss of a mineral miner that is described in section IA 7(7) (Restrictions relating to ring-fenced tax losses).

Defined in this Act: company, consolidated group, group of companies, mineral miner, net mining loss, tax loss, tax year

Compare: 2004 No 35 ss IG 6(2), IH 4(2)

Section IS 1 heading: replaced, on 1 April 2014, by section 97(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 1(1): replaced (with effect on 1 April 2014 and applying for the 2014–15 and later income years), on 30 March 2017, by section 152(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section IS 1(2): amended, on 1 April 2014, by section 97(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 1(2): amended (with effect on 1 April 2008), on 7 December 2009, by section 68(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 1(3) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 68(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 1(3): replaced, on 1 April 2014, by section 97(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 1 list of defined terms **mining company**: repealed, on 1 April 2014, by section 97(5)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 1 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 97(5)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 1 list of defined terms **net mining loss**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 1 list of defined terms **tax loss**: replaced (with effect on 1 April 2014), on 30 March 2017, by section 152(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

IS 2 Treatment of net losses resulting from certain expenditure

When this section applies

(1) This section applies if a company that is a mineral miner that is a company—

(a) has a net mining loss for a tax year as a result of incurring mining prospecting expenditure, mining exploration expenditure, mining development expenditure, or operational expenditure in a mining permit area; and

(b) has an amount of net mining loss carried forward to a later tax year.

What this section does not apply to

(1B) This section does not apply to an amount of net mining loss to the extent to which it gives rise to a tax credit under section LU 1 (Tax credits for mineral miners).

Using loss balances

(2) The company may subtract the amount of the net mining loss from its net income for the later tax year, even though the continuity of ownership required under section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership) is broken or is treated as absent under section GB 3 (Arrangements for carrying forward loss balances: companies' ownership), but only to the extent set out in subsection (3).

Limit on amount

(3) The amount subtracted under subsection (2) must be no more than the amount that would be the mineral miner's net income if its only assessable income for the later tax year were from the mining permit area.

Amounts carried forward

(4) If the company cannot use all the net mining loss in the later tax year, the amount is carried forward to later tax years and subsection (2) applies to the remaining balance.

Use against other income

(5) The company may subtract the amount of the net mining loss from its net income that is not attributable to the mining permit area but only after meeting for the whole of the continuity period the requirements set out in sections GB 3 and IA 5(2) and (3). For the purposes of applying section IA 5, the net mining loss is treated as if it were a tax loss component.

Defined in this Act: amount, assessable income, company, mineral miner, mining development expenditure, mining exploration expenditure, mining permit area, net income, net mining loss, operational expenditure, tax loss component, tax year

Compare: 2004 No 35 ss IH 1(1), IH 5

Section IS 2 heading: substituted (with effect on 1 April 2008), on 7 December 2009, by section 69(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2(1): amended, on 1 April 2014, by section 98(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2(1)(a): amended, on 1 April 2014, by section 98(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2(1)(a): amended (with effect on 1 April 2008), on 7 December 2009, by section 69(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2(1)(b): amended (with effect on 1 April 2008), on 7 December 2009, by section 69(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2(1B) heading: inserted, on 1 April 2014, by section 98(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2(1B): inserted, on 1 April 2014, by section 98(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2(2): amended (with effect on 1 April 2020), on 30 March 2021, by section 113(1)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IS 2(2): amended (with effect on 1 April 2020), on 30 March 2021, by section 113(1)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IS 2(2): amended (with effect on 1 April 2008), on 7 December 2009, by section 69(4) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2(3): amended, on 1 April 2014, by section 98(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2(4): amended (with effect on 1 April 2008), on 7 December 2009, by section 69(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2(5) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 69(6) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2(5): added (with effect on 1 April 2008), on 7 December 2009, by section 69(6) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2(5): amended (with effect on 1 April 2020), on 30 March 2021, by section 113(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IS 2 list of defined terms **loss balance**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 98(5)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2 list of defined terms **mining company**: repealed, on 1 April 2014, by section 98(5)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2 list of defined terms **net mining loss**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2 list of defined terms **non-resident mining operator**: repealed, on 1 April 2014, by section 98(5)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2 list of defined terms **operational expenditure**: inserted, on 1 April 2014, by section 98(5)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2 list of defined terms **resident mining operator**: repealed, on 1 April 2014, by section 98(5)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 2 list of defined terms **tax loss**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section IS 2 list of defined terms **tax loss component**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

IS 3 Holding companies' tax losses

[Repealed]

Section IS 3: repealed, on 1 April 2014, by section 99 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

IS 4 Adjustments in certain circumstances

[Repealed]

Section IS 4: repealed, on 1 April 2014, by section 100 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

IS 5 Petroleum miners' tax losses

[Repealed]

Section IS 5: repealed, on 1 April 2018, by section 148(1) (and see section 148(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

IS 6 When company stops being mineral miner

For the purposes of sections IS 1 and IS 2, if a mineral miner whose loss balance is carried forward to a tax year stops being a mineral miner at or before the end of the tax year, the mineral miner is nevertheless treated for the tax year as if it had continued as a mineral miner.

Defined in this Act: loss balance, mineral miner, tax year

Compare: 2004 No 35 ss IH 1, IH 4(1)(e)

Section IS 6 heading: amended, on 1 April 2014, by section 101(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 6: amended, on 1 April 2014, by section 101(2)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 6: amended, on 1 April 2014, by section 101(2)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 6: amended, on 1 April 2014, by section 101(2)(c) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 6 list of defined terms **mineral miner**: inserted, on 1 April 2014, by section 101(3)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section IS 6 list of defined terms **mining company**: repealed, on 1 April 2014, by section 101(3)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Subpart IT—Cancellation of life insurer's losses

Subpart IT: substituted, on 1 July 2010, by section 307(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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IT 1 Cancellation of life insurer's policyholder net losses

What this section applies to

(1) This section applies to the amount of a life insurer's tax loss to be carried forward to the tax year corresponding to the income year that includes 1 July 2010 (the **tax year**), to the extent to which the amount (the **cancelled amount**) would be a ring-fenced tax loss for policyholder net losses under section IA 7(3) (Restrictions relating to ring-fenced losses) if the enactment of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 were ignored.

Cancellation of life insurer's policyholder net losses

(2) The cancelled amount—

(a) is removed from the life insurer's available tax loss for the tax year, except as provided by section EY 5(2) (Part-year tax calculations) for the first part-year; and

(b) must not be subtracted from the life insurer's net income under section BC 5 (Taxable income) for the tax year, except as provided by section EY 5(2) for the first part-year; and

(c) is not a tax loss component on and after 1 July 2010; and

(d) is cancelled on and after 1 July 2010.

Defined in this Act: available tax loss, income year, life insurer, net income, policyholder net loss, ring-fenced tax loss, tax loss, tax loss component, tax year

Section IT 1: substituted, on 1 July 2010, by section 307(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

IT 2 Cancellation of life insurer's tax loss when allowed into policyholder base

What this section applies to

(1) This section applies to the amount of a life insurer's tax loss to be carried forward to a tax year corresponding to an income year that includes 1 July 2010 and later tax years.

Cancellation of life insurer's tax loss

(2) When the life insurer has for an income year a policyholder base allowable deduction as provided by section EZ 61 (Allowance for cancelled amount: spreading), an equal amount—

(a) is removed from the life insurer's available tax loss for the tax year corresponding to the income year; and

(b) must not be subtracted from the life insurer's net income under section BC 5 for the tax year; and

(c) is not a tax loss component; and

(d) is cancelled.

Defined in this Act: available tax loss, income year, life insurer, net income, policyholder base allowable deduction, tax loss, tax loss component, tax year

Section IT 2: added, on 1 July 2010, by section 307(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section IT 2 list of defined terms **tax loss component**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Subpart IV—Treatment of certain supplementary dividends

[Repealed]

Subpart IV: repealed, on 1 April 2013 (applying for the 2013–14 and later tax years), by section 73(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

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IV 1 Supplementary dividend holding companies

[Repealed]

Section IV 1: repealed, on 1 April 2013 (applying for the 2013–14 and later tax years), by section 73(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Subpart IW—Use of tax losses to pay shortfall penalties

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IW 1 Shortfall penalties

When this section applies

(1) This section applies in a tax year when a person has a shortfall penalty for an income tax liability.

Persons choosing to use tax losses

(2) If the person has a tax loss for the tax year, they may use the amount of the tax loss to pay the penalty, notifying the Commissioner by the due date for payment of the penalty.

Wholly-owned groups choosing to use tax losses

(3) If a company that is part of a wholly-owned group of companies has a tax loss for a tax year, the wholly-owned group may use the amount of the tax loss to pay the penalty imposed on the company or on another company in the group, notifying the Commissioner by the due date for the payment of the penalty.

Time of use

(4) The tax loss is used at the time of notification.

Lowest marginal tax rate and availability

(5) Each dollar of an amount of tax loss that is used under this section—

(a) is equal to 1 dollar multiplied by the rate of tax or lowest marginal rate of tax that would apply to the person in the return period to which the tax shortfall relates if the person had tax to pay:

(b) cannot, from the date the tax loss is used, be used or made available for use, or be carried forward to a later tax year.

Tax years and part-years

(6) In this section, a **tax year** includes a part of a tax year that may be taken into account under this Part for continuity or grouping purposes.

Defined in this Act: amount, Commissioner, company, income tax liability, notify, pay, shortfall penalty, tax, tax loss, tax year, wholly-owned group of companies

Compare: 2004 No 35 s IG 10

Section IW 1(3): amended (with effect on 1 April 2008), on 30 June 2014, by section 130 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Subpart IZ—Terminating provisions

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IZ 1 Use of specified activity net losses

[Repealed]

Section IZ 1: repealed, on 1 April 2018, by section 149(1) (and see section 149(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

IZ 2 Petroleum mining companies: treatment of payments from shareholders

[Repealed]

Section IZ 2: repealed, on 1 April 2018, by section 150(1) (and see section 150(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

IZ 3 Petroleum mining companies: use of loss balances

[Repealed]

Section IZ 3: repealed, on 1 April 2018, by section 151(1) (and see section 151(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

IZ 4 Tax losses for tax years before 1977–78 tax year

A person's loss balance for a tax year before the 1977–78 tax year is carried forward and may be used under section IA 4 (Using loss balances carried forward to tax year) if the person would have been entitled to have the tax loss carried forward for the purpose of assessing income tax under section 137 of the Land and Income Tax Act 1954 if the Income Tax Act 1976, the Income Tax Act 1994, the Income Tax Act 2004, and this Act had not been passed.

Defined in this Act: assessment, loss balance, tax loss, tax year

Compare: 2004 No 35 s IF 1(5)

IZ 5 Companies' tax losses for tax years before 1991–92 tax year

Loss balances carried forward

(1) A company's loss balance for a tax year before the 1991–92 tax year may be used under section IA 4 (Using loss balances carried forward to tax year) if—

(a) the company would have been entitled to have some or all of the tax loss under section 188 of the Income Tax Act 1976 carried forward to a later tax year, if that section had continued to apply in the later tax year, as modified by section 188AA of that Act and as if the continuity percentage referred to in section 188(7) of that Act were always 40%; and

(b) for the period starting on the first day of the 1992–93 tax year and ending on the last day of the later tax year, a group of persons holds total minimum voting interests in the company that add up to at least 49%.

Market value circumstances and minimum interests

(2) For the purposes of subsection (1)(b),—

(a) if, during the period a market value circumstance exists for the company, the group of persons must also hold for the period total minimum market value interests in the company that add up to at least 49%:

(b) a minimum interest of any person in the company in the period is equal to the lowest interest that the person has in the period.

Defined in this Act: company, group of persons, loss balance, market value circumstance, minimum market value interest, minimum voting interest, tax loss, tax year

Compare: 2004 No 35 s IF 1(6)

IZ 6 Companies' tax losses for 1990–91 and 1991–92 tax years

When this section applies

(1) This section applies to a company that has a tax loss for the 1990–91 or 1991–92 tax year and section 188(7B) of the Income Tax Act 1976 would not have applied to prevent some or all of the tax loss being carried forward if regard were had to only part of the relevant tax year.

Part-year tax losses carried forward

(2) Section 188(7B) does not apply to prevent the part of the tax loss attributable to the relevant part-period being carried forward under section 188(2).

Financial statements

(3) For the purposes of subsection (2), the company must provide the Commissioner with adequate financial statements relating to the relevant part-period that disclose the amount that would be the tax loss for the relevant part of the tax year, on a fair and reasonable basis of attribution.

Application of subsection (7B)

(4) In subsection (1), the reference to subsection (7B) applies to the extent to which regard was required to be had to that part of the period starting with 8.00 pm New Zealand Standard Time on 30 July 1991 which falls within the tax year in which the tax loss component arises, and without prejudice to the application of that subsection to the extent to which it required regard to be had to later periods.

Defined in this Act: amount, Commissioner, company, tax loss, tax loss component, tax year

Compare: 2004 No 35 s IF 2

IZ 7 Grouping tax losses for tax years before 1981–82 and between 1981–82 and 1991–92

Commonality period: between 1981–82 and 1991–92

(1) For the purposes of section IC 5(1)(a) (Company B using company A's tax loss), if company A has a tax loss in a tax year between the 1981–82 and 1991–92 tax years, company A and company B may group the tax loss in a tax year that is later than the tax year in which the tax loss component arises only if company B is in the same group of companies as company A in the earlier tax year.

Commonality period: before 1981–82

(2) For the purposes of section IC 5(1)(a), if company A has a tax loss in a tax year before the 1981–82 tax year, company A and company B may group the tax loss in a tax year that is later than the tax year in which the tax loss component arises only if company B is in the same group of companies as company A in the tax year in which the tax loss is used.

When companies have different balance dates

(3) For the purposes of subsections (1) and (2), the tax year is extended under section IC 10(2)(b) (When companies have different balance dates) if company B's balance date is later than company A's balance date.

Residence of company A

(4) For the purposes of section IC 5(1)(b), if company A's tax loss component arose in a tax year before the 1991–92 tax year, company A and company B may group the tax loss component in a tax year that is later than the tax year first referred to only if company A is, in both the earlier and the later tax year—

(a) incorporated in New Zealand, or carrying on a business in New Zealand through a fixed establishment in New Zealand; and

(b) resident in New Zealand, and not treated under a double tax agreement, and for the purposes of the agreement, as not resident in New Zealand, or liable by the law of another country or territory to income tax in that country or territory through domicile, residence, or place of incorporation.

Relationship with sections IC 5 and IC 6

(5) Subsections (1) and (2) override sections IC 5(1)(a) and IC 6 (which relate to grouping requirements) and subsection (4) overrides sections IC 5(1)(b) and IC 6.

Defined in this Act: balance date, business, company, double tax agreement, fixed establishment, group of companies, New Zealand, resident in New Zealand, tax loss, tax loss component, tax year

Compare: 2004 No 35 s IG 2(2)(c), (d)(ii)(B)

IZ 7B Grouping tax losses for commonality periods starting before 15 March 2017 for tax years after 1990–91

For the purposes of section IC 5(1)(b) (Company B using company A's tax loss), if the commonality period started before 15 March 2017 and company A's tax loss component arose in a tax year after the 1990–91 tax year, in addition to meeting the requirements of section IC 7(1) (Place of incorporation or carrying on business), company A, for the part of the commonality period that precedes 15 March 2017, must not be a company resident in New Zealand that is—

(a) treated under a double tax agreement, and for the purposes of the agreement, as not resident in New Zealand; or

(b) liable by the law of another country or territory to income tax in that country or territory through domicile, residence, or place of incorporation.

Defined in this Act: commonality period, company, double tax agreement, income tax, resident in New Zealand, tax loss component, tax year

Section IZ 7B: inserted (with effect on 15 March 2017), on 31 March 2023, by section 87 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

IZ 8 Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year

Terms used in this section

(1) This section provides that a person who has taxable income in the 2018–19 or 2019–20 income year, or is in a group of companies with a person who has taxable income in 1 of those years, and has a net loss in the following income year may choose to reduce the taxable income in the first year by an amount, which is treated as being an available tax loss that can be used in the first income year, and subtracting the same amount from the net loss that would otherwise be available in the second income year, subject to restrictions that are expressed in terms of—

(a) the **offset years**, which refers to the period of 2 years that is affected by the election and begins with either the 2018–19 or the 2019–20 income year:

(b) the **taxable income year**, which refers to the first of the offset years:

(c) the **initial taxable income**, which refers to the amount of taxable income given by subsection (2)(a) for the person and the taxable income year:

(d) the **net loss year**, which refers to the second of the offset years:

(e) the **elected amount**, which refers to the amount by which an election under this section reduces both the initial taxable income and the net loss that, in the absence of the election, the person would have in the net loss year:

(f) the **offset ownership period**, which refers to the period in the offset years for which a person that is a company meets requirements relating to continuity of ownership for carrying forward loss balances from 1 tax year to the next:

(g) the **income ownership period**, which refers to the part of the offset ownership period that occurs in the taxable income year:

(h) the **loss ownership period**, which refers to the part of the offset ownership period that occurs in the net loss year:

(i) the **group loss excess**, which is the amount of the excess of net loss given by subsection (3)(b) for the members of a wholly-owned group of companies and the loss ownership period.

Who may make election under this section: general rule

(2) A person, other than a person who is a member of a group of companies during the offset ownership period, may make an election under this section for the period consisting of 2 income years beginning with the 2018–19 or the 2019–2020 income year if,—

(a) in the absence of an election under this section, the person would have an amount of taxable income remaining in the taxable income year after subtracting the total amount of charitable donations for which the person has a tax credit for the taxable year under subpart LD (Tax credits for gifts and donations); and

(b) in the absence of an election under this section, the person would have a net loss in the net loss year; and

(c) the person is not a qualifying individual, as defined in section 3(1) of the Tax Administration Act 1994, in the net loss year and is not a multi-rate PIE in the offset years; and

(d) when the person is a company, the person meets the requirements relating to continuity of ownership given by section IA 5 or IP 3 (which give the requirements for companies to carry forward loss balances) during the offset ownership period.

Who may make election under this section: rule for member of group of companies

(3) A person who is a member of a group of companies during the offset ownership period may make an election under this section for the offset years if,—

(a) in the absence of an election under this section, the person would have a net loss in the net loss year; and

(b) for a person who is a member of a wholly-owned group, in the absence of an election under this section, an excess of net loss would remain for the loss ownership period if the total amount of the net loss of the person and the other members of the wholly-owned group were reduced by the total amount of the net income of the person and the other members of the wholly-owned group for which the other members of the wholly-owned group have not used non-refundable tax credits to meet income tax liabilities; and

(c) the person meets the requirements relating to continuity of ownership given by section IA 5 or IP 3 during the offset ownership period.

Making election

(4) The person makes the election by including the elected amount, which must not exceed the amount given for the person by subsection (5), (6), or (7), as an available tax loss in calculating the person's taxable income for the taxable income year, in—

(a) a return of income for the taxable income year; or

(b) a request that the Commissioner amend under section 113 of the Tax Administration Act 1994 the assessment for the taxable income year.

Effect of election: person other than company

(5) If the person is not a company, the person's net loss for the net loss year is reduced, and the person's available tax loss for the taxable income year is increased, by an amount that is the smallest of—

(a) the initial taxable income referred to in subsection (2)(a):

(b) the amount of the net loss referred to in subsection (2)(b):

(c) the elected amount.

Effect of election: company not in group

(6) If the person is a company, other than a company that is a member of a group of companies at a time in the offset ownership period, the person's net loss for the net loss year is reduced, and the person's available tax loss for the taxable income year is increased, by an amount that is the smallest of—

(a) the initial taxable income referred to in subsection (2)(a):

(b) the amount of the net income of the person for the income ownership period:

(c) the amount of the net loss referred to in subsection (2)(b):

(d) the amount of the net loss of the person for the loss ownership period:

(e) the elected amount.

Effect of election: member of group of companies

(7) If the person is a member of a group of companies at a time in the offset ownership period, the person's net loss for the loss ownership period is reduced, and the person's available tax loss for the income ownership period is increased, by an amount that is the smallest of—

(a) the total amount of—

(i) the smaller of the initial taxable income referred to in subsection (2)(a) and the net income of the person for the income ownership period:

(ii) the part of the elected amount that is made available under subparts IC and IP (which relate to the use and grouping of tax losses) to other members of the group of companies in the taxable income year:

(b) if the person is a member of a wholly-owned group in the loss ownership period, the group loss excess referred to in subsection (3)(b) reduced by the total amount of the reductions in net loss for the period for the other members of the group from elections under this section:

(c) the elected amount.

Application of subparts IC and IP to amounts made available to members of group

(8) In the application of subparts IC and IP to the making available by a person, to another member of a group of companies, of an amount of available tax loss arising for the person under subsection (7),—

(a) the amount of available tax loss that exceeds the person's initial taxable income is a tax loss for the taxable income year for the purposes of section IC 1 (Company A making tax loss available to company B):

(b) the commonality period referred to in section IC 6 (Common ownership for period) is the period consisting of the offset years:

(c) the requirements in section IP 4(4) and section IP 5 (which relate to breaches of continuity or commonality requirements) are not applied:

(d) the requirements in section IP 4(2)(a), (ab), and (c) (Breach in income year in which tax loss component arises) are replaced by the requirements given by subsection (9).

Replacement requirements in applying section IP 4(2)

(9) The replacement requirements in section IP 4(2) are—

(a) the net loss giving rise to the available tax loss arises in the portion of the loss ownership period that is included in the common span; and

(b) the amount of the available tax loss is no more than the net income that the group company derives in the portion of the income ownership period that is included in the common span; and

(c) the person and the group company provide the Commissioner with adequate financial statements under section IP 6 (Financial statements required).

When allocation of net loss effective

(10) The increase in the person's available tax loss for the taxable income year is not effective until the person—

(a) files a return of income for the taxable income year that includes a figure for the elected amount or an updated figure replacing a figure for the elected amount; or

(b) makes a request that the Commissioner amend under section 113 of the Tax Administration Act 1994 the assessment for the taxable income year based on a figure or an updated figure for the elected amount.

Requests required for some amended assessments

(11) A person who makes an election under this section must make a request that the Commissioner amend under section 113 of the Tax Administration Act 1994 the assessment for the taxable income year if the elected amount used in the most recent assessment of that income year exceeds the amount permitted by this section in the return of income for the net loss year.

Accounting for part years in ownership continuity period

(12) If the offset ownership period for a company includes a part, but not all, of an income year, the company must provide to the Commissioner adequate financial statements for the relevant part of the income year complying with the requirements of sections IP 3(2) and (4) (Ownership continuity breach: tax loss components of companies carried forward) and IP 6.

Defined in this Act: assessment, available tax loss, Commissioner, company, continuity period, deduction, group of companies, ICA company, imputation credit account, income, income tax liability, income year, multi-rate PIE, net income, net loss, non-refundable tax credit, return of income, tax loss, tax return, tax year, taxable income, wholly-owned group of companies

Section IZ 8: inserted (with effect on 15 April 2020), on 30 April 2020, by section 11(1) (and see section 11(2) for application) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section IZ 8(1): amended (with effect on 15 April 2020), on 30 March 2021, by section 114(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IZ 8(1): amended (with effect on 15 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section IZ 8(2): amended (with effect on 15 April 2020), on 30 March 2021, by section 114(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IZ 8(2)(c): amended (with effect on 15 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section IZ 8(3) heading: amended (with effect on 15 April 2020), on 30 March 2021, by section 114(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IZ 8(3): amended (with effect on 15 April 2020), on 30 March 2021, by section 114(4) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IZ 8(3)(b): amended (with effect on 15 April 2020), on 30 March 2021, by section 114(5) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IZ 8(3)(b): amended (with effect on 15 April 2020), on 30 March 2021, by section 114(6) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section IZ 8(8)(c): amended (with effect on 15 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section IZ 8(12): amended (with effect on 15 April 2020), on 30 March 2022, by section 128 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section IZ 8 list of defined terms **qualifying individual**: repealed (with effect on 15 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Part L
Tax credits and other credits

Subpart LA—General rules for tax credits

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LA 1 What this Part does

This Part—

(a) identifies when a person's tax credit arises; and

(b) provides the rules that govern the use of a tax credit in satisfying an obligation under section BB 2 (Main obligations).

Defined in this Act: tax credit

LA 2 Satisfaction of income tax liability

A person must use their total tax credit for a tax year to satisfy their income tax liability for the tax year.

Defined in this Act: income tax liability, tax year, total tax credit

Compare: 2004 No 35 s BC 9

LA 3 When total tax credit less than or equal to income tax liability

Unsatisfied income tax liability

(1) If a person's total tax credit for a tax year is less than their income tax liability for the tax year, the person has an amount of unsatisfied income tax liability for the tax year.

Amount

(2) The amount of unsatisfied income tax liability is—

(a) equal to the difference between the person's total tax credit for the tax year and their income tax liability for the tax year:

(b) satisfied when the person pays their terminal tax for the tax year.

Defined in this Act: amount, income tax liability, tax year, terminal tax, total tax credit

Compare: 2004 No 35 s BC 9

LA 4 When total tax credit more than income tax liability

Satisfied income tax liability

(1) If a person's total tax credit for a tax year is greater than their income tax liability for the tax year, the person must use their total tax credit, including the credits listed in paragraphs (a) to (d), to satisfy their income tax liability by using—

(a) first, a non-refundable tax credit:

(b) second, a tax credit for a supplementary dividend:

(c) third, a tax credit for an imputation credit:

(cb) fourth, a research and development tax credit under section LY 1(3)(b):

(cc) fifth, a research and development tax credit under section LY 1(3)(a):

(d) sixth, a refundable tax credit.

Remaining tax credits

(2) A person who has satisfied their income tax liability under subsection (1) must deal with their remaining tax credits for the tax year under section LA 5.

Defined in this Act: imputation credit, income tax liability, non-refundable tax credit, refundable tax credit, research and development tax credit, supplementary dividend, tax credit, tax year, total tax credit

Compare: 2004 No 35 ss BC 8(2), BC 9(1), BC 10, KD 4(2), LD 3(3), LD 3A(4), LE 2(6)

Section LA 4(1)(cb): inserted, on 1 April 2019, by section 8(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LA 4(1)(cc): inserted, on 1 April 2019, by section 8(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LA 4(1)(d): amended, on 1 April 2019, by section 8(2) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LA 4 list of defined terms **research and development tax credit**: inserted, on 1 April 2019, by section 8(3) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

LA 5 Treatment of remaining credits

What this section applies to

(1) This section applies to a remaining tax credit referred to in section LA 4(2).

Non-refundable credits

(2) A non-refundable tax credit is extinguished. However, this subsection does not apply to a tax credit for income tax and foreign income tax paid in relation to foreign attributed income used under section LK 4 (Use of remaining credits).

Credits for supplementary dividends

(3) A person uses a tax credit for a supplementary dividend by applying section LP 3 (Use of remaining credits).

Credits for imputation credits

(4) A person uses a tax credit for an imputation credit by applying section LE 2, LE 2B, or LE 3 (which relate to the use of remaining tax credits).

Research and development tax credits

(4B) A person's research and development tax credit is used by—

(a) first, the Commissioner refunding the tax credit up to the maximum limit of the person's refundability cap, by treating it as a refundable tax credit and applying section LA 6(2). There is no maximum limit for refunding the tax credit, if and to the extent to which—

(i) the person is a levy body researcher:

(ii) the tax credit is for eligible research and development expenditure on approved research providers:

(b) secondly, applying section LY 8 (Carry forward for remaining research and development tax credits), to the extent to which paragraph (a) does not apply to the tax credit.

Refundable credits

(5) The Commissioner refunds a refundable tax credit by applying section LA 6, LA 7, or LA 8.

Meaning of refundability cap

(5B) For the purposes of this section, **refundability cap** is the amount calculated for the tax year using the following formula:

own tax + other wholly-owned tax + other controller tax − double-dip allocation.

Definition of items in formula

(5C) In the formula,—

(a) **own tax** is the total amount of PAYE, ESCT, and FBT that the person (**person A**) pays for the tax year to the extent to which the total amount has not been allocated under paragraph (b) or (c) to another person for the purposes of calculating their refundability cap for the tax year:

(b) **other wholly-owned tax** is zero or, if person A is a company and is a member of a wholly-owned group of companies, is the amount of PAYE, ESCT, and FBT that the other members pay for the tax year and that is allocated to person A for the purposes of calculating person A's refundability cap for the tax year:

(c) **other controller tax** is zero or, if person A is a company, is the total amount of PAYE, ESCT, and FBT that companies that directly or indi-

rectly control person A pay for the tax year and that is allocated to person A for the purposes of calculating their refundability cap for the tax year:

(d) **double-dip allocation** means the total amount allocated to person A under paragraphs (b) and (c) that has been allocated to a person other than person A for the purposes of calculating the other person's refundability cap for the tax year.

Relationship with material

(5D) Section LZ 14 (Research and development tax credits' refundability: option for 2019–20 income year) may modify this section for a person's research and development tax credits for the 2019–20 income year.

Defined in this Act: approved research provider, Commissioner, eligible research and development expenditure, ESCT, FBT, foreign attributed income, foreign income tax, imputation credit, income tax, levy body researcher, non-refundable tax credit, PAYE, refundability cap, refundable tax credit, research and development tax credit, supplementary dividend, tax credit

Compare: 2004 No 35 ss BC 9, BC 10

Section LA 5(4): amended (with effect on 1 July 2010), on 7 September 2010, by section 85 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section LA 5(4B) heading: inserted, on 1 April 2019, by section 9(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LA 5(4B): replaced (with effect on 1 April 2019), on 25 March 2020, by section 15(1) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5(5B) heading: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(2) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5(5B): inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(2) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5(5C) heading: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(2) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5(5C): inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(2) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5(5D) heading: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(2) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5(5D): inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(2) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **approved research provider**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(a) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **associated person**: repealed (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(b) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **eligible research and development expenditure**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(a) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **ESCT**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(a) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **exempt income**: repealed (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(b) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **FBT**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(a) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **levy body researcher**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(a) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **listed company**: repealed (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(b) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **PAYE**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(a) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **refundability cap**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 15(3)(a) (and see section 15(4) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section LA 5 list of defined terms **research and development tax credit**: inserted, on 1 April 2019, by section 9(2) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

LA 6 Remaining refundable credits: PAYE, RWT, and certain other items

What this section applies to

(1) This section applies to a person's tax credit remaining for a tax year under section LA 5(5) if it is a tax credit under—

(a) section LB 1 (Tax credits for PAYE income payments):

(b) section LB 2 (Tax credits for provisional tax payments):

(c) section LB 3 (Tax credits for resident withholding tax):

(cb) section LB 6 (Tax credits for RSCT):

(cc) section LB 6B (Tax credits for RLWT):

(d) *[Repealed]*

(db) *[Repealed]*

(e) subpart LO (Tax credits for Maori authority credits):

(f) section LS 1 (Tax credits for multi-rate PIEs):

(g) section LS 2 (Tax credits for investors in multi-rate PIEs) and the person is not a natural person, or is a natural person who—

(i) has the tax credit as a beneficiary of a trust:

(ii) uses the tax credit in the calculation of their PIE schedular income under section HM 36B (Calculating PIE schedular income adjustments for natural person investors):

(h) section LS 3 (Tax credits for zero-rated investors), and the person is not a natural person or is a natural person having the tax credit as a beneficiary of a trust:

(i) section LS 4 (Tax credits for certain exiting investors) and the person is not a natural person, or is a natural person who—

(i) has the tax credit as a beneficiary of the trust:

(ii) uses the tax credit in the calculation of their PIE schedular income under section HM 36B:

(ib) subpart LT (Tax credits for petroleum miners):

(j) section LU 1 (Tax credits for mineral miners).

Use of credits

(2) The Commissioner must—

(a) first, use a tax credit to satisfy the person's income tax liability for a tax year that is before the tax year referred to in subsection (1):

(b) second, use a tax credit to satisfy the person's income tax liability for a tax year that is later than the tax year referred to in subsection (1), applying this paragraph to earlier tax years before later tax years:

(c) third, pay the person's provisional tax for a tax year that is later than the tax year referred to in subsection (1), applying this paragraph to earlier tax years before later tax years:

(d) fourth, treat a tax credit as tax paid in excess and as transferable under section LB 1B (Treatment of tax credits of certain companies with shareholders who are employees) or Part 10B of the Tax Administration Act 1994:

(e) fifth, refund a tax credit by applying sections RB 4, RM 2 to RM 8, and RM 10 (which relate to refunds and their use), as applicable, and the Tax Administration Act 1994.

Time bar

(3) The Commissioner may amend an assessment or a determination to give effect to this section despite the time bar.

Defined in this Act: assessment, Commissioner, income tax liability, PAYE, PIE schedular income, provisional tax, RWT, tax credit, tax year, time bar

Compare: 2004 No 35 ss LD 1, LD 3, LD 3A, LD 6–LD 8, LD 12(5), MD 1

Section LA 6(1)(cb): inserted, on 1 April 2008, by section 433(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LA 6(1)(cc): inserted, on 1 July 2016, by section 43 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section LA 6(1)(d): repealed, on 1 April 2017, by section 153(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LA 6(1)(db): repealed (with effect on 1 April 2009), on 30 March 2017, by section 153(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LA 6(1)(e): amended (with effect on 1 April 2008), on 6 October 2009, by section 308(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LA 6(1)(f): added (with effect on 1 April 2008), on 6 October 2009, by section 308(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LA 6(1)(f): amended, on 17 July 2013, by section 68(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section LA 6(1)(f): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 308(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LA 6(1)(g): replaced, on 1 April 2020, by section 156(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LA 6(1)(h): inserted, on 17 July 2013, by section 68(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section LA 6(1)(i): replaced (with effect on 1 April 2020), on 30 March 2021, by section 115 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LA 6(1)(ib): inserted, on 1 April 2018, by section 152(1) (and see section 152(3) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LA 6(1)(j): inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 102(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section LA 6(2)(d): amended, on 29 March 2018 (with effect on 1 April 2017), by section 152(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LA 6 compare note: amended (with effect on 1 April 2008), on 17 July 2013, by section 68(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section LA 6 compare note: amended, on 1 April 2008, by section 433(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LA 6 list of defined terms **PIE schedular income**: inserted, on 1 April 2020, by section 156(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

LA 7 Remaining refundable credits: tax credits for social policy and other initiatives

What this section applies to

(1) This section applies to a person's tax credit remaining for a tax year under section LA 5(5), if it is a tax credit under—

(a) section LB 4 (Tax credits for families):

(aba) section LB 4BA (Tax credits for early childhood education):

(ab) section LB 4B (Tax credit for R&D tax losses):

(b) section LD 1(5) (Tax credits for charitable and other public benefit gifts).

Use of credits

(2) The Commissioner must treat the person's tax credit as transferable under Part 10B of the Tax Administration Act 1994 or refundable under sections RB 4, RM 2 to RM 8, and RM 10 (which relate to refunds and their use), as applicable.

Defined in this Act: Commissioner, tax credit, tax year

Compare: 2004 No 35 ss BC 8(1), KD 4(2), MD 1

Section LA 7 heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 309(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LA 7 heading: amended (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 198(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LA 7(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 309(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LA 7(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 309(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LA 7(1)(aba): inserted, on 1 July 2024, by section 10 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section LA 7(1)(ab): inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 198(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LA 7 list of defined terms **family scheme income**: repealed (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

LA 8 Remaining refundable credits: non-resident withholding tax

What this section applies to

(1) This section applies to a person's tax credit remaining for a tax year under section LA 5(5), if it is a tax credit under section LB 5 (Tax credits for non-resident withholding tax).

Use of credits

(2) The Commissioner must—

(a) first, treat the tax credit as tax paid in excess and as transferable under Part 10B of the Tax Administration Act 1994:

(b) second, refund the tax credit under sections RB 4, RM 2 to RM 8, and RM 10 (which relate to refunds and their use), as applicable.

Defined in this Act: Commissioner, tax credit, tax year

Compare: 2004 No 35 ss LD 2, MD 1

Section LA 8 list of defined terms **non-resident withholding tax**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

LA 8B General rules particular to life insurers

Apportionment

(1) For the purposes of this subpart, a life insurer's total tax credit is apportioned between their policyholder base and shareholder base, to the extent to which section EY 4 (Apportionment of income of particular source or nature, and of tax credits) applies and apportions the credit.

Unsatisfied income tax liability

(2) Despite section LA 3,—

(a) a life insurer has an unsatisfied income tax liability to the extent to which—

(i) the tax credit apportioned to their policyholder base is less than their schedular income tax liability for schedular policyholder base income (the **policyholder base income tax liability**):

(ii) the tax credit apportioned to their shareholder base is less than their income tax liability for the tax year, calculating their income tax liability (the **shareholder base income tax liability**) as if they only had shareholder base income and allowable deductions:

(b) the amount of unsatisfied income tax liability is the total of the difference, if any, described in paragraph (a)(i) and the difference, if any, described in paragraph (a)(ii):

(c) the amount of unsatisfied income tax liability under paragraph (b) is satisfied when the life insurer pays their terminal tax for the tax year.

Use of credits

(3) Despite section LA 4,—

(a) if the tax credit apportioned to the policyholder base or the shareholder base is greater than the relevant base income tax liability described in subsection (2)(a)(i) or (ii), the tax credit is used, in the order prescribed in section LA 4(1), to satisfy the relevant base income tax liability. There is no cross-crediting:

(b) tax credits not used under paragraph (a) are treated as remaining tax credits referred to in section LA 4(2) and the life insurer must deal with the credits under section LA 5.

Defined in this Act: income tax liability, life insurer, policyholder base, schedular policyholder base income, shareholder base, shareholder base allowable deduction, shareholder base income, tax credit, tax year

Section LA 8B: inserted, on 1 July 2010, by section 310(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LA 9 Use of tax credits

An amount of a tax credit is used once, so far as it extends.

Defined in this Act: amount, tax credit

Compare: 2004 No 35 ss BC 9(1), LB 2(2), LE 2(4), (8)

Section LA 9: amended (with effect on 1 April 2008), on 6 October 2009, by section 311(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LA 9: amended, on 1 April 2008, by section 435 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

LA 10 Meaning of tax credit

An amount is a **tax credit** of a person if it is their tax credit under a provision in this Part.

Defined in this Act: amount, tax credit

Compare: 2004 No 35 s BC 9

Subpart LB—Tax credits for payments, deductions, and family payments

Subpart LB heading: substituted, on 1 April 2008, by section 436 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

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LB 1 Tax credits for PAYE income payments

When this section applies

(1) This section applies in a tax year when an employer provides the Commissioner with employment income information that shows an amount of tax withheld from a PAYE income payment of a person who is an employee.

Amount of credit

(2) The person has a tax credit for the tax year equal to the amount of tax shown as withheld.

Application to close companies

(3) Despite subsection (2), the amount of the tax credit must be no more than the amount of tax paid to the Commissioner if—

(a) the employer is a close company; and

(b) the employer and the person are associated persons, or the employer and the spouse, civil union partner, or de facto partner of the person are associated persons; and

(c) the employer withheld the amount of tax for the PAYE income payment shown in their employment income information.

Exclusions

(4) The person's credit is extinguished if the Commissioner does not receive employment income information for the relevant amount of tax, or when the relevant particulars of the schedule are incorrect. However, the credit is restored to the person if the relevant matter is corrected and, for the purposes of this section, it is as if the error had not been made.

Defined in this Act: amount, amount of tax, associated person, close company, Commissioner, employee, employer, employment income information, pay, PAYE income payment, tax credit

Section LB 1: substituted (with effect on 1 April 2008), on 6 October 2009, by section 312 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 1(1): amended, on 1 April 2019, by section 153(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 1(3)(c): amended, on 1 April 2019, by section 153(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 1(4): amended, on 1 April 2019, by section 153(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 1 list of defined terms **employer monthly schedule**: repealed, on 1 April 2019, by section 153(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 1 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 153(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

LB 1B Treatment of tax credits of certain companies with shareholders who are employees

When this section applies

(1) This section applies when—

(a) a company to which section RD 3B or RD 3C (which relate to income derived by shareholders who are employees) applies, pays an amount to a person who is both a shareholder and an employee of the company; and

(b) the amount is paid or allocated—

(i) under section GB 29 (Attribution rule: calculation); or

(ii) as a shareholder salary, being a payment treated as income other than from a PAYE income payment under section RD 3B(1)(b) or RD 3C(1)(b); and

(c) an amount of tax has been withheld from the payment in relation to which the company has, or will have, a tax credit under section LB 1.

Use of tax credits

(2) Despite section LA 6(2)(a) to (c) (Remaining refundable credits: PAYE, RWT, and certain other items), the company may apply to have an amount of the company's tax credit transferred under section LA 6(2)(d) to the person, treating the amount as tax paid in excess.

Treatment for company

(3) The amount of the company's tax credit under section LB 1 is reduced by the amount that is transferred to the shareholder and, for the purposes of section OB 32 (ICA refund of tax or transfer from account), the amount transferred is treated as a refund of income tax.

Treatment for shareholder

(4) The amount of the shareholder's tax credit under section LB 1 is increased by the amount that is transferred under subsection (2).

Defined in this Act: amount, amount of tax, company, employee, income, income tax, pay, PAYE income payment, shareholder, tax credit

Section LB 1B: inserted, on 29 March 2018 (with effect on 1 April 2017), by section 154 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 1B(3): amended, on 30 March 2022, by section 129 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

LB 2 Tax credits for provisional tax payments

A person has a tax credit for a tax year equal to the amount of provisional tax for the tax year paid by—

(a) the person; or

(b) an agent of the person, if the agent is liable to pay provisional tax on behalf of the person.

Defined in this Act: agent, amount, pay, provisional tax, tax credit, tax year

Compare: 2004 No 35 ss LD 6, LD 7

LB 3 Tax credits for resident withholding tax

Tax credit

(1) A person has a tax credit for a tax year equal to the amount of tax withheld and paid in relation to their resident passive income for the tax year if the evidential

requirements of section 78D of the Tax Administration Act 1994 are met. The amount of tax includes a payment of RWT for a non-cash dividend.

Exclusion

(2) No credit exists under subsection (1) for an amount of tax for resident passive income that is a replacement payment.

Multi-rate PIEs and their investors

(3) For a multi-rate PIE and an investor in a multi-rate PIE, the amount of a tax credit is limited to the extent allowed under subpart HM (Portfolio investment entities).

Detached tax credits

(4) A trustee of a trust may detach some or all of a tax credit referred to in subsection (1) for resident passive income—

(a) that is derived by the trustee in an income year; and

(b) that is distributed to a person (**person A**) who is a beneficiary of the trust in—

(i) the income year referred to in paragraph (a); or

(ii) the extended period referred to in section HC 6(1)(b) (Beneficiary income); and

(c) in relation to which the trustee makes an RWT substitution payment under section RE 2(7).

Allocation and tax credits

(5) The trustee may, in a return of income for the income year referred to in subsection (4)(a), choose to allocate, for that year, an amount to a beneficiary of the trust that is equal to some or all of the amount of the detached tax credit referred to in subsection (4). The trustee has a tax credit equal to the amount that is not allocated to a beneficiary, and a beneficiary has a tax credit for the amount that is allocated to them.

Treatment of amounts

(6) Despite subsection (1), an amount of a tax credit that person A would have under this section in the absence of subsections (4) and (5) must be reduced by an amount equal to the RWT substitution payment received by person A.

Evidential requirements

(7) Subsection (5) does not apply in the circumstances set out in section HD 4(b) (Treatment of principals).

Meaning of detached tax credit

(8) A **detached tax credit**, for a beneficiary and an income year, means an amount equal to the amount of an RWT substitution payment referred to in subsection (4)(c) that meets the requirements of subsection (4)(a) and (b).

Defined in this Act: amount, amount of tax, Commissioner, detached tax credit, income tax liability, income year, investor, multi-rate PIE, notify, replacement payment, resident passive income, RWT substitution payment, tax credit, tax withheld, tax year, trustee, trustee income

Compare: 2004 No 35 ss LD 3(2), NF 1(2)(b)(ix), (x), NF 8B(b)

Section LB 3(1): amended, on 29 March 2018, by section 155(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(3) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 313(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 3(3): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 313(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 3(4) heading: replaced, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(4): replaced, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(5) heading: replaced, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(5): replaced, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(6) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(6): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(7) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(7): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(8) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3(8): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(2) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3 list of defined terms **amount**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(3) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3 list of defined terms **Commissioner**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(3) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3 list of defined terms **detached tax credit**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(3) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3 list of defined terms **income tax liability**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(3) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3 list of defined terms **income year**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(3) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 313(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 3 list of defined terms **notify**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(3) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 3 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 313(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 3 list of defined terms **resident withholding tax**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LB 3 list of defined terms **RWT substitution payment**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 99(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LB 3 list of defined terms **trustee**: added (with effect on 1 April 2008), on 29 August 2011, by section 99(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LB 3 list of defined terms **trustee income**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 155(3) (and see section 155(4) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

LB 4 Tax credits for families

Tax credits under subparts MD and ME

(1) A person has a tax credit for a tax year equal to the total amount of their tax credit under subpart MD (Abating WFF tax credits), their minimum family tax credit under subpart ME (Minimum family tax credit), and their Best Start tax credit under subpart MG (Best Start tax credit) for the tax year.

Adjustments for credits used

(2) The person's tax credit is adjusted if an instalment of the credit under subpart MF (Payment of credits) is used to satisfy an amount of tax for an earlier income year. The adjustment to the tax credit is equal to the total amount of instalments payable under section MF 1 (Application for payment of tax credit

by instalment) that are recovered by the Commissioner under section MF 6 (Overpayment or underpayment of tax credit) as tax payable by the person.

Defined in this Act: amount, amount of tax, corresponding income year, family scheme income, minimum family tax credit, pay, tax credit, tax year

Compare: 2004 No 35 ss KD 1A(2), KD 2(1), KD 3(2), MD 1(3A)

Section LB 4 heading: substituted, on 1 April 2008, by section 437(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 4(1) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 314(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 4(1): amended, on 1 July 2018, by section 156 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LB 4(1): amended, on 1 April 2008, by section 437(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 4(1): amended, on 1 April 2008, by section 437(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 4(2) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 314(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 4(2): added (with effect on 1 April 2008), on 6 October 2009, by section 314(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 4 list of defined terms **amount of tax**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 314(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 4 list of defined terms **corresponding income year**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 314(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 4 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 437(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 4 list of defined terms **family tax credit**: repealed, on 1 April 2008, by section 437(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 4 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 437(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 4 list of defined terms **pay**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 314(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LB 4 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 314(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LB 4BA Tax credits for early childhood education

A person has a tax credit equal to the amount of their FamilyBoost tax credit under subpart MH (FamilyBoost tax credits).

Defined in this Act: amount, FamilyBoost tax credit, tax credit

Section LB 4BA: inserted, on 1 July 2024, by section 11 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

LB 4B Tax credit for R&D tax losses

A person has a tax credit for a tax year equal to their R&D loss tax credit under subpart MX (Tax credits for R&D tax losses) for the tax year.

Defined in this Act: R&D loss tax credit, tax credit, tax year

Section LB 4B: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 199(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

LB 5 Tax credits for non-resident withholding tax

A person has a tax credit for a tax year equal to the amount of tax withheld and paid in relation to their non-resident passive income for the tax year.

Defined in this Act: amount of tax, non-resident passive income, pay, tax credit, tax withheld, tax year

Compare: 2004 No 35 s LD 2

Section LB 5 list of defined terms **non-resident withholding tax**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

LB 6 Tax credits for RSCT

When this section applies

(1) This section applies when—

(a) a person derives income as a retirement scheme contribution in an income year; and

(b) the retirement scheme contributor pays RSCT for the contribution; and

(c) the income is not excluded income of the person under section CX 50B (Contributions to retirement savings schemes).

Tax credit: New Zealand resident

(2) If the person is resident in New Zealand, they have a tax credit for the tax year corresponding to the income year of an amount equal to the RSCT withheld.

Tax credit: non-resident

(3) If the person is not resident in New Zealand, they have a tax credit for the tax year corresponding to the income year of an amount equal to the excess of RSCT withheld over NRWT paid in relation to the contribution.

When contribution is taxable Maori authority distribution

(4) If the person is not resident in New Zealand and the retirement scheme contribution is a taxable Maori authority distribution, they have a tax credit for the tax year corresponding to the income year of an amount equal to the RSCT withheld.

Defined in this Act: amount, excluded income, income, income year, non-resident, NRWT, pay, resident in New Zealand, retirement scheme contribution, retirement scheme contributor, RSCT, tax credit, tax year

Compare: 2004 No 35 s LD 12(1)–(4)

Section LB 6: substituted, on 1 April 2008, by section 438(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

LB 6B Tax credits for RLWT

A person has a tax credit, for the tax year corresponding to an income year in which they dispose of residential land, equal to the amount of RLWT paid in relation to that residential land.

Defined in this Act: amount, dispose, income year, residential land, RLWT, tax credit, tax year

Section LB 6B: inserted, on 1 July 2016, by section 44 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

LB 7 Tax credits related to personal service rehabilitation payments: providers

When this section applies

(1) This section applies when—

(a) a person—

(i) is paid under the Accident Compensation Act 2001 a personal service rehabilitation payment for a period for a key aspect of social rehabilitation referred to in the definition of **personal service rehabilitation payment**; and

(ii) pays another person (a **provider**) for providing the key aspect to them for the period; or

(b) the Accident Compensation Corporation pays a provider a personal service rehabilitation payment for a period for providing a key aspect of social rehabilitation to the person.

Tax credit

(2) For the tax year corresponding to the income year in which the payment falls,—

(a) the provider has a tax credit if the payment is not a reimbursement payment referred to in subsection (5):

(b) the recipient of the payment has a tax credit if the payment is a reimbursement payment referred to in subsection (5).

Amount

(3) The amount of the tax credit is calculated using the formula—

$$\text{amount paid} \times \text{tax rate} \div (1 - \text{tax rate}).$$

Definition of items in formula

(4) In the formula,—

(a) **amount paid** is the amount paid to the provider for providing a key aspect of social rehabilitation to the person for the period, to the extent to which the amount is equal to or less than the amount of the personal service rehabilitation payment for the period after taking into account any amount of tax withheld:

(b) **tax rate** is the rate of tax applying to the personal service rehabilitation payment under section RD 10B (Amounts of tax for schedular payments).

Reimbursement payments

(5) For the purposes of this section and section LB 8, the payment of a personal service rehabilitation payment for a period includes a payment made under the Accident Compensation Act 2001 that is received as a reimbursement payment in a later period.

Defined in this Act: amount, amount of tax, income year, pay, personal service rehabilitation payment, reimbursement payment, tax credit, tax year

Compare: 2004 No 35 s LD 1B

Section LB 7: added, on 1 July 2008, by section 438(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 7(1)(a)(i): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section LB 7(2): replaced (with effect on 1 April 2018), on 26 June 2019, by section 68 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section LB 7(4)(b): replaced, on 1 April 2017, by section 82 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section LB 7(5) heading: inserted (with effect on 1 April 2018), on 18 March 2019, by section 228(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LB 7(5): inserted (with effect on 1 April 2018), on 18 March 2019, by section 228(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LB 7 list of defined terms **reimbursement payment**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 228(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

LB 8 Tax credits related to personal service rehabilitation payments: payers

When this section applies

(1) This section applies when—

(a) a person is paid under the Accident Compensation Act 2001 a personal service rehabilitation payment for a period for a key aspect of social rehabilitation referred to in the definition of **personal service rehabilitation payment**; and

(b) the person pays another person (the **provider**) for providing the key aspect to them for the period; and

(c) the amount paid to the provider is less than the amount of the personal service rehabilitation payment to the person for the period after taking into account any amount of tax withheld.

Tax credit

(2) The person has a tax credit for the tax year corresponding to the income year in which the period falls to the extent of the amount calculated using the formula—

total tax withheld − (amount paid × tax rate ÷ (1 − tax rate)).

Definition of items in formula

(3) In the formula,—

(a) **total tax withheld** is the total amount of tax withheld from the personal service rehabilitation payment paid to the person for the period:

(b) **amount paid** is the amount paid to the provider:

(c) **tax rate** is the rate of tax applying to the personal service rehabilitation payment under section RD 10B (Amounts of tax for schedular payments).

Defined in this Act: amount, amount of tax, income year, pay, personal service rehabilitation payment, tax credit, tax year

Compare: 2004 No 35 s LD 1C

Section LB 8: added, on 1 July 2008, by section 438(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LB 8(1)(a): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section LB 8(3)(c): replaced, on 1 April 2017, by section 83 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

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Tax credits for persons on low incomes

[Repealed]

Heading: repealed (with effect from 1 April 2008), on 29 May 2008, by section 24(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

LC 1 When net income under low income amount

[Repealed]

Section LC 1: repealed (with effect from 1 April 2008), on 29 May 2008, by section 24(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

LC 2 When net income in low income abatement range

[Repealed]

Section LC 2: repealed (with effect from 1 April 2008), on 29 May 2008, by section 25(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Tax credits for children

[Repealed]

Heading: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(a) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 3 Child's income

[Repealed]

Section LC 3: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(b) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Tax credits for transitional circumstances

[Repealed]

Heading: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(c) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 4 Tax credits for transitional circumstances

[Repealed]

Section LC 4: repealed, on 29 May 2012 (for the purposes of schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013) by section 6(1)(d) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 5 Meaning of engaged in full-time work

[Repealed]

Section LC 5: repealed, on 29 May 2012 (for the purposes of schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013) by section 6(1)(d) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Tax credits for housekeeping

[Repealed]

Heading: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(e) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 6 Tax credits for housekeeping

[Repealed]

Section LC 6: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(f) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 7 Meaning of housekeeper

[Repealed]

Section LC 7: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(f) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 8 Some definitions

[Repealed]

Section LC 8: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(f) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Tax credits for absentees

[Repealed]

Heading: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(g) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 9 Tax credits for absentees

[Repealed]

Section LC 9: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(h) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Adjustments to certain tax credits

[Repealed]

Heading: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(i) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 10 Adjustment for change in return date

[Repealed]

Section LC 10: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(j) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 11 Adjustment when person is non-resident for part of tax year

[Repealed]

Section LC 11: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(j) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

LC 12 Assessment when person is non-resident

[Repealed]

Section LC 12: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 6(1)(j) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Tax credits for independent earners

Heading: added, on 1 April 2009, by section 31 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LC 13 Tax credits for independent earners

When this section applies

(1) This section applies for a natural person, for a period (the **credit period**) in a tax year when the person—

(a) is not receiving a main benefit; and

(b) is not receiving a veteran's pension; and

(c) is not receiving New Zealand superannuation; and

(d) is not entitled to or is not receiving a WFF tax credit; and

(e) is not the spouse, civil union partner, or de facto partner of a person who is entitled to and is receiving a WFF tax credit; and

(f) is not receiving an amount that is—

(i) granted outside New Zealand; and

(ii) in the nature of, and paid for similar purposes as, a benefit, pension, superannuation payment, or tax credit described in paragraphs (a) to (d); and

(g) is not the spouse, civil union partner, or de facto partner of a person who receives an amount that is—

(i) granted outside New Zealand; and

(ii) in the nature of, and paid for similar purposes as, a tax credit described in paragraph (d); and

(h) is resident in New Zealand.

Amount of credit

(2) For the credit period, the person has a tax credit equal to the positive amount calculated using the formula—

(person's credit − full year abatement) × credit period months ÷ 12.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) to (6).

Person's credit

(4) **Person's credit** is, if the person's net income for the tax year is equal to or more than $24,000, $520. Otherwise it is zero.

Full year abatement

(5) **Full year abatement** is, if the person's net income is greater than $66,000 for the tax year, 13 cents for each complete dollar of the excess.

Credit period months

(6) **Credit period months** is the number of whole months in the credit period.

Defined in this Act: amount, civil union partner, de facto partner, main benefit, net income, New Zealand superannuation, resident in New Zealand, tax credit, tax year, veteran's pension, WFF tax credit

Section LC 13: added, on 1 April 2009, by section 31 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section LC 13(1)(a): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LC 13(1)(d): amended, on 30 March 2025, by section 105(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LC 13(1)(e): amended, on 30 March 2025, by section 105(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LC 13(5): amended, on 31 July 2024, by section 26 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section LC 13 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LC 13 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

LC 14 Amount of tax credit for independent earners for 1 April 2024 to 30 July 2024

When this section applies

(1) This section applies for calculating the amount of a tax credit under section LC 13 for the period starting on 1 April 2024 and finishing on 30 July 2024.

Amount of credit formula: section LC 13(2)

(2) The tax credit for a person under section LC 13 is calculated using the formula—

(person's credit − full year abatement) × credit period days ÷ 365.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) to (6).

Person's credit

(4) **Person's credit** is, if the person's net income for the tax year is equal to or more than $24,000, $520. Otherwise it is zero.

Full year abatement

(5) **Full year abatement** is, if the person's net income is greater than $44,000 for the tax year, 13 cents for each complete dollar of the excess.

Credit period days

(6) **Credit period days** is the number of whole days in the credit period.

Defined in this Act: amount, net income, tax credit, tax year

Section LC 14: inserted (with effect on 1 April 2024), on 4 June 2024, by section 4 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

LC 15 Amount of tax credit for independent earners for 31 July 2024 to 31 March 2025

When this section applies

(1) This section applies for calculating the amount of a tax credit under section LC 13 for the period starting on 31 July 2024 and finishing on 31 March 2025.

Amount of credit formula: section LC 13(2)

(2) The tax credit for a person under section LC 13 is calculated using the formula—

(person's credit − full year abatement) × credit period days ÷ 365.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) to (6).

Person's credit

(4) **Person's credit** is, if the person's net income for the tax year is equal to or more than $24,000, $520. Otherwise it is zero.

Full year abatement

(5) **Full year abatement** is, if the person's net income is greater than $66,000 for the tax year, 13 cents for each complete dollar of the excess.

Credit period days

(6) **Credit period days** is the number of whole days in the credit period.

Defined in this Act: amount, net income, tax credit, tax year

Section LC 15: inserted (with effect on 1 April 2024), on 4 June 2024, by section 4 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Subpart LD—Tax credits for gifts and donations

Subpart LD heading: amended, on 6 January 2010, by section 319 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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Charitable and other public benefit gifts

Heading: inserted, on 6 January 2010, by section 320 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LD 1 Tax credits for charitable or other public benefit gifts

Amount of credit

(1) A person who makes a charitable or other public benefit gift in a tax year and who meets the requirements of section 41A of the Tax Administration Act 1994 has a tax credit for the tax year equal to the amount calculated using the formula in subsection (2).

Formula

(2) The formula referred to in subsection (1) is—

total gifts × 33⅓%.

Definition of item in formula

(3) In the formula, **total gifts** means the total amount of all charitable or other public benefit gifts made by the person in the tax year.

Administrative requirements

(4) Despite subsection (1), the requirements of section 41A are modified if a tax agent or representative applies for a refund under that section on behalf of a person, and—

(a) the tax agent or representative sees the receipt for the person's charitable or other public benefit gift; and

(b) the person retains the receipt for 4 tax years after the tax year to which the claim relates.

Refundable credits

(5) A credit under this section is a refundable tax credit under section LA 7 (Remaining refundable credits: tax credits for social policy and other initiatives) and is excluded from the application of sections LA 2 to LA 6 (which relate to a person's income tax liability).

Defined in this Act: amount, apply, charitable or other public benefit gift, refundable tax credit, representative, tax agent, tax credit, tax year

Compare: 2004 No 35 s KC 5

Section LD 1(1): substituted, on 1 April 2008, by section 440(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LD 1(2): amended, on 1 April 2008, by section 440(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LD 1(4): amended, on 18 March 2019, by section 229(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LD 1(4)(a): amended, on 18 March 2019, by section 229(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LD 1(5): amended (with effect on 1 April 2015), on 24 February 2016, by section 200 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LD 1(5): amended (with effect on 1 April 2008), on 6 October 2009, by section 321 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 1(5): amended, on 1 April 2008, by section 440(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LD 1 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section LD 1 list of defined terms **representative**: inserted, on 18 March 2019, by section 229(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

LD 2 Exclusions

Section LD 1 does not apply to—

(a) an absentee:

(b) a company:

(c) a public authority:

(d) a Maori authority:

(e) an unincorporated body:

(f) a trustee liable for income tax under subpart HC, and section HZ 2 (which relate to trusts and distributions from trusts):

(g) in relation to the credit, a person who has a tax credit for a payroll donation.

Defined in this Act: absentee, company, income tax, Maori authority, public authority, trustee

Compare: 2004 No 35 s KC 5(1)

Section LD 2: amended, on 6 January 2010, by section 322(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 2(f): amended, on 6 January 2010, by section 322(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 2(g): added, on 6 January 2010, by section 322(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LD 3 Meaning of charitable or other public benefit gift

Meaning

(1) For the purposes of sections DB 41 and DV 12 (which relate to deductions for gifts of money), and this subpart, a **charitable or other public benefit gift**—

(a) means a gift of money of $5 or more that is paid to a society, institution, association, organisation, trust, or fund (the **entity**), if—

(i) the entity is described in subsection (2)(a), (ab), (b), (c), or (d), and the name of the entity is on the list published by the Commissioner under section 41A(14) to (16) of the Tax Administration Act 1994:

(ii) the entity is described in subsection (2)(ac), (bb), or (bc):

(iii) the name of the entity is listed in schedule 32 (Recipients of charitable or other public benefit gifts):

(b) includes a subscription of $5 or more paid to an entity only if the subscription does not confer any rights arising from membership in that entity or any other society, institution, association, organisation, trust, or fund:

(c) does not include—

(i) a testamentary gift:

(ii) a gift made by forgiving some or all of a debt.

Description of organisations

(2) The following are the entities referred to in subsection (1)(a) and (b):

(a) a society, institution, association, organisation, or trust that is not carried on for the private pecuniary profit of an individual, and whose funds are applied wholly or mainly to charitable, benevolent, philanthropic, or cultural purposes within New Zealand:

(ab) an entity that, but for this paragraph, no longer meets the requirements of this subsection, but only for the period starting on the day it fails to meet those requirements and ending on the later of—

(i) the day the entity is removed from the register of charitable entities under the Charities Act 2005:

(ii) the day on which all reasonably contemplated administrative appeals and Court proceedings, including appeal rights, are finalised or exhausted in relation to the person's charitable status.

(ac) a community housing entity, if the gift is made at a time the entity is eligible to derive exempt income under section CW 42B (Community housing trusts and companies):

(b) a public institution maintained exclusively for any 1 or more of the purposes within New Zealand set out in paragraph (a):

(bb) a board that is constituted under subpart 5 of Part 3 of the Education and Training Act 2020 and is not carried on for the private pecuniary profit of any individual:

(bc) a tertiary education institution:

(c) a fund established and maintained exclusively for the purpose of providing money for any 1 or more of the purposes within New Zealand set out in paragraph (a), by a society, institution, association, organisation, or trust that is not carried on for the private pecuniary profit of an individual:

(d) a public fund established and maintained exclusively for the purpose of providing money for any 1 or more of the purposes within New Zealand set out in paragraph (a).

Exception for certain entities

(3) Despite subsection (2)(a), (b), (c), and (d), a society, institution, association, organisation, trust, or fund is not a relevant entity for the purposes of subsection (1) if the society, institution, association, organisation, trust, or fund,—

(a) is not a tax charity, because it is not registered as a charitable entity under the Charities Act 2005; and

(b) in the opinion of the Commissioner, is eligible to be registered as a charitable entity under that Act.

Defined in this Act: charitable or other public benefit gift, charitable purpose, community housing entity, New Zealand, pay, tax charity, tertiary education institution

Compare: 2004 No 35 s KC 5(1)(aa)–(cp), (4)

Section LD 3(1): amended (with effect on 1 April 2008), on 23 March 2020, by section 157(1) (and see section 157(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LD 3(1)(a): replaced, on 1 April 2020, by section 231(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LD 3(1)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 201(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LD 3(1)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 201(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LD 3(1)(c): replaced (with effect on 1 April 2008), on 23 March 2020, by section 157(2) (and see section 157(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LD 3(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 201(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LD 3(2)(ab): inserted, on 30 June 2014, by section 131(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section LD 3(2)(ac): inserted (with effect on 14 April 2014), on 30 June 2014, by section 131(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section LD 3(2)(ac): amended, on 29 March 2018 (with effect on 14 April 2014), by section 157 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LD 3(2)(bb): inserted, on 1 July 2008, by section 31 of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section LD 3(2)(bb): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section LD 3(2)(bc): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 201(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LD 3(3) heading: inserted, on 1 April 2020, by section 231(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LD 3(3): inserted, on 1 April 2020, by section 231(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LD 3 list of defined terms **charitable or other public benefit**: repealed (with effect on 1 April 2008), on 2 November 2012, by section 115(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section LD 3 list of defined terms **charitable or other public benefit gift**: inserted (with effect on 1 April 2008), on 2 November 2012, by section 115(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section LD 3 list of defined terms **community housing entity**: inserted, on 30 June 2014, by section 131(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section LD 3 list of defined terms **gift**: repealed (with effect on 1 April 2008), on 2 November 2012, by section 115(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section LD 3 list of defined terms **tax charity**: inserted, on 1 April 2020, by section 231(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LD 3 list of defined terms **tertiary education institution**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 201(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Payroll donations

Heading: added, on 6 January 2010, by section 323 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LD 4 Tax credits for payroll donations

Who this section applies to

(1) This section applies to a person who—

(a) is an employee whose employer—

(i) provides employment income information by electronic means with particulars relating to the person's PAYE income payments for a pay period; and

(ii) agrees to offer payroll giving to their employees; and

(b) chooses to make a payroll donation in the pay period from an amount derived as pay.

Amount of credit

(2) The person has a tax credit for the pay period equal to an amount calculated using the formula—

total donations × 33⅓%.

Definition of item in formula

(3) In the formula, **total donations** is the total amount of all payroll donations made by the person in the pay period.

Maximum credit

(4) Despite subsection (2), the amount of the tax credit must not be more than the amount of tax for the person's pay for the period.

Non-refundable credits

(5) A credit under this section is a non-refundable tax credit to which section LA 4(1) (When total tax credit more than income tax liability) applies for the tax year in which the period falls.

No refunds for donations

(6) A person who has a tax credit under this section may not make an application under section 41A of the Tax Administration Act 1994 for any refund relating to the amount of a payroll donation.

Meaning of pay for payroll donation purposes

(7) For the purposes of this section, and sections LD 8(1) and 124ZG of the Tax Administration Act 1994, **pay**, for a person,—

(a) means an amount referred to in section RD 5(1)(a) or (b)(i) (Salary or wages); and

(b) includes any similar amount earned by an employee in the normal course of their employment; and

(c) *[Repealed]*

Defined in this Act: amount, amount of tax, employee, employer, employment, employment income information, non-refundable tax credit, pay, pay period, PAYE income payment, payroll donation, salary or wages, tax credit

Section LD 4: added, on 6 January 2010, by section 323 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 4(1)(a)(i): amended, on 1 April 2019, by section 158(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LD 4(7): amended, on 1 April 2019, by section 232 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section LD 4(7)(c): repealed, on 7 January 2010, by section 74 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LD 4 list of defined terms **employer monthly schedule**: repealed, on 1 April 2019, by section 158(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LD 4 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 158(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LD 4 list of defined terms **PAYE income payment form**: repealed, on 1 April 2019, by section 158(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

LD 5 Calculating amount of tax credit and filing particulars

Employer's responsibility

(1) The employer of a person who makes a payroll donation in a pay period must calculate the amount of the person's tax credit for the pay period under section LD 4, and include the amount in the particulars described in section LD 4(1)(a).

Credit extinguished

(2) The tax credit is extinguished if—

(a) the Commissioner does not receive the employment income information relating to the relevant payroll donation:

(b) the relevant particulars filed are incorrect.

When matters corrected

(3) Despite subsection (2), the credit is restored to the person if the relevant matter is corrected and, for the purposes of this section, it is as if the error had never been made.

Defined in this Act: amount, Commissioner, employer, employment income information, pay period, payroll donation, tax credit

Section LD 5: added, on 6 January 2010, by section 323 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 5(2)(a): amended, on 1 April 2019, by section 159(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LD 5 list of defined terms **employer monthly schedule**: repealed, on 1 April 2019, by section 159(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LD 5 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 159(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LD 5 list of defined terms **PAYE income payment form**: repealed, on 1 April 2019, by section 159(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

LD 6 When donation is paid to ineligible recipient

When this section applies

(1) This section applies for the purposes of section LD 4 when the employer or PAYE intermediary transfers the person's payroll donation to an entity that is not a donee organisation.

Credit extinguished

(2) The tax credit is extinguished.

Consequences when credit extinguished

(3) The consequences that arise when a tax credit is extinguished under subsection (2) are—

(a) the amount of the credit is removed from the person's tax credits for PAYE income payments under section LB 1 (Tax credits for PAYE income payments) for the tax year in which the pay period falls:

(b) when the extinguishing of the credit results in a shortfall in an amount of tax for a PAYE income payment, section RD 4 (Payment of amounts of tax to Commissioner) applies to the shortfall.

Defined in this Act: amount, amount of tax, donee organisation, employer, pay period, PAYE income payment, PAYE intermediary, payroll donation, tax credit, tax year

Section LD 6: added, on 6 January 2010, by section 323 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 6(3)(a): amended, on 7 January 2010, by section 75 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LD 6 list of defined terms **PAYE intermediary**: inserted (with effect on 6 January 2010), on 23 March 2020, by section 158 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

LD 7 When donation returned to person

When this section applies

(1) This section applies for the purposes of section LD 4 when the amount of a payroll donation is, for whatever reason, returned to the person.

Treatment of credit

(2) The tax credit is extinguished.

Consequences when credit extinguished

(3) The consequences that arise when a tax credit is extinguished under subsection (2) are—

(a) the amount of the credit is removed from the person's tax credits for PAYE income payments under section LB 1 (Tax credits for PAYE income payments) for the tax year in which the pay period falls:

(b) when the extinguishing of the credit results in a shortfall in an amount of tax for a PAYE income payment, section RD 4 (Payment of amounts of tax to Commissioner) applies to the shortfall.

Defined in this Act: amount, amount of tax, pay period, PAYE income payment, payroll donation, tax credit, tax year

Section LD 7: added, on 6 January 2010, by section 323 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 7(3)(a): amended, on 7 January 2010, by section 76 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

LD 8 Meaning and ranking of payroll donation

Meaning

(1) A **payroll donation**, for a pay period and employer who agrees to offer payroll giving to their employees, is an amount that a person asks their employer

to transfer from the amount of the person's pay for the period to a donee organisation.

Priorities of amounts withheld and other deductions

(2) A person may make a payroll donation for a pay period only after satisfying—

(a) any tax obligation they may have:

(b) any statutory or legal requirement they may be obliged to meet from their PAYE income payment.

Defined in this Act: amount, ask, donee organisation, pay, pay period, PAYE income payment, payroll donation

Section LD 8: added, on 6 January 2010, by section 323 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LD 8 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Subpart LE—Tax credits for imputation credits

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LE 1 Tax credits for imputation credits

Amount of credit

(1) A person whose assessable income for an income year includes an imputation credit has a tax credit for the tax year corresponding to the income year of an amount equal to the sum of the amount of the imputation credit and any credit carried forward from an earlier tax year. Section OZ 11 (Tax credits for imputation credits) may apply to modify this section.

Multi-rate PIEs and their investors

(1B) An investor in a multi-rate PIE who has an imputation credit attributed for use under section HM 54 (Use of tax credits other than foreign tax credits by investors) has a tax credit for the tax year of an amount equal to the amount of the imputation credit.

Exclusion

(2) For a returning share transfer, a share user does not have a tax credit for an imputation credit attached to a dividend derived in a period in which they hold a share acquired under the transfer. However, a person providing a share under a returning share transfer is allowed a tax credit for the amount of an imputation credit recorded in the credit transfer notice, *see* section LE 7 except if the person is related to the share user or the returning share transfer is a structured arrangement, *see* section FH 4(5) (Receipts under financial instruments producing deduction without income).

When amount altered

(3) The amount of the person's credit in subsection (1) may be reduced or increased if any of sections LE 4 to LE 10 apply.

Portfolio tax rate entities and investors in entities

[Repealed]

(4) *[Repealed]*

FIF income

(4B) For the purposes of this section, an amount that would, in the absence of section EX 59 (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method), be income of a person from an attributing interest in a FIF is treated as if it were assessable income of the person.

Arrangements for tax advantage

(5) A person's credit under this section is extinguished if any of the following sections apply:

(a) section GB 36 (Reconstruction of imputation arrangements to obtain tax advantage):

(b) section GB 37 (Arrangements for payment of dividend by other companies):

(c) section GB 38 (When sections GB 35 to GB 37 apply to consolidated groups).

Defined in this Act: amount, assessable income, attributing interest, credit transfer notice, dividend, FIF, imputation credit, income, income year, investor, multi-rate PIE, related, returning share transfer, share, share user, structured arrangement, tax credit, tax year

Compare: 2004 No 35 ss LB 1(1)(j), (k), LB 2(1), (1B), (1C), (2C)

Section LE 1(1): amended, on 1 April 2017, by section 154 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LE 1(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 324(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 1(1B) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 324(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 1(1B): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 324(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 1(2): amended, on 1 July 2018, by section 45(1) (and see section 45(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section LE 1(4) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 324(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 1(4): repealed (with effect on 1 April 2008), on 6 October 2009, by section 324(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 1(4B) heading: inserted, on 1 April 2008, by section 441(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LE 1(4B): inserted, on 1 April 2008, by section 441(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LE 1 list of defined terms **attributing interest**: inserted, on 1 April 2008, by section 441(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LE 1 list of defined terms **FIF**: inserted, on 1 April 2008, by section 441(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LE 1 list of defined terms **income**: inserted, on 1 April 2008, by section 441(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LE 1 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 324(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 1 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 324(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 1 list of defined terms **related**: inserted, on 1 July 2018, by section 45(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section LE 1 list of defined terms **structured arrangement**: inserted, on 1 July 2018, by section 45(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

LE 2 Use of remaining credits by companies and trustees

When this section applies

(1) This section applies when—

(a) a person described in subsection (2) has an amount of tax credit remaining for a tax year under section LA 5(4) (Treatment of remaining credits):

(b) a life insurer has an amount of tax credit remaining for a tax year under section LA 5(4), but only to the extent to which the amount is for their shareholder base.

Certain persons only

(2) The person referred to in subsection (1)(a) must be—

(a) a company that is not a life insurer; or

(b) a trustee (other than the Maori trustee); or

(c) a Maori authority.

Calculating amount of tax loss component

(3) The person or the life insurer, as applicable, has a tax loss component for the corresponding income year equal to an amount calculated using the formula—

person's remaining credit ÷ tax rate.

Definition of items in formula

(4) In the formula,—

(a) **person's remaining credit** is the amount of the tax credit remaining for the tax year under section LA 5(4), but, for a life insurer, only to the extent to which the amount is for their shareholder base:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Defined in this Act: amount, company, corresponding income year, income tax, life insurer, Maori authority, shareholder base, tax loss component, tax year, trustee

Compare: 2004 No 35 ss GC 22(4), (5), (9), GC 23, GC 24, LB 2(2B), (3)

Section LE 2(1) heading: substituted, on 1 July 2010, by section 325(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 2(1): substituted, on 1 July 2010, by section 325(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 2(2): amended, on 1 July 2010, by section 325(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 2(2)(a): amended, on 1 July 2010, by section 325(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 2(3): amended, on 1 July 2010, by section 325(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 2(4)(a): amended, on 1 July 2010, by section 325(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 2(4)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LE 2 list of defined terms **life insurer**: inserted, on 1 July 2010, by section 325(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 2 list of defined terms **shareholder base**: inserted, on 1 July 2010, by section 325(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LE 2B Use of remaining credits by life insurer on policyholder base

When this section applies

(1) This section applies to a life insurer who has an amount of tax credit remaining for a tax year (the **surplus credit year**) under section LA 5(4) (Treatment of remaining credits), but only to the extent to which the amount is for their policyholder base.

Policyholder base allowable deduction

(2) The life insurer has a deduction included as their policyholder base allowable deduction, for the income year corresponding to the tax year after the surplus credit year equal to an amount calculated using the formula—

policyholder remaining credit ÷ policyholder rate.

Definition of items in formula

(3) In the formula,—

(a) **policyholder remaining credit** is the amount of the tax credit remaining for the surplus credit year under section LA 5(4), but only to the extent to which the amount is for the life insurer's policyholder base:

(b) **policyholder rate** is the basic rate of income tax set out in schedule 1, part A, clause 8 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Defined in this Act: amount, deduction, income tax, income year, life insurer, policyholder base, policyholder base allowable deduction, tax credit, tax year

Section LE 2B: inserted, on 1 July 2010, by section 326(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LE 3 Use of remaining credits by others

When this section applies

(1) This section applies when a person other than a person referred to in section LE 2(2) or a life insurer has an amount of tax credit remaining for a tax year under section LA 5(4) (Treatment of remaining credits).

Amount carried forward

(2) The amount may be carried forward to the next tax year as a credit carried forward.

Amount of reduction

(3) The person's credit is reduced by an amount equal to the amount carried forward and extinguished by the Commissioner under section 177C of the Tax Administration Act 1994.

Defined in this Act: amount, Commissioner, life insurer, tax credit, tax year

Compare: 2004 No 35 ss LB 1(1)(hb), LB 2(2B), (3B), (3C)

Section LE 3(1): amended, on 1 July 2010, by section 327(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LE 3 list of defined terms **life insurer**: inserted, on 1 July 2010, by section 327(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LE 4 Trustees for minor beneficiaries

When this section applies

(1) This section applies when a person who has a tax credit under section LE 1 is the trustee of a trust for a minor who derives beneficiary income from the trust.

Trustee treated as beneficiary

(2) To the extent to which section HC 7(2) (Trustee income) applies, the person is treated as deriving the minor's beneficiary income as a beneficiary.

Defined in this Act: beneficiary income, minor, tax credit, trustee

Compare: 2004 No 35 ss LB 1(1)(ab), LB 1A

LE 4B Trustees for certain close companies

When this section applies

(1) This section applies when a person who has a tax credit under section LE 1 is the trustee of a trust and a close company derives beneficiary income from the trust.

Trustee treated as beneficiary

(2) To the extent to which section HC 38 (Beneficiary income of certain close companies) applies, the person is treated as deriving the company's beneficiary income as a beneficiary.

Defined in this Act: agent, beneficiary income, close company, tax credit, trustee

Section LE 4B: inserted, on 1 April 2024, by section 104(1) (and see section 104(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section LE 4B(1): amended, on 30 March 2025, by section 106 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

LE 5 Beneficiaries of trusts

When this section applies

(1) This section applies when a person who has a tax credit under section LE 1 is the beneficiary of a trust and, in that capacity, derives a dividend with an imputation credit attached.

Limitation on amount of credit

(2) The person's credit and imputation credit is limited to an amount calculated using the formula—

$$(\text{person's distributions} \div \text{trust distributions}) \times (\text{total beneficiary credits} - \text{person's supplementary dividend}).$$

Definition of items in formula

(3) In the formula,—

(a) **person's distributions** is the total distributions for the tax year made to the person in their capacity as beneficiary of the trust:

(b) **trust distributions** is the total distributions for the tax year made to all beneficiaries of the trust in their capacity as beneficiaries and includes all supplementary dividends paid to them:

(c) **total beneficiary credits** is the total imputation credits attached to dividends and total supplementary dividends for the tax year paid to all beneficiaries of the trust in their capacity as beneficiaries:

(d) **person's supplementary dividend** is the total supplementary dividends for the tax year paid to the person in their capacity as beneficiary of the trust.

Defined in this Act: amount, distribution, dividend, imputation credit, pay, supplementary dividend, tax credit, tax year

Compare: 2004 No 35 s LB 1(1)(a), (2)–(3A)

Section LE 5(2): amended (with effect on 1 April 2008), on 31 March 2023, by section 88(1) (and see section 88(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

LE 6 Partners in partnerships

When this section applies

(1) This section applies when a person who has a tax credit under section LE 1 is a partner in a partnership and, through the partnership, derives a dividend with an imputation credit attached.

Limitation on amount of credit

(2) The person's credit is limited to an amount calculated using the formula—

$$(\text{partner's income} \div \text{partnership income}) \times (\text{partnership imputation credits} - \text{partner's supplementary dividend}).$$

Definition of items in formula

(3) In the formula,—

(a) **partner's income** is the total assessable income of the person for the tax year derived as a partner of the partnership excluding—

(i) an imputation credit attached to a dividend derived by the person:

(ii) a supplementary dividend derived by the person as a non-resident partner of the partnership:

(b) **partnership income** is the total assessable income for the tax year of all the partners of the partnership excluding—

(i) all imputation credits attached to dividends derived by the partners:

(ii) all supplementary dividends derived by non-resident partners of the partnership:

(c) **partnership imputation credits** is the total imputation credits attached to dividends and total supplementary dividends for the tax year derived by all partners of the partnership:

(d) **partner's supplementary dividend** is the total supplementary dividends for the tax year derived by the person as a non-resident partner of the partnership.

Defined in this Act: amount, assessable income, dividend, imputation credit, non-resident, supplementary dividend, tax credit, tax year

Compare: 2004 No 35 s LB 1(1)(b), (4), (4A), (4B)

Section LE 6(3)(a)(i): amended, on 1 April 2017, by section 155(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LE 6(3)(b)(i): amended, on 1 April 2017, by section 155(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LE 6 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 155(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LE 7 Credit transfer notices

When this section applies

(1) This section applies in relation to a tax credit when a share supplier is given a credit transfer notice under section 30C of the Tax Administration Act 1994 by a share user under a share-lending arrangement.

Amount of reduction

(2) The person's credit is limited to the amount shown in the credit transfer notice.

Defined in this Act: amount, credit transfer notice, share-lending arrangement, share supplier, share user, tax credit

Compare: 2004 No 35 s LB 2(1C)

LE 7B Credit of RSCT for imputation credit

Retirement scheme contributions

(1) A retirement scheme contributor who attaches an imputation credit to a retirement scheme contribution for a person in an income year has a tax credit for the corresponding tax year of an amount equal to the lesser of—

(a) the amount of the imputation credit:

(b) the liability of the contributor for RSCT on the contribution.

When credit more than liability

(2) If the amount of the imputation credit is more than the liability of the contributor for RSCT on the contribution,—

(a) the amount of the excess is treated as an imputation credit attached to a distribution from the contributor to the person; and

(b) the person responsible for withholding the RSCT must, within 30 days of the contribution, notify the person of the amount of the excess credit.

Defined in this Act: amount, imputation credit, income year, notify, retirement scheme contribution, retirement scheme contributor, RSCT, tax credit, tax year

Compare: 2004 No 35 s LB 3

Section LE 7B: inserted, on 1 April 2008, by section 442 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

LE 8 Application of imputation ratio

When this section applies

(1) This section applies when a person who has a tax credit under section LE 1 receives an imputation credit attached to a dividend, and the dividend has an imputation ratio greater than the maximum permitted ratio calculated under section OA 18 (Calculation of maximum permitted ratios). Section OZ 10 (Modifying ratios for imputation credits) may apply to modify this section.

Amount of reduction

(2) The person's credit is reduced by an amount equal to the amount by which the credit is greater than the maximum permitted ratio.

Defined in this Act: amount, dividend, imputation credit, imputation ratio, maximum permitted ratio, tax credit

Compare: 2004 No 35 s LB 1(1)(c)

Section LE 8(1): amended, on 1 April 2017, by section 156 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LE 8(1): amended, on 1 April 2008, by section 443 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

LE 8B Dividends from certain FIF interests

When this section applies

(1) This section applies when a person has assessable income for the purposes of section LE 1 because section LE 1(4B) applies (the **LE 1(4B) income**), and the LE 1(4B) income includes an imputation credit.

Tax credit limited

(2) The person's tax credit for the imputation credit is limited to the lesser of the imputation credit and the following amount:

$$\text{imputation ratio} \times \text{FIF income}.$$

Definition of items in formula

(3) In the formula,—

(a) **imputation ratio** is the imputation ratio referred to in section OB 60 (Imputation credits attached to dividends) if the relevant amount of LE 1(4B) income is treated as a dividend, and the imputation credit is attached to it.

(b) **FIF income** is the person's FIF income for the income year in which the imputation credit is received, to the extent to which the FIF income is for the attributing interest for which the imputation credit is received.

Defined in this Act: assessable income, attributing interest, dividend, FIF income, imputation credit, imputation ratio, income year, tax credit

Section LE 8B: inserted, on 1 April 2014, by section 104 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

LE 9 Application of combined imputation and FDP ratio

[Repealed]

Section LE 9: repealed, on 1 April 2017, by section 157 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LE 10 When income tax unpaid

When this section applies

(1) This section applies when—

(a) a person has a tax credit under section LE 1 and an imputation credit is attached to a dividend; and

(b) the dividend is paid by a company that has a debit balance in its imputation credit account at the end of the tax year; and

(c) the company has not paid further income tax by the due date in section OB 65(3) (Further income tax for ICA closing debit balance).

Amount of reduction

(2) The Commissioner may reduce the person's credit by an amount equal to their proportion of the unpaid amount under subsection (1)(c).

When failure to pay remedied

(3) To the extent to which a company remedies the failure after the due date, this section does not apply.

Defined in this Act: amount, Commissioner, company, dividend, further income tax, imputation credit, imputation credit account, pay, tax credit, tax year

Compare: 2004 No 35 ss LB 1(1)(h), LB 2(5), (6)

LE 11 Evidential requirements

If a person who has a tax credit under section LE 1 does not meet the evidential requirements of section 78D of the Tax Administration Act 1994, the person's credit may be reduced.

Defined in this Act: tax credit

Compare: 2004 No 35 ss LB 1(1)(f), LB 2(4)

Subpart LF—Tax credits for foreign dividend payment (FDP) credits

[Repealed]

Subpart LF: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

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LF 1 Tax credits for FDP credits

[Repealed]

Section LF 1: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 2 Trustees for minor beneficiaries

[Repealed]

Section LF 2: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 3 Beneficiaries of trusts

[Repealed]

Section LF 3: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 4 Partners in partnerships

[Repealed]

Section LF 4: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 5 Credit transfer notices

[Repealed]

Section LF 5: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 6 Application of FDP ratio

[Repealed]

Section LF 6: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 7 Application of combined imputation and FDP ratio

[Repealed]

Section LF 7: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 8 Credits for persons who are non-resident or who receive exempt income

[Repealed]

Section LF 8: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 9 When income tax unpaid

[Repealed]

Section LF 9: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

LF 10 Evidential requirements

[Repealed]

Section LF 10: repealed, on 1 April 2017, by section 158 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart LH—Tax credits for expenditure on research and development

[Repealed]

Subpart LH: repealed (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 202(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

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LH 1 Who this subpart applies to

[Repealed]

Section LH 1: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 2 Tax credits relating to expenditure on research and development

[Repealed]

Section LH 2: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 3 Requirements

[Repealed]

Section LH 3: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 4 Calculation of amount of credit

[Repealed]

Section LH 4: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 5 Adjustments to eligible expenditure

[Repealed]

Section LH 5: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 6 Research and development activities outside New Zealand

[Repealed]

Section LH 6: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 7 Research and development activities and related terms

[Repealed]

Section LH 7: repealed (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 202(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

LH 8 Orders in Council

[Repealed]

Section LH 8: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 9 Internal software development: general

[Repealed]

Section LH 9: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 10 Internal software development: no associated internal software developer

[Repealed]

Section LH 10: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 11 Internal software development: associated internal software developer with same income year

[Repealed]

Section LH 11: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 12 Internal software development: associated internal software developer with different income year

[Repealed]

Section LH 12: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 13 Internal software development: limit

[Repealed]

Section LH 13: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 14 Treatment of depreciation loss for certain depreciable property

[Repealed]

Section LH 14: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 14B Recovery of overpaid tax credit

[Repealed]

Section LH 14B: repealed (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 202(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

LH 15 Listed research providers

[Repealed]

Section LH 15: repealed, on 1 October 2009, by section 19(1)(d) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 16 Industry research co-operatives

[Repealed]

Section LH 16: repealed, on 1 April 2009, by section 19(1)(c) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

LH 17 Some definitions

[Repealed]

Section LH 17: repealed (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 202(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Subpart LJ—Tax credits for foreign income tax

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LJ 1 What this subpart does

When tax credits allowed

(1) This subpart provides the rules for dividing assessable income from foreign-sourced amounts into segments and allows a tax credit for foreign income tax paid in relation to a segment of that income.

Limited application of rules

(2) The rules in this subpart apply only when—

(a) a person resident in New Zealand derives assessable income that is sourced from outside New Zealand; and

(b) foreign income tax is not paid in a country or territory listed in schedule 27 (Countries and types of income with unrecognised tax) to the extent to which the foreign income tax is paid on the types of income listed in the schedule.

When treated as assessable income

[Repealed]

(3) *[Repealed]*

Source of dividends

(4) If a company is not resident in New Zealand, and is resident in another territory or is resident in another territory for the purposes of a double tax agreement between New Zealand and the territory, and foreign income tax is imposed by the territory on a dividend paid by the company, a dividend paid by the company has a source in the territory.

Double tax agreements

[Repealed]

(5) *[Repealed]*

Relationship with section YD 5

(6) Section YD 5 (Apportionment of income derived partly in New Zealand) applies to determine how an amount is apportioned to sources outside New Zealand.

Defined in this Act: amount, assessable income, attributing interest, company, dividend, double tax agreement, FIF, foreign income tax, foreign investment fund, foreign-sourced amount, income, pay, resident in New Zealand, tax credit

Compare: 2004 No 35 ss LC 1(1)–(5), LC 14(1), LC 14A

Section LJ 1(2)(a): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 100 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 1(2)(a): amended, on 21 December 2010, by section 109(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section LJ 1(3) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 335(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 1(3): repealed (with effect on 1 April 2008), on 6 October 2009, by section 335(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 1(4): replaced, on 30 March 2017, by section 159(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LJ 1(5) heading: repealed, on 30 March 2017, pursuant to section 159(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LJ 1(5): repealed, on 30 March 2017, by section 159(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LJ 1(6) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 335(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 1(6): added (with effect on 1 April 2008), on 6 October 2009, by section 335(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 1 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 109(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section LJ 1 list of defined terms **foreign tax**: repealed, on 30 March 2017, by section 159(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LJ 1 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 109(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

LJ 2 Tax credits for foreign income tax

Amount of credit

(1) A person described in section LJ 1(2)(a) has a tax credit for a tax year for an amount of foreign income tax paid on a segment of foreign-sourced income, determined as if the segment were the net income of the person for the tax year. The amount of the New Zealand tax payable is calculated under section LJ 5.

Limitation on amount of credit

(2) The amount of the person's credit in subsection (1) must not be more than the amount of New Zealand tax payable by the person in relation to the segment calculated under section LJ 5(2), modified as necessary under section LJ 5(4).

Amount adjusted

(3) The amount of the person's credit in subsection (1) may be reduced or increased if either section LJ 6 or LJ 7 applies.

When person both resident in New Zealand and another country

(4) A person described in section LJ 1(2)(a) who has, because they are a citizen or resident of, or are domiciled in, a foreign country, paid foreign income tax on their assessable income, has a credit under subsection (1). However, the amount of the credit is limited to the amount of foreign income tax that would have been paid in the foreign country if the person were treated as not a citizen or resident of, or domiciled in, that foreign country.

Multi-rate PIEs and their investors

(5) For a multi-rate PIE and an investor in a multi-rate PIE, the amount of a tax credit is limited to the extent allowed under subpart HM (Portfolio investment entities).

When subsection (7) applies

(6) Subsection (7) applies to a person who derives an amount from an attributing interest in a FIF when the amount is treated as not being income under section EX 59(2) (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method).

Tax credit: attributing interest in FIF

(7) The person has a tax credit under this subpart for foreign income tax paid on or withheld in relation to the amount. The calculation of the maximum amount of the tax credit is made under section LJ 5(2), modified so that the item **segment** in the formula is the amount of FIF income from the attributing interest that the person derives in the period referred to in section EX 59(2).

When subsections (9) and (10) apply

(8) Subsections (9) and (10) apply when a person (the **associated entity**) resident in New Zealand derives an amount (the **attributed amount**) that—

(a) is assessable income of the associated entity that is sourced from outside New Zealand; and

(b) is attributed under sections GB 27 to GB 29 (which relate to the attribution rule for income from personal services) in an income year to another person (the **working person**) who is resident in New Zealand when the associated entity derives the attributed amount.

Tax credit: attributed income from personal services

(9) Despite section LJ 1(2)(a), the working person has a tax credit under this subpart for foreign income tax paid on the attributed amount by the associated entity or withheld in relation to the attributed amount. The calculation of the maximum amount of the tax credit is made under section LJ 5(2), modified so that the item **segment** in the formula is the attributed amount for the income year.

No tax credit for associated entity

(10) The associated entity does not have a tax credit under this subpart for foreign income tax paid on or withheld in relation to the attributed amount.

Defined in this Act: amount, assessable income, attributing interest, FIF, FIF income, foreign income tax, income, income tax liability, income year, investor, multi-rate PIE, net income, New Zealand, New Zealand tax, pay, resident in New Zealand, segment of foreign-sourced income, tax credit, tax year

Compare: 2004 No 35 ss LC 1(1), (1B), (1C), LC 2

Section LJ 2(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 336(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2(5) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 336(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2(5): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 336(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2(6) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 336(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2(6): added (with effect on 1 April 2008), on 6 October 2009, by section 336(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2(7) heading: replaced (with effect on 1 April 2008), on 23 March 2020, by section 159(1) (and see section 159(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2(7): added (with effect on 1 April 2008), on 6 October 2009, by section 336(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2(8) heading: inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(2) (and see section 159(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2(8): inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(2) (and see section 159(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2(9) heading: inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(2) (and see section 159(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2(9): inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(2) (and see section 159(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2(10) heading: inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(2) (and see section 159(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2(10): inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(2) (and see section 159(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2 list of defined terms **attributing interest**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 336(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2 list of defined terms **FIF**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 336(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2 list of defined terms **FIF income**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 336(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2 list of defined terms **income**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 336(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2 list of defined terms **income year**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 336(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 336(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 2 list of defined terms **resident in New Zealand**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 159(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LJ 2 list of defined terms **tax credit**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 336(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LJ 3 Meaning of foreign income tax

For the purposes of this Part, **foreign income tax**—

(a) means—

(i) an amount of a tax of another country meeting the requirements of section YA 2(5) (Meaning of income tax varied):

(ii) in relation to a double tax agreement providing relief from tax or double taxation, an amount of tax to which the double tax agreement applies; and

(b) includes an amount of a tax of another country that is either or both of the following:

(i) a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of the global anti-base erosion model rules:

(ii) of substantially the same nature as multinational top-up tax payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules); and

(c) *[Repealed]*

(d) does not include an amount of a tax of another country that is based on—

(i) Articles 2.1 to 2.3 of the global anti-base erosion model rules; or

(ii) Articles 2.4 to 2.6 of those model rules.

Defined in this Act: amount, amount of tax, double tax agreement, global anti-base erosion model rules, multinational top-up tax, pay, tax

Section LJ 3: replaced (with effect on 1 January 2024), on 28 March 2024, by section 105(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section LJ 3(b): replaced, on 1 January 2026, by section 105(2)(a) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section LJ 3(c): repealed, on 1 January 2026, by section 105(2)(a) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section LJ 3 list of defined terms **multinational top-up tax**: inserted, on 1 January 2026, by section 105(2)(b) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section LJ 3 list of defined terms **pay**: inserted, on 1 January 2026, by section 105(2)(b) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

LJ 4 Meaning of segment of foreign-sourced income

For the purposes of this Part, a person has a **segment of foreign-sourced income** equal to an amount of assessable income derived from 1 foreign country that comes from 1 source or is of 1 nature.

Defined in this Act: amount, assessable income

Compare: 2004 No 35 s LC 14(1)

LJ 5 Calculation of New Zealand tax

What this section does

(1) This section provides the rules that a person must use to calculate the amount of New Zealand tax for an income year in relation to each segment of foreign-sourced income of the person that is allocated to the income year.

Calculation for single segment

(2) If the person has a notional income tax liability of more than zero, the amount of New Zealand tax for the income year relating to the allocated segment is calculated using the following formula, the result of which can not be less than zero:

((segment − person's deductions) ÷ person's net income) × notional liability.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **segment** is the amount of the segment of foreign-sourced income for the income year:

(b) **person's deductions** is the amount of the person's deduction for the tax year corresponding to the income year that is attributable to the segment of foreign-sourced income:

(c) **person's net income** is the person's net income for the tax year corresponding to the income year under section BC 4(1) to (3) (Net income and net loss):

(d) **notional liability** is the person's notional income tax liability for the income year under subsection (5).

When subsection (4B) applies

(4) Subsection (4B) applies for the income year when the total amount of New Zealand tax for all segments of foreign-sourced income of the person calculated under subsection (2) is more than the notional income tax liability.

Modification to results of formula for single segment

(4B) Each amount of New Zealand tax calculated under subsection (2) in relation to each segment of foreign-sourced income is adjusted by multiplying the amount by the following ratio:

person's notional income tax liability ÷ NZ tax.

Definition of item in formula

(4C) In the formula in subsection (4B), **NZ tax** is the amount given by adding together the result of the calculation under subsection (2), for each segment of assessable income from all sources, including assessable income sourced in New Zealand.

Person's notional income tax liability

(5) For the purposes of this section, a person's notional income tax liability for a tax year is calculated using the formula—

(person's net income − losses) × tax rate.

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **person's net income** is the person's net income for the tax year:

(b) **losses**—

(i) is the amount of the loss balance carried forward to the tax year that the person must subtract from their net income under section IA 4(1)(a) (Using loss balances carried forward to tax year):

(ii) must be no more than the amount of the person's net income:

(c) **tax rate** is the basic rate of income tax set out in schedule 1, part A (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Deductions for beneficiaries

(7) If the person is a beneficiary of a trust and has a segment of foreign-sourced income (the **foreign income**) that was received by the trust and is beneficiary income of the person, the person is treated for the purposes of this section as having the amount of deductions relating to the foreign income that a trustee of the trust would have had if the trustee were calculating their New Zealand tax for the foreign income under this section.

Defined in this Act: amount, beneficiary income, deduction, income tax, income tax liability, loss balance, net income, New Zealand, New Zealand tax, segment of foreign-sourced income, tax loss component, tax year, trustee

Compare: 2004 No 35 s LC 14

Section LJ 5(1) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(1): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(2) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(2): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(3) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(3): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(3)(c): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 133(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section LJ 5(4) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(4): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(4B) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(4B): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(4C) heading: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(4C): inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 101(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LJ 5(6)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 338(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 5(6)(c): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LJ 5(7) heading: inserted, on 1 April 2025, by section 107(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LJ 5(7): inserted, on 1 April 2025, by section 107(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LJ 5 list of defined terms **beneficiary income**: inserted, on 1 April 2025, by section 107(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LJ 5 list of defined terms **New Zealand**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 338(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 5 list of defined terms **trustee**: inserted, on 1 April 2025, by section 107(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

LJ 6 Taxable distributions and NRWT rules

When this section applies

(1) This section applies when a person who is a beneficiary of a trust and resident in New Zealand derives a taxable distribution in their capacity as beneficiary of the trust.

When credit not allowed

(2) The person is not allowed a tax credit in relation to any foreign income tax paid on the taxable distribution unless the tax has substantially the same nature as non-resident withholding tax (NRWT).

Amount of credit

(3) The person's tax credit is equal to an amount calculated using the formula—

(person's taxable distribution ÷ total distribution) × foreign tax paid.

Definition of items in formula

(4) In the formula,—

(a) **person's taxable distribution** is the amount of the taxable distribution derived by the person in their capacity as beneficiary of the trust, including a payment of tax that meets the requirements of subsection (2):

(b) **total distribution** is the total amount of the distribution derived by the person in their capacity as beneficiary of the trust, including a payment of tax that meets the requirements of subsection (2):

(c) **foreign tax paid** is the payment of tax that meets the requirements of subsection (2).

Defined in this Act: amount, distribution, foreign income tax, NRWT, NRWT rules, pay, resident in New Zealand, tax credit, taxable distribution

Compare: 2004 No 35 s LC 1(2)

Section LJ 6 list of defined terms **non-resident withholding tax**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

LJ 7 Repaid foreign tax: effect on income tax liability

Who this section applies to

(1) This section applies to a person who has—

(a) paid an amount of foreign income tax, or in relation to whom an amount of foreign income tax has been paid, on a segment of foreign-sourced income in relation to which they are entitled to a tax credit under section LJ 2; and

(b) received a refund, amount, or benefit (the **refund**) determined directly or indirectly by reference to some or all of the payment of foreign income tax.

When refund received before assessment

(2) If the person receives the refund before they assess their income tax liability for a tax year, the amount of the tax credit for the foreign income tax paid is reduced by the lesser of—

(a) the amount of the refund:

(b) the amount of New Zealand tax payable on the foreign-sourced income calculated under section LJ 5.

When refund received after assessment

(3) If the person receives the refund after they have assessed their income tax liability for a tax year, have used an amount of foreign tax credit in satisfying that liability, and have not taken the refund into account in that assessment, the person is liable to pay the Commissioner the lesser of—

(a) the amount of the refund:

(b) the amount of New Zealand tax payable on the foreign-sourced income calculated under section LJ 5.

Date for payment

(4) In subsection (3), the date for payment is 30 days after the later of—

(a) the date on which the person receives the refund:

(b) the date of the notice of assessment in relation to which the person has used the credit.

Associated persons

(5) For the purposes of this section, the refund is treated as received by the person, whether it is received by the person, a person who paid the foreign income tax, or a person associated with either of them.

Defined in this Act: amount, associated person, Commissioner, foreign income tax, income tax liability, New Zealand, New Zealand tax, pay, return of income, segment of foreign-sourced income, tax credit, tax year, tax year

Compare: 2004 No 35 ss LC 1(3A), (3B), LC 3

Section LJ 7: substituted (with effect on 1 April 2008), on 6 October 2009, by section 339(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LJ 7(3)(b): amended (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 117(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section LJ 7(4): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 102(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

LJ 8 Repaid foreign tax: effect on FDP liability

[Repealed]

Section LJ 8: repealed, on 1 April 2017, by section 161 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart LK—Tax credits relating to attributed controlled foreign company income

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Amounts of credits

LK 1 Tax credits relating to attributed CFC income

Amount of credit

(1) A person who has an amount of attributed CFC income for an income year has a tax credit for the tax year corresponding to the income year equal to the following amounts paid or payable in relation to the attributed CFC income:

(a) an amount of income tax paid by the CFC from which the income is derived:

(b) an amount of tax withheld and paid on behalf of the CFC from which the income is derived:

(c) the amount of foreign income tax paid by the CFC from which the income is derived:

(d) the amount of foreign income tax paid by the person in relation to the CFC from which the income is derived:

(e) the amount of foreign tax paid, under legislation of another country or territory that is equivalent of the international tax rules, by a foreign company in relation to income derived by the CFC.

Credits for parent companies and group companies

(1B) For the purposes of this section and sections LK 2, LK 3, and LK 6, a company that is part of a group of companies that includes a person with attributed CFC income has a tax credit for the tax year corresponding to the income year of an amount that is equal to an amount of foreign income tax paid by the group company in relation to the CFC from which the income is derived.

Place of incorporation or carrying on business

(1C) For the purposes of subsection (1B), the requirements set out in section IC 7 (Place of incorporation or carrying on business) do not apply to disallow the use of the tax credit by group companies under section LK 6.

Amount adjusted

(2) The amount of the person's credit in subsection (1) may be reduced or increased if section LK 7 applies.

Limitation to quarantined amount

(3) The person's use under section LA 2 (Satisfaction of income tax liability) of a credit referred to in subsection (1) is limited to the amount (the **quarantined amount**) that would be their income tax liability for the tax year if their only assessable income were attributed CFC income derived from a CFC resident in the foreign country or territory referred to in subsection (1) in the accounting period in which the amount of tax giving rise to the credit was paid or payable.

Tax withheld

(4) In subsections (1) and (1B), a payment of income tax or foreign income tax by the CFC or person, as applicable, includes an amount of tax withheld from income in New Zealand or another country or territory.

When subsection (7) applies

(5) Subsection (7) applies when—

(a) a person has a credit under subsection (1) in relation to an amount of income tax or foreign income tax; and

(b) the credit has been used under section LA 2 (Satisfaction of income tax liability) or is carried forward under section LK 4; and

(c) the person has received a refund, amount, or benefit (the **refund**) determined directly or indirectly by reference to some or all of the tax paid.

When refund received before assessment

(6) If the person receives the refund before they assess their income tax liability for a tax year, the amount of tax credit for the tax paid is reduced by the lesser of—

(a) the amount of the refund:

(b) the amount of New Zealand tax payable on the foreign-sourced income calculated under section LJ 5 (Calculation of New Zealand tax).

Credit repayable or extinguished

(7) The amount of the credit—

(a) must be paid to the Commissioner if it has been used under section LA 2:

(b) is extinguished, if it is carried forward under section LK 4.

Date for payment

(8) In subsection (7)(a), the date for payment is 30 days after the later of—

(a) the date on which the person who paid the tax receives the refund:

(b) the date of the notice of assessment in relation to which the person has used the credit.

Associated persons

(9) For the purposes of subsections (5) to (8), the refund is treated as received by the person, whether it is received by the person, a person who paid the foreign income tax, or a person associated with either of them.

Defined in this Act: accounting period, amount, amount of tax, assessable income, assessment, associated person, attributed CFC income, CFC, Commissioner, company, controlled foreign company, corresponding income year, foreign income tax, group of companies, income, income tax, income tax liability, income year, international tax rules, New Zealand tax, notice, NRWT, pay, quarantined amount, segment of foreign-sourced income, tax credit, tax withheld, tax year

Compare: 2004 No 35 s LC 4(1), (4)

Section LK 1(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 340(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(1)(d): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 70(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section LK 1(1)(e): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 70(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section LK 1(1B) heading: inserted, on 29 March 2018 (with effect on 1 July 2009), by section 160(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 1(1B): inserted, on 29 March 2018 (with effect on 1 July 2009), by section 160(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 1(1C) heading: replaced (with effect on 15 March 2017), on 31 March 2023, by section 89 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section LK 1(1C): replaced (with effect on 15 March 2017), on 31 March 2023, by section 89 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section LK 1(3): amended (with effect on 30 June 2009), on 6 October 2009, by section 340(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(3): amended (with effect on 30 June 2009), on 6 October 2009, by section 340(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(4): replaced, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 160(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 1(4): amended, on 29 March 2018 (with effect on 1 July 2009), by section 160(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 1(5) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(5): added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(6) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(6): added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(7) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(7): added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(8) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 104(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LK 1(8): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 104(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LK 1(9) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1(9): added (with effect on 1 April 2008), on 6 October 2009, by section 340(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **assessment**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **associated person**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **Commissioner**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **company**: inserted, on 29 March 2018, by section 160(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 1 list of defined terms **conduit tax relief**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 340(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **CTR company**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 340(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **group of companies**: inserted, on 29 March 2018, by section 160(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 1 list of defined terms **income**: inserted, on 29 March 2018, by section 160(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 1 list of defined terms **international tax rules**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **New Zealand tax**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **notice**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **NRWT**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 1 list of defined terms **segment of foreign-sourced income**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 340(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LK 2 Calculation of amount of credit

Amount of credit

(1) For the purposes of section LK 1(1) and (1B), the amount of a tax credit for a tax year for a person is equal to an amount calculated using the formula—

section EX 18 income interest × (tax paid − excluded foreign tax).

Definition of items in formula

(2) In the formula,—

(a) **section EX 18 income interest** is the income interest of the person used to calculate attributed CFC income under section EX 18 (Formula for calculating attributed CFC income or loss) for the accounting period corresponding to the tax year:

(b) **tax paid** is the amount of income tax or foreign income tax paid or payable by the CFC or the person or, when section LK 1(1B) applies, the

group company, for the accounting period corresponding to the tax year, including an amount withheld by another person and paid or payable on behalf of the CFC:

(c) **excluded foreign tax** is an amount of foreign income tax paid in a country or territory listed in schedule 27 (Countries and types of income with unrecognised tax) to the extent to which the foreign income tax is paid on the types of income listed in the schedule.

Modifications to formula: section LK 1(1)(d)

(3) For the purposes of the formula in this section, when section LK 1(1)(d) applies to provide a tax credit for a tax year when foreign income tax is paid by the person in relation to the CFC from which the income is derived, the calculation of the amount of the tax credit is made under subsection (1), ignoring the section EX 18 income interest in subsection (2)(a).

Modifications to formula: section LK 1(1B)

(4) For the purposes of the formula in this section, when section LK 1(1B) applies to provide a tax credit for a tax year to a group company, the calculation of the amount of the tax credit is made under subsection (1), ignoring the section EX 18 income interest in subsection (2)(a).

Defined in this Act: accounting period, amount, attributed CFC income, CFC, company, foreign income tax, group of companies, income, income interest, income tax, pay, tax credit, tax year

Compare: 2004 No 35 s LC 4(1)–(3)

Section LK 2(1): amended, on 29 March 2018 (with effect on 1 July 2009), by section 161(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2(2)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 341(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 2(2)(b): amended, on 29 March 2018 (with effect on 1 July 2009), by section 161(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2(3) heading: inserted, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 161(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2(3): inserted, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 161(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2(4) heading: inserted, on 29 March 2018 (with effect on 1 July 2009), by section 161(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2(4): inserted, on 29 March 2018 (with effect on 1 July 2009), by section 161(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2 list of defined terms **company**: inserted, on 29 March 2018, by section 161(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2 list of defined terms **group of companies**: inserted, on 29 March 2018, by section 161(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LK 2 list of defined terms **income**: inserted, on 29 March 2018, by section 161(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

LK 3 Currency conversion

If foreign income tax is paid or payable by a CFC in a currency other than New Zealand currency, the amount must be converted into New Zealand currency by applying—

(a) the close of trading spot exchange rate on the date when the income tax is paid or becomes payable; or

(b) the average of the close of trading spot exchange rates for the 15th day of each complete month that falls in the period to which the attributed CFC income relates.

Defined in this Act: amount, attributed CFC income, CFC, close of trading spot exchange rate, foreign income tax, New Zealand, pay

Compare: 2004 No 35 s LC 4(1)

Use of credits in later tax years

LK 4 Use of remaining credits

When this section applies

(1) This section applies for the purposes of section LA 5(2) (Treatment of remaining credits) when a person has a tax credit remaining for a tax year after applying section LA 4(1) (When total tax credit more than income tax liability).

Amount carried forward

(2) The amount is carried forward to the next tax year as a credit carried forward.

Defined in this Act: amount, tax credit, tax year

Compare: 2004 No 35 s LC 4(4)

LK 5 Companies' credits carried forward

Company carrying credit forward

(1) A tax credit carried forward under section LK 4 may be carried forward to a later tax year only if, by treating the credit as a tax loss component to which sections IA 2 to IA 10 (which relate to the treatment of tax losses) and subpart IB (Carrying forward companies' loss balances: continuity of business activities) apply, those sections would allow the amount to be carried forward.

Timing

(2) For the purposes of this section, the credit is treated as a tax loss component arising on the last day of the income year corresponding to the tax year for which the person has the credit.

Defined in this Act: amount, company, corresponding income year, tax credit, tax loss component, tax year

Compare: 2004 No 35 s LC 4(4)–(6)

Section LK 5(1): amended (with effect on 1 April 2020), on 30 March 2021, by section 116 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

LK 5B Credits from tax year before first affected year

When this section applies

(1) This section applies for a person and a country (the **jurisdiction**) when the person has a credit (the **available BE credit**) that—

(a) relates to a tax year (the **credit year**) before the first tax year for which this section applies to the person; and

(b) relates to a CFC or FIF that is resident in the jurisdiction in the credit year; and

(c) is carried forward to a tax year (the **conversion year**) in which this section applies to the person.

What this section does

(2) In this section, subsection (3) gives the person an option that an available BE credit for a jurisdiction not be carried forward and subsections (4) to (7) give, for whichever of the 4 possible alternative situations is relevant for the person,—

(a) the amount of the available BE credit (the **converted BE credit**) for the jurisdiction that is—

(i) treated as being converted into an amount referred to in paragraph (b) in the conversion year; and

(ii) not available to the person to be carried forward as available BE credit for the jurisdiction and a later tax year:

(b) the amount (the **equivalent tax credit**) of a tax credit for the jurisdiction that, for the purposes of the rest of this subpart, is treated as arising on the last day of the conversion year.

Option: tax credit not carried forward

(3) A person may choose by giving a notice in a form and at a time acceptable to the Commissioner that the available BE credit for a jurisdiction not be carried forward under this section.

Person not resident group member: more jurisdictional BE income

(4) For a person who is not a resident group member and has jurisdictional BE income for the conversion year that is greater than zero and greater than the person's jurisdictional attributed income for the conversion year,—

(a) the person's converted BE credit in the conversion year is the lesser of—

(i) the amount that would be the person's income tax liability if the person's only assessable income were the person's jurisdictional BE income for the conversion year:

(ii) the person's available BE credit for the conversion year:

(b) the person's equivalent tax credit in the conversion year is the lesser of—

(i) the amount that would be the person's income tax liability if the person's only assessable income were the person's jurisdictional attributed income for the conversion year:

(ii) the amount calculated by dividing the person's available BE credit for the conversion year by the person's jurisdictional income ratio for the conversion year.

Person not resident group member: more jurisdictional attributed income

(5) For a person who is not a resident group member and has jurisdictional attributed income for the conversion year that is greater than or equal to zero and greater than or equal to the person's jurisdictional BE income for the conversion year,—

(a) the person's converted BE credit for the conversion year is the lesser of—

(i) the person's available BE credit for the conversion year:

(ii) the amount that would be the person's income tax liability if the person's only assessable income were the person's jurisdictional attributed income for the conversion year:

(b) the person's equivalent tax credit is equal to the person's converted BE credit for the conversion year.

Resident group member: more jurisdictional BE income

(6) For a person who is a resident group member for a wholly-owned group of companies and has jurisdictional BE income for the conversion year that is greater than zero and greater than the person's jurisdictional attributed income for the conversion year,—

(a) the person's converted BE credit for the conversion year is the lesser of—

(i) the person's available BE credit for the conversion year:

(ii) the amount that would be the person's income tax liability if the person's only assessable income were the greater of the person's jurisdictional BE income for the conversion year and the amount calculated by multiplying the group's jurisdictional income ratio for the conversion year by the person's jurisdictional attributed income for the conversion year:

(b) the person's equivalent tax credit is the amount calculated by dividing the person's converted BE credit for the conversion year by the group's jurisdictional income ratio for the conversion year.

Resident group member: more jurisdictional attributed income

(7) For a person who is a resident group member and has jurisdictional attributed income for the conversion year that is greater than or equal to zero and greater than or equal to the person's jurisdictional BE income for the conversion year,—

(a) the person's converted BE credit for the conversion year is the lesser of—

(i) the person's available BE credit for the conversion year:

(ii) the amount that would be the person's income tax liability if the person's only assessable income were the person's jurisdictional attributed income for the conversion year multiplied by the group's jurisdictional income ratio for the conversion year:

(b) the person's equivalent tax credit is equal to the amount calculated by dividing the person's converted tax credit for the conversion year by the group's jurisdictional income ratio for the conversion year.

Option to determine jurisdictional BE income from accounts

[Repealed]

(8) *[Repealed]*

Defined in this Act: attributed CFC income, attributed CFC loss, CFC, group of companies, income interest, jurisdictional attributed income, jurisdictional BE income, jurisdictional income ratio, New Zealand resident, notice, resident group member, tax year, wholly-owned group, wholly-owned group of companies

Section LK 5B: inserted (with effect on 30 June 2009), on 6 October 2009, by section 342(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LK 5B(1): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 79(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section LK 5B(2): replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 79(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section LK 5B(8) heading: repealed (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 79(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section LK 5B(8): repealed (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 79(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section LK 5B list of defined terms **branch equivalent income**: repealed (with effect on 1 July 2009), on 7 May 2012, by section 79(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section LK 5B list of defined terms **branch equivalent loss**: repealed (with effect on 1 July 2009), on 7 May 2012, by section 79(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section LK 5B list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

LK 6 Use of credits by group companies

When this section applies

(1) This section applies when a company (**company A**) in a group of companies has a tax credit under section LK 1 in relation to an income interest in a CFC (**company B**) of an amount other than a quarantined amount.

Making credit available

(2) Company A may choose to make the amount of the tax credit available to another company (**company C**) that is part of the group of companies for the tax year in which the credit is available to the company if the requirements of subsections (3) and (4) are met.

Amount limited

(3) The amount of the credit must not be more than the amount that would be company C's income tax liability if that company's only assessable income were the attributed CFC income derived in the corresponding income year from a CFC resident in the same country in which company B was resident in the accounting period in which the income tax giving rise to the credit was paid or payable.

Use limited

(4) Company A may make an amount of a tax credit available to company C to use only if the amount would be able to be used under subpart IC (Grouping tax losses), reading the subpart by substituting—

(a) a wholly-owned group of companies for a group of companies:

(b) a credit of company A for a tax loss component of the loss company:

(c) the use of the credit to satisfy an income tax liability for the use of a tax loss component to reduce net income, in both subpart IC and section GB 4 (Arrangements for grouping tax losses: companies):

(d) company C for the company B:

(e) the income tax liability of company C for the net income of company B:

(f) sections LK 1 to LK 5 for sections IA 3 to IA 5 (which relate to the use of tax losses generally).

Defined in this Act: accounting period, amount, assessable income, attributed CFC income, CFC, company, corresponding income year, group of companies, income interest, income tax, income tax liability, net income, pay, quarantined amount, tax credit, tax loss component, tax year, wholly-owned group of companies

Compare: 2004 No 35 s LC 5

Treatment of taxable distributions

LK 7 Taxable distributions and NRWT rules

When this section applies

(1) This section applies when a CFC receives a taxable distribution in an accounting period and, for a person with an income interest of 10% or more in the CFC under the rules in sections EX 14 to EX 17 (which relate to the 10% threshold and variations in income interest level), the taxable distribution gives rise to attributed CFC income to which section EX 19 (Taxable distribution from non-complying trust) applies.

When credit not allowed

(2) The person does not have a tax credit in relation to tax paid on the taxable distribution unless the tax is substantially the same as non-resident withholding tax (NRWT).

Amount of tax on distribution

(3) The amount of tax that gives rise to the credit must not be more than an amount calculated using the formula—

(person's taxable distribution ÷ total distribution) × foreign tax paid.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **person's taxable distribution** is the amount of the taxable distribution derived by the CFC, including a payment of tax that meets the requirements of subsection (2):

(b) **total distribution** is the total amount of the distribution derived by the CFC, including a payment of tax that meets the requirements of subsection (2):

(c) **foreign tax paid** is the payment of tax that meets the requirements of subsection (2).

Amount of person's credit

(5) The amount of a credit of a person under this section is equal to an amount calculated using the formula—

section EX 18 income interest × amount of tax.

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **section EX 18 income interest** is the income interest of the person used to calculate attributed CFC income under section EX 18 (Formula for calculating attributed CFC income or loss) for the accounting period corresponding to the tax year:

(b) **amount of tax** is the amount of tax determined under subsection (3).

Defined in this Act: accounting period, amount, amount of tax, attributed CFC income, CFC, distribution, income interest, NRWT, NRWT rules, pay, tax year, taxable distribution

Compare: 2004 No 35 s LC 4(7)

Section LK 7 list of defined terms **non-resident withholding tax**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Consolidated companies

LK 8 Tax credits of consolidated companies

If a consolidated group has a tax credit under section LK 1, the credit is treated as the consolidated group's credit and not the credit of a group company.

Defined in this Act: company, consolidated group, tax credit

Compare: 2004 No 35 s LC 16(1)

LK 9 Use of company's credits carried forward

When this section applies

(1) This section applies when a company that is part of a consolidated group of companies in an income year has a credit carried forward for the tax year corresponding to the income year.

First use by consolidated group

(2) The amount must first be used to satisfy the income tax liability of the consolidated group for the income year. However, the amount must not be more than the consolidated group's quarantined amount.

Second use by group company or another consolidated group

(3) If, after applying subsection (2), an amount remains, the amount may be used to satisfy the income tax liability of the company or the income tax liability of another consolidated group in the income year. Sections LK 10 and LK 11 override this subsection.

Third use: amount carried forward

(4) If, after applying subsections (2) and (3), a balance remains, the amount must be carried forward to the next income year under section LK 4(2).

Defined in this Act: amount, company, consolidated group, corresponding income year, income tax liability, income year, quarantined amount, tax year

Compare: 2004 No 35 s LC 16(2), (3)

LK 10 When group membership lacking in tax year in which credit arises

When this section applies

(1) This section applies when a company that is part of a consolidated group of companies has a credit carried forward for a tax year, but the company was not part of the same consolidated group as 1 or more companies in the consolidated group in an earlier tax year in which the credit arises.

Limitation on amount used

(2) The amount of the credit carried forward and made available for the consolidated group to use under section LK 9(2) is limited to the sum of—

(a) the amount of the credit carried forward that the company could use under section LA 2 or LA 4 (which relate to the company's income tax liability), if the company were not part of the consolidated group for the tax year; and

(b) the amount that each company in the consolidated group would have under section LK 6 in relation to the amount of credit carried forward if—

(i) the consolidation of the companies is ignored; and

(ii) all required steps are presumed taken for section LK 6 to apply.

Relationship with section FM 3

(3) In subsection (2), section FM 3 (Liability of consolidated groups and group companies) applies to the calculation of the income tax liability.

Defined in this Act: amount, company, consolidated group, income tax liability, tax year

Compare: 2004 No 35 s LC 16(4)

LK 11 When group membership lacking in tax year in which credit used

When this section applies

(1) This section applies when a company that is part of a consolidated group of companies has a credit carried forward for a tax year, but the company is not part of the consolidated group for the whole tax year in which the credit carried forward is used.

Limitation on amount

(2) The amount of the credit carried forward and made available for the consolidated group to use under section LK 9(2) is limited to the least of—

(a) the amount of the credit carried forward shown in financial statements provided with the consolidated group's return of income for the income year corresponding to the tax year that—

(i) relate to the part of the income year when the company was part of the consolidated group; and

(ii) disclose the amount that would be the net income attributable to the part of the income year when the company is part of the

consolidated group, determined on a fair and reasonable basis of attribution:

(b) the amount of the credit calculated using the formula in subsection (3):

(c) the amount referred to in section LK 10(2).

Formula

(3) The amount referred to in subsection (2)(b) is calculated using the formula—

amount carried forward − (part-year credits + pre-consolidation credits).

Definition of items in formula

(4) In the formula,—

(a) **amount carried forward** is the amount of the credit carried forward under section LK 9(2) before applying section LK 10 and this section:

(b) **part-year credits** is the amount of the credit carried forward that the company may use under section LA 2 or LA 4 (which relate to the company's income tax liability) for the part of the tax year before the company becomes part of the consolidated group:

(c) **pre-consolidation credits** is the amount of the credits carried forward that the company must make available for another consolidated group of which it was part before becoming part of the consolidated group.

Defined in this Act: amount, company, consolidated group, corresponding income year, income year, net income, return of income, tax year

Compare: 2004 No 35 s LC 16(5)

Amalgamations of companies

LK 12 Treatment of credits when companies amalgamate

On an amalgamation, for the purposes of determining whether a credit carried forward is available under section LK 5 or whether the requirements of section LK 6 are met, the amalgamated company is treated as if it were the amalgamating company with the same holders of shares and options over shares.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, share

Compare: 2004 No 35 ss LC 8, LC 11, LC 12

LK 13 Use of credits by amalgamated company

When this section applies

(1) This section applies when an amalgamating company ends its existence on a resident's restricted amalgamation and the company has a tax credit under this subpart that—

(a) has not otherwise been used by the amalgamating company before the date of amalgamation:

(b) if treated as a credit remaining for a tax year under section LA 4(1) (When total tax credit more than income tax liability), could be made

available to each of the amalgamated company, unless it is a company incorporated only on amalgamation, and a company that is amalgamated with the amalgamated company.

Amalgamated company's credit

(2) The tax credit is treated as a credit of the amalgamated company for the tax year in which the amalgamation occurs.

Defined in this Act: amalgamated company, amalgamating company, company, resident's restricted amalgamation, tax credit, tax year

Compare: 2004 No 35 s LC 8

LK 14 Use by amalgamated company of credits carried forward

When this section applies

(1) This section applies when an amalgamated company has a tax credit under this subpart for a tax year before that in which the amalgamation takes place, and the credit has not been used before the date of amalgamation.

Restrictions on carrying credit forward: year of amalgamation

(2) The credit may be carried forward to the tax year of amalgamation or a later tax year only if—

(a) the requirements of sections LK 1 to LK 5 are met; and

(b) the credit could be made available under section LK 6 for the part of the tax year ending with the date of the amalgamation to each amalgamating company.

Restrictions on carrying credit forward: order

(3) If the tax credits of 2 or more amalgamating companies are credited under section LK 13 against the amalgamated company's income tax liability for a tax year, those tax credits must—

(a) if resulting from tax payable in 2 or more tax years, be credited in the same order as arising; and

(b) if resulting from tax payable in the same tax year, be credited, so far as the tax extends,—

(i) in the order chosen by the amalgamated company by notice to the Commissioner; or

(ii) otherwise, on a pro rata basis.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, Commissioner, income tax liability, notice, pay, tax credit, tax year

Compare: 2004 No 35 ss LC 9, LC 10

Section LK 14 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

LK 15 Use of amalgamating company's credits

When this section applies

(1) This section applies when a company has a tax credit under this subpart arising in whole or in part before an amalgamation.

Restrictions on use

(2) The amalgamated company may use the credit only if the company and each amalgamating company meet the requirements of section LK 6.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, company, tax credit

Compare: 2004 No 35 s LC 12

Subpart LL—Underlying foreign tax credits (UFTC)

[Repealed]

Subpart LL: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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LL 1 What this subpart does

[Repealed]

Section LL 1: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 2 Tax credits for underlying foreign tax

[Repealed]

Section LL 2: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 3 Meaning of grey list dividend

[Repealed]

Section LL 3: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 4 Tracking accounts

[Repealed]

Section LL 4: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 5 Meaning of foreign dividend company net earnings

[Repealed]

Section LL 5: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 6 Foreign dividend company lower tier UFTCs

[Repealed]

Section LL 6: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 7 Conduit financing arrangements

[Repealed]

Section LL 7: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 8 Currency conversion

[Repealed]

Section LL 8: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LL 9 Some definitions

[Repealed]

Section LL 9: repealed (with effect on 30 June 2009), on 6 October 2009, by section 343(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart LO—Tax credits for Maori authority credits

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LO 1 Tax credits for Maori authority credits

Amount of credit

(1) A person who derives a taxable Maori authority distribution in a tax year has a tax credit for the tax year equal to the amount of the Maori authority credit attached to the distribution.

Amount altered

(2) The amount of the person's credit in subsection (1) may be reduced or increased if any of sections LO 2 to LO 4 apply.

Arrangements for tax advantage

(3) A person's credit under this section is extinguished if sections GB 42 and GB 43 (which relate to Maori authority arrangements to obtain tax advantage) apply.

Defined in this Act: amount, Maori authority credit, tax credit, tax year, taxable Maori authority distribution

Compare: 2004 No 35 ss LB 1(1)(m), LD 3A(1)

LO 2 Beneficiaries of trusts

When this section applies

(1) This section applies when a person who has a tax credit under section LO 1 is a beneficiary of a trust and, in that capacity, derives a taxable Maori authority distribution.

Limitation on amount of credit

(2) The person's credit is limited to an amount calculated using the formula—

$$(\text{person's distributions} \div \text{trust distributions}) \times (\text{total beneficiary credits} - \text{person's supplementary dividend}).$$

Definition of items in formula

(3) In the formula,—

(a) **person's distributions** is the total distributions for the tax year made to the person in their capacity as beneficiary of the trust:

(b) **trust distributions** is the total distributions for the tax year made to all beneficiaries of the trust in their capacity as beneficiaries, and includes all supplementary dividends paid to them:

(c) **total beneficiary credits** is the total Maori authority credits attached to taxable Maori authority distributions and total supplementary dividends for the tax year made to all beneficiaries of the trust in their capacity as beneficiaries:

(d) **person's supplementary dividend** is the total supplementary dividends for the tax year paid to the person in their capacity as beneficiary of the trust.

Defined in this Act: amount, distribution, Maori authority credit, pay, supplementary dividend, tax credit, tax year, taxable Maori authority distribution

Compare: 2004 No 35 s LB 1(3), (3A)

Section LO 2(3)(a): amended (with effect on 1 April 2008), on 23 March 2020, by section 160(1) (and see section 160(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

LO 2B Credit of RSCT for Maori authority credit

Retirement scheme contributions

(1) A retirement scheme contributor who attaches a Maori authority credit to a retirement scheme contribution for a person in an income year has a credit of RSCT equal to the lesser of—

(a) the amount of the Maori authority credit:

(b) the liability of the contributor for RSCT on the contribution.

When credit more than liability

(2) If the amount of the Maori authority credit is more than the liability of the contributor for RSCT on the contribution,—

(a) the amount of the excess is treated as a Maori authority credit attached to a taxable Maori authority distribution from the contributor to the person; and

(b) the person responsible for withholding the RSCT must, within 30 days of the contribution, notify the person of the amount of the excess credit.

Defined in this Act: amount, income year, Maori authority credit, notify, retirement scheme contribution, retirement scheme contributor, RSCT

Compare: 2004 No 35 s LD 4

Section LO 2B: inserted, on 1 April 2008, by section 449 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

LO 3 Application of Maori authority distribution ratio

When this section applies

(1) This section applies when a person who has a tax credit under section LO 1 derives a taxable Maori authority distribution that has a Maori authority credit ratio greater than the maximum permitted ratio calculated under section OA 18 (Calculation of maximum permitted ratios).

Amount of reduction

(2) The person's credit is reduced by an amount equal to the amount by which the credit is greater than the maximum permitted ratio.

Defined in this Act: amount, Maori authority credit ratio, maximum permitted ratio, tax credit, taxable Maori authority distribution

Compare: 2004 No 35 s LB 1(1)(ea)

LO 4 When income tax unpaid

When this section applies

(1) This section applies when—

(a) a person has a tax credit under section LO 1 and a Maori authority credit is attached to a dividend; and

(b) the dividend is paid by a Maori authority that has a debit balance in their Maori authority credit account at the end of the tax year; and

(c) the authority has not paid further income tax by the due date referred to in section OK 21 (Further income tax for closing debit balance).

Amount of reduction

(2) The Commissioner may reduce the person's credit by an amount equal to their proportion of the unpaid amount under subsection (1)(c).

When failure to pay remedied

(3) To the extent to which a Maori authority remedies the failure after the due date, this section does not apply.

Defined in this Act: amount, Commissioner, dividend, further income tax, Maori authority, Maori authority credit, Maori authority credit account, pay, tax credit, tax year

Compare: 2004 No 35 s LD 3A(6)

LO 5 Evidential requirements

If a person who has a tax credit under section LO 1 does not meet the evidential requirements of section 78D of the Tax Administration Act 1994, the person's credit may be reduced.

Defined in this Act: tax credit

Compare: 2004 No 35 s LD 3A(5)

Subpart LP—Tax credits for supplementary dividends

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Introductory provision

LP 1 What this subpart does

Supplementary dividends

(1) This subpart provides the rules for the treatment of a tax credit for a supplementary dividend. The amount of the credit is determined by reference to an imputation credit attached to a dividend paid by a company to a non-resident. For a credit to arise under this subpart, the company must pay a supplementary dividend, and the amount of the credit is equal to the amount of the supplementary dividend.

Supplementary dividend holding companies

[Repealed]

(2) *[Repealed]*

Defined in this Act: amount, company, dividend, imputation credit, non-resident, pay, supplementary dividend, supplementary dividend holding company, tax credit

Compare: 2004 No 35 s LE 1

Section LP 1(2) heading: repealed, on 1 April 2011, pursuant to section 77 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 1(2): repealed, on 1 April 2011, by section 77 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Use of credits

LP 2 Tax credits for supplementary dividends

When this section applies

(1) This section applies when a company resident in New Zealand pays a dividend and a related supplementary dividend to—

(a) a non-resident, if—

(i) the non-resident has less than a 10% direct voting interest in the company; and

(ii) the post-treaty tax rate for the dividend and the related supplementary dividend is 15% or more; or

(b) *[Repealed]*

(c) a foreign investment PIE if—

(i) a notified foreign investor (a **qualifying investor**) in the PIE meets the requirements of paragraph (a); and

(ii) an amount representing the dividend and the related supplementary dividend is attributed to the qualifying investor, or would be attributed to them in the absence of section HM 44B(2) (NRWT calculation option); and

(iii) the PIE notifies the company under section HM 55FB (Notified foreign investors and tax credits for supplementary dividends), providing the relevant information on those qualifying investors who have an entitlement to the dividend and related supplementary dividend.

Amount of credit

(2) For the tax year corresponding to the income year in which the company pays the dividend, the company has a tax credit equal to an amount calculated using the formula—

credit amount × 54 ÷ 119.

Definition of item in formula

(3) In the formula, **credit amount** is the imputation credit that would, in the absence of this subpart, be attached to the dividend.

When dividends derived by foreign investment PIEs

(3B) For the purposes of subsection (1)(c) and the calculation of the amount of the credit, the following apply in relation to a qualifying investor in a foreign investment PIE:

(a) the item **credit amount** in the formula is the imputation credit that would, in the absence of this subpart, be attached to the portion of the dividend attributed to the investor:

(b) the relevant amount of the dividend and related supplementary dividend is treated as if it were paid by the company directly to the investor:

(c) the investor's voting interest in the company is treated as if it were a direct voting interest.

Limitation on use of credit

[Repealed]

(4) *[Repealed]*

Meaning of year of payment

[Repealed]

(5) *[Repealed]*

Associated persons test

[Repealed]

(6) *[Repealed]*

Relationship with section OZ 12

(7) Section OZ 12 (Tax credits for non-resident investors) may apply to modify subsection (2).

Defined in this Act: amount, associated person, company, consolidated group, corresponding income year, direct voting interest, dividend, imputation credit, non-resident, notify, pay, post-treaty tax rate, resident in New Zealand, supplementary dividend, tax credit, tax year

Compare: 2004 No 35 ss LE 2(1), (2), (2A), LE 3(5)

Section LP 2(1)(a): substituted, on 1 February 2010, by section 78(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(1)(b): repealed, on 1 April 2011, by section 78(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(1)(c): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 118(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section LP 2(2): amended, on 1 April 2011, by section 78(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(2) formula: amended (with effect on 1 April 2008), on 30 March 2017, by section 162(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 2(2) formula: amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 91(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section LP 2(2) formula: amended, on 1 April 2008, by section 450(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LP 2(3): amended (with effect on 1 April 2008), on 30 March 2017, by section 162(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 2(3B) heading: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 118(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section LP 2(3B): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 118(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section LP 2(3B)(a): amended (with effect on 1 April 2008), on 30 March 2017, by section 162(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 2(4) heading: repealed, on 1 April 2013 (applying for the 2013–14 and later income years), pursuant to section 78(4) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(4): repealed, on 1 April 2013 (applying for the 2013–14 and later income years), by section 78(4) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(5) heading: repealed, on 1 April 2011, pursuant to section 78(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(5): repealed, on 1 April 2011, by section 78(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(6) heading: repealed, on 1 April 2011, by section 78(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(6): repealed, on 1 April 2011, by section 78(5) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2(7) heading: inserted (with effect on 1 April 2008), on 17 July 2013, by section 71 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section LP 2(7): added, on 1 April 2008, by section 450(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section LP 2 list of defined terms **direct voting interest**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section LP 2 list of defined terms **post-treaty tax rate**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2 list of defined terms **supplementary dividend holding company**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LP 2 list of defined terms **year of payment**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

LP 3 Use of remaining credits

When this section applies

(1) This section applies when a company (**company A**) has a tax credit arising under section LP 2 remaining for a tax year (the **current year**) under section LA 5(3) (Treatment of remaining credits).

Use of remaining credits by group companies

(2) If company A belongs to a wholly-owned group of companies for the income year corresponding to the current year, company A may make an amount of the tax credit available, for satisfying an income tax liability for the current year, to another company (**company B**) that belongs to the wholly-owned group for the corresponding income year.

Carrying amount back to earlier tax years

(3) If an amount of the tax credit has not previously been carried forward or back from a tax year under this section, company A may carry the amount back and—

(a) use the amount to satisfy an income tax liability for a tax year in the period of 4 tax years before the current year; or

(b) make the amount available, for satisfying an income tax liability for a tax year in the period of 4 tax years before the current year, to another company that belongs to the same wholly-owned group as company A for the income years corresponding to the current year and the tax year in which the amount is used.

Carrying amount forward

(4) If company A has an amount of the tax credit remaining for the current year after applying subsections (2) and (3), and the amount has not been previously carried back under subsection (3), the amount is carried forward under section LA 5(3) to the tax year following the current year.

Notifying Commissioner

(5) The company makes a choice under subsection (2) or (3) by notifying the Commissioner in their return of income for the income year that corresponds to the tax year.

When companies in same group

(6) For the purposes of subsections (2) and (3), the company and company B must be part of the same wholly-owned group of companies for the whole of the relevant income year or, if 1 of the companies exists for only part of the year, for the whole of the period of the income year when both companies are in existence.

Defined in this Act: amount, Commissioner, company, corresponding income year, income year, notify, return of income, tax credit, tax year, wholly-owned group of companies

Compare: 2004 No 35 s LE 2(3), (4), (6), (7)

Section LP 3(1) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(1): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(2) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(2): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(3) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(3): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(4) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(4): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later tax years), on 30 March 2017, by section 163(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 3(5): amended (with effect on 1 April 2008), on 6 October 2009, by section 344(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LP 4 Continuity rules for carrying credits forward

When this section applies

(1) This section applies for the purposes of section LA 5(3) (Treatment of remaining credits) when a company has an amount of a tax credit that must be carried forward under section LP 3(4).

Minimum interests required

(2) The amount is available for use under section LP 3(4) if a group of persons exists that has, for the continuity period,—

(a) minimum voting interests in the company that add up to 49% or more; and

(b) when a market value circumstance exists for the company in the continuity period, minimum market value interests in the company that add up to 49% or more.

Carry forward of credits despite continuity breach

(2B) Despite a breach of continuity under subsection (2), the amount is available for use under section LP 3(4) if the amount could be carried forward to the tax year following the current year under subpart IB (Carrying forward companies' loss balances: continuity of business activities), treating the amount as a tax loss component arising on the last day of the income year corresponding to the tax year in which the tax credit first arose.

Some definitions

(3) In this section,—

continuity period means the period that starts on the first day of the income year that corresponds to the tax year in which the tax credit first arises and ends on the last day of the income year that corresponds to the tax year to which the amount of the credit has been carried forward

minimum market value interest means the lowest market value interest that a person has in the company for the continuity period

minimum voting interest means the lowest voting interest that a person has in the company for the continuity period.

Defined in this Act: amount, company, continuity period, corresponding income year, group of persons, income year, market value circumstance, market value interest, minimum market value interest, minimum voting interest, tax credit, tax loss component, tax year, voting interest

Compare: 2004 No 35 s LE 2(5)

Section LP 4(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 345(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LP 4(2B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 117(1) (and see section 117(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LP 4(2B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 117(1) (and see section 117(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LP 4 list of defined terms **market value circumstance**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 345(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LP 4 list of defined terms **tax loss component**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 117(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

LP 5 Application of benchmark dividend rules and imputation credit ratio

Applying benchmark dividend rules

(1) The benchmark dividend rules in section OB 61 (ICA benchmark dividend rules) and sections GB 35 and GB 36 (which relate to imputation arrangements to obtain a tax advantage) apply as if the company had never paid the supplementary dividend.

Increase in imputation credit

(2) The maximum permitted ratio referred to in section OB 60(5) (Imputation credits attached to dividends) and sections GB 35 and GB 36 apply to a dividend as if the imputation credit attached to the dividend were increased by an amount equal to the related supplementary dividend.

Relationship with section OZ 12

(3) Section OZ 12 (Tax credits for non-resident investors) may apply to modify this section.

Defined in this Act: amount, benchmark dividend, company, imputation credit, maximum permitted ratio, supplementary dividend

Compare: 2004 No 35 s LE 2(9), (10)

Section LP 5(1): amended, on 1 April 2017, by section 164 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section LP 5(3) heading: inserted (with effect on 1 April 2008), on 17 July 2013, by section 72 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section LP 5(3): added, on 1 April 2008, by section 451 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

LP 6 Deriving supplementary dividend and breach of terms of trust

Class of shares

(1) The payment of a supplementary dividend on only some shares in a class of shares does not constitute a breach of—

(a) section 53 of the Companies Act 1993; or

(b) the company's constitution, unless the provision expressly refers to this subsection; or

(c) any other provision.

Trusts

(2) If a trustee derives a dividend and is required under the terms of a trust to distribute it as beneficiary income to a beneficiary, the trustee's distribution of a supplementary dividend does not breach the terms of the trust.

Defined in this Act: beneficiary income, company, distribution, dividend, pay, share, supplementary dividend, trustee

Compare: 2004 No 35 s LE 2(11), (12)

Section LP 6(1)(b): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Supplementary dividend holding companies

[Repealed]

Heading: repealed, on 24 February 2016, by section 203 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

LP 7 Requirements for supplementary dividend holding companies

[Repealed]

Section LP 7: repealed, on 1 April 2013 (applying for the 2013–14 and later income years), by section 79(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

LP 8 Relationship with exempt income rules

[Repealed]

Section LP 8: repealed, on 1 April 2013 (applying for the 2013–14 and later income years), by section 80(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

LP 9 Relationship with RWT rules

[Repealed]

Section LP 9: repealed, on 1 April 2013 (applying for the 2013–14 and later income years), by section 81(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

LP 10 Limitation on deductions

[Repealed]

Section LP 10: repealed, on 1 April 2013 (applying for the 2013–14 and later income years), by section 82(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Subpart LQ—Tax credits of conduit tax relief companies

[Repealed]

Subpart LQ heading: repealed, on 27 February 2014, by section 131 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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LQ 1 Tax credits of CTR companies

[Repealed]

Section LQ 1: repealed (with effect on 30 June 2009), on 6 October 2009, by section 346(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LQ 2 Limitation on amount of credit

[Repealed]

Section LQ 2: repealed (with effect on 30 June 2009), on 6 October 2009, by section 346(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LQ 3 Determining percentage of non-resident shareholders

[Repealed]

Section LQ 3: repealed (with effect on 30 June 2009), on 6 October 2009, by section 346(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LQ 4 Date for determining percentage of non-resident shareholders

[Repealed]

Section LQ 4: repealed (with effect on 30 June 2009), on 6 October 2009, by section 346(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

LQ 5 CTR additional dividends

[Repealed]

Section LQ 5: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 80(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Subpart LR—Tax credits for policyholder income

[Repealed]

Subpart LR: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 105 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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LR 1 Tax credits for policyholder income

[Repealed]

Section LR 1: repealed, on 1 April 2014 (applying for the 2014–15 and later income years), by section 105 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Subpart LS—Tax credits for multi-rate PIEs and investors

Subpart LS: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 348(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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LS 1 Tax credits for multi-rate PIEs

Tax credit

(1) A multi-rate PIE has a tax credit for a tax year for the amount determined—

(a) under sections HM 51 and HM 53 (which relate to certain tax credits) for an imputation credit or a credit for tax paid or withheld:

(b) under section HM 55 (Tax credits for losses) arising from a tax loss attributed to an investor.

When this section does not apply

(2) This section does not apply—

(a) in relation to—

(i) a zero-rated investor:

(ii) an exiting investor who is treated under section HM 61 (Certain exiting investors zero-rated) as zero-rated:

(iii) a notified foreign investor in a foreign investment PIE in relation to an imputation credit attached to a dividend derived by the PIE:

(b) if the PIE pays tax using the provisional tax calculation option under section HM 44 (Provisional tax calculation option).

Amount of credit

(3) The amount of the tax credit equals the amount determined under the relevant section.

Timing

(4) The PIE has the tax credit for the tax year in which the relevant calculation period falls.

Exception: timing under exit calculation option

(5) If the PIE calculates its income tax liability using the exit calculation option under section HM 42 (Exit calculation option), the amount of a credit attributable to an investor is able to be used to satisfy a tax obligation relating to the investor.

Defined in this Act: amount, calculation period, foreign investment PIE, imputation credit, income tax liability, investor, multi-rate PIE, notified foreign investor, pay, PIE, provisional tax, tax credit, tax loss, tax year, zero-rated investor

Compare: 2007 No 97 s LS 1

Section LS 1: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 348(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LS 1(2)(a)(iii): added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 105(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LS 1 list of defined terms **foreign investment PIE**: inserted, on 29 August 2011, by section 105(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LS 1 list of defined terms **notified foreign investor**: inserted, on 29 August 2011, by section 105(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

LS 2 Tax credits for investors in multi-rate PIEs

When this section applies

(1) This section applies when—

(a) an investor has attributed PIE income from a multi-rate PIE for a tax year; and

(b) the investor's prescribed investor rate is—

(i) more than zero:

(ii) for an investor who is a trustee, the rate set out in schedule 6, table 1, row 5 or 7 (Prescribed rates: PIE investments and retirement scheme contributions), as applicable; and

(c) the income is not excluded income of the investor because—

(i) the test in section CX 56(1)(b) (Attributed income of certain investors in multi-rate PIEs) is not met; or

(ii) section CX 56(2)(b), (c), or (d) applies.

Amount of credit

(2) The investor has a tax credit for the income year in which the PIE's tax year ends. The amount of the credit is equal to the amount of income tax liability satisfied by the PIE in relation to the attributed PIE income, and may be used to satisfy the investor's income tax liability for the tax year.

Relationship with section HM 36B

(3) Despite subsection (2), when the amount of an investor's tax credit is taken into account in calculating an adjustment for PIE schedular income under section HM 36B (Calculating PIE schedular income adjustments for natural person investors), the amount of the credit is extinguished for any other purpose.

Defined in this Act: amount, attributed PIE income, excluded income, income, income year, investor, multi-rate PIE, PIE, PIE schedular income, prescribed investor rate, tax credit, tax year

Compare: 2007 No 97 s LS 2

Section LS 2: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 348(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LS 2(1): substituted (with effect on 1 April 2009), on 6 October 2009, by section 347(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LS 2(1)(a): amended, on 1 April 2010, by section 347(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LS 2(1)(b)(ii): amended, on 1 April 2010 (applying for income years beginning on or after 1 April 2010), by section 83(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section LS 2(1)(c): substituted (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 106(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section LS 2(1)(c)(ii): amended, on 1 April 2020, by section 161(1) (and see section 161(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LS 2(2): amended (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 91(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section LS 2(3) heading: inserted, on 1 April 2020, by section 161(2) (and see section 161(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LS 2(3): inserted, on 1 April 2020, by section 161(2) (and see section 161(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LS 2 list of defined terms **pay**: repealed (with effect on 1 April 2010), on 7 September 2010, by section 91(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section LS 2 list of defined terms **PIE schedular income**: inserted, on 1 April 2020, by section 161(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

LS 3 Tax credits for zero-rated investors

When this section applies

(1) This section applies when a zero-rated investor has attributed PIE income from a multi-rate PIE for a tax year.

Amount of credit

(2) The investor has a tax credit that may be used to satisfy their income tax liability for the tax year equal to the amount of income tax liability satisfied by the PIE for the attributed income for the tax year.

Credit for PIE's foreign tax

(3) A zero-rated investor also has a tax credit for the tax year for the amount determined under section HM 52 (Use of foreign tax credits by zero-rated investors) for foreign income tax paid by the PIE.

Credit for PIE's other tax credits

(4) A zero-rated investor also has a tax credit for the tax year for the amount determined under section HM 54 (Use of tax credits other than foreign tax credits by investors) for tax paid or withheld.

Timing

(5) The investor has the tax credit for the tax year corresponding to the income year in which the PIE's tax year ends.

Defined in this Act: amount, attributed PIE income, income tax, income tax liability, income year, multi-rate PIE, pay, PIE, tax credit, tax year, zero-rated investor

Compare: 2007 No 97 s LS 3

Section LS 3: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 348(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LS 3(2): amended (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 93(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section LS 3(3): amended (with effect on 1 April 2020), on 30 March 2021, by section 118 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

LS 4 Tax credits for certain exiting investors

When this section applies

(1) This section applies when an exiting investor in a multi-rate PIE who is treated under section HM 61 (Certain exiting investors zero-rated) as zero-rated has attributed PIE income from the PIE for a tax year in which the exit period falls.

Amount of credit

(2) The investor has a tax credit that may be used to satisfy their income tax liability for the tax year equal to any amount paid by the PIE under section HM 43(4) (Quarterly calculation option) to the Commissioner after the investor exits from the PIE for the residual value of the investor interest of the investor.

Credit for PIE's foreign tax

[Repealed]

(3) *[Repealed]*

Credit for PIE's other tax credits

(4) An exiting investor also has a tax credit for the tax year for the amount determined under section HM 54 (Use of tax credits other than foreign tax credits by investors) for tax paid or withheld.

Treatment of credits for individual investors

(4B) Despite subsections (2) and (4), when an exiting investor who is a natural person resident in New Zealand has an available tax credit, the amount must be taken into account in an adjustment under section HM 36B (Calculating PIE schedular income adjustments for natural person investors) for the purposes of calculating the income tax liability of the person.

Timing

(5) The investor has the tax credit for the tax year corresponding to the income year in which the PIE's tax year ends.

Defined in this Act: attributed PIE income, exit period, income tax liability, income year, investor, investor interest, multi-rate PIE, natural person, pay, PIE, resident in New Zealand, tax credit, tax year

Compare: 2007 No 97 s LS 4

Section LS 4: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 348(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section LS 4(2): amended (with effect on 1 April 2010), on 21 December 2010, by section 110 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section LS 4(3) heading: repealed (with effect on 1 April 2020), on 30 March 2021, pursuant to section 119(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LS 4(3): repealed (with effect on 1 April 2020), on 30 March 2021, by section 119(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LS 4(4B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 119(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LS 4(4B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 119(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LS 4 list of defined terms **foreign income tax**: repealed (with effect on 1 April 2020), on 30 March 2021, by section 119(3)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LS 4 list of defined terms **natural person**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 119(3)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LS 4 list of defined terms **resident in New Zealand**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 119(3)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Subpart LT—Tax credits for petroleum miners

Subpart LT: inserted, on 1 April 2018, by section 162(1) (and see section 162(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

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LT 1 Tax credits for petroleum miners

When this section applies

(1) This section applies for an income year if a petroleum miner or a farm-in party—

(a) has—

(i) been allocated under section EJ 13(4) (Permanently ceasing petroleum mining operations) a deduction for the income year:

(ii) incurred expenditure for which they are entitled to a deduction under section DT 16 (Decommissioning):

(iii) incurred expenditure in plugging and abandoning an exploratory well for which they are entitled to a deduction; and

(b) notifies the Commissioner before they file the return of income for the income year; and

(c) has a net loss for the tax year corresponding to the income year.

Tax credits

(2) The petroleum miner or farm-in party has a tax credit for the tax year corresponding to the income year less than or equal to the amount (the **current loss credit**) calculated using the formula—

amount of loss × tax rate.

Definition of items in formula

(3) In the formula,—

(a) **amount of loss** is the amount of the net loss described in subsection (1)(c) to the extent to which the amount does not exceed the total of the amounts for the deductions referred to in subsection (1)(a)(i) to (iii):

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Maximum amounts

(4) The amount of the credit must not be more than the lesser of—

(a) the amount of total tax given by subsection (4B); and

(b) the amount calculated using the formula—

current loss credit – exploration abandonment excess.

Total tax

(4B) In subsection (4)(a), total tax is the amount of income tax paid by,—

(a) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated:

(b) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated.

Current loss credit

(4C) In the formula in subsection (4)(b), the item **current loss credit** is the amount given by subsection (2).

Exploration abandonment excess

(4D) In the formula in subsection (4)(b), the item **exploration abandonment excess** is the greater of zero and,—

(a) if the amount described in subsection (1)(a)(iii) is zero or the amount of the net loss described in subsection (1)(c) is less than or equal to the total amount of the deductions described in subsection (1)(a)(i) and (ii), zero; or

(b) if the amount of the net loss described in subsection (1)(c) is equal to or exceeds the total amount of the deductions described in subsection

(1)(a)(i) to (iii) and the amount described in subsection (1)(a)(iii) is greater than zero, the amount calculated by multiplying the amount referred to in subsection (1)(a)(iii) for the income year by the tax rate referred to in subsection (3)(b) and subtracting the amount of income tax (the **post-abandonment tax**) paid by,—

(i) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for tax years beginning after drilling for the purposes of exploration ceased in the exploratory well, calculated on a year-by-year basis and aggregated:

(ii) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for tax years beginning after drilling for the purposes of exploration ceased in the exploratory well, calculated on a year-by-year basis and aggregated; or

(c) if neither of paragraphs (a) and (b) applies, the amount calculated using the formula—

(net loss - decommissioning deductions) × tax rate - post-abandonment tax.

Definition of items in formula

(4E) In the formula in subsection (4D)(c),—

(a) **net loss** is the amount of the net loss described in subsection (1)(c):

(b) **decommissioning deductions** is the total amount of the deductions described in subsection (1)(a)(i) and (ii):

(c) **tax rate** is the tax rate referred to in subsection (3)(b):

(d) **post-abandonment tax** is the amount of income tax described in subsection (4D)(b).

Consolidated groups

(5) For the purposes of subsections (4B) and (4D), the amount of income tax paid by the consolidated group includes income tax paid on net income derived for tax years before the petroleum miner or farm-in party joined the group.

Treatment of trustees

(6) For the purposes of subsections (4B) and (4D), if the petroleum miner or farm-in party is a trustee of a trust, the amount of tax paid for each earlier tax year is determined—

(a) first, by reference to the amount of income tax paid under the obligations of a trustee under section HC 32 (Liability of trustee as agent); and

(b) secondly, by reference to the amount of tax paid on trustee income; and

(c) calculated on a year-by-year basis and aggregated.

Calculations on year-by-year basis

(7) In subsections (4B), (4D), and (6)(c) a reference to a calculation on a year-by-year basis refers to a calculation starting with the immediately preceding tax year and working backwards to earlier tax years until the amount of tax paid is equal to or more than the current loss credit.

Treatment of tax losses

(8) To the extent to which the petroleum miner or farm-in party has a tax credit under this section, the amount of the net loss giving rise to the credit does not form part of a tax loss component for the petroleum miner or farm-in party.

Nature of tax credits

(9) The tax credit is available for use under section LA 6(2) (Remaining refundable credits: PAYE, RWT, and certain other items).

Relationship with other sections

(10) Subsection (8) overrides section IA 2 (Tax losses).

Defined in this Act: amount, amount of tax, Commissioner, consolidated group, decommissioning, deduction, farm-in party, income, income tax, income year, interest, net income, net loss, pay, permit area, petroleum miner, petroleum mining operations, petroleum permit, notify, return of income, tax credit, tax loss, tax loss component, tax year, trustee, trustee income

Section LT 1: inserted, on 1 April 2018, by section 162(1) (and see section 162(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section LT 1(1)(a)(ii): amended, on 30 March 2022, by section 130(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(1)(a)(iii): inserted, on 30 March 2022, by section 130(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(2): amended, on 30 March 2022, by section 130(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(3)(a): amended, on 30 March 2022, by section 130(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4) heading: replaced, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4): replaced, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4B) heading: inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4B): inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4C) heading: inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4C): inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4D) heading: inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4D): inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4D)(a): amended (with effect on 30 March 2022), on 31 March 2023, by section 90 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section LT 1(4E) heading: inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(4E): inserted, on 30 March 2022, by section 130(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(5): amended, on 30 March 2022, by section 130(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(6): amended, on 30 March 2022, by section 130(7) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(7): amended, on 30 March 2022, by section 130(8)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LT 1(7): amended, on 30 March 2022, by section 130(8)(b) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

LT 2 Petroleum mining operations outside New Zealand

Section LT 1 applies with modifications

(1) Section LT 1 applies as modified by this section to a petroleum miner undertaking petroleum mining operations or decommissioning outside New Zealand through a branch or a controlled foreign company in relation to those operations outside New Zealand.

Net losses

(2) The net loss referred to in section LT 1(1)(c) for the petroleum miner is the net loss the petroleum miner would have if section DT 1A(4) (Ring-fenced allocations) did not apply.

Maximum amounts

(3) The maximum amount of the credit referred to in section LT 1(4) for the petroleum miner in relation to the petroleum mining operations or decommissioning outside New Zealand must not be more than the lesser of—

(a) the result of the formula in section LT 1(2); and

(b) the amount of income tax paid by the petroleum miner and any consolidated group of which the petroleum miner is a member on net income derived for all earlier tax years that relates to the petroleum mining operations or decommissioning outside New Zealand, calculated on a year-by-year basis and aggregated.

Consolidated groups, trustees, calculations on year-by year basis

(4) Section LT 1(5), (6), and (7) applies, with any necessary modifications, for the purposes of subsection (3).

Defined in this Act: amount, consolidated group, controlled foreign company, decommissioning, farm-in party, income tax, net income, net loss, New Zealand, pay, petroleum miner, petroleum mining operations, tax credit, tax year

Section LT 2: inserted, on 1 April 2018, by section 162(1) (and see section 162(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart LU—Tax credits for mineral miners

Subpart LU: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 106(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

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LU 1 Tax credits for mineral miners

When this section applies

(1) This section applies for an income year when—

(a) either—

(i) a mineral miner incurs an amount of mining rehabilitation expenditure in relation to a mining permit area; or

(ii) a mineral miner derives an amount under section CU 2 (Treatment of mining land) from the disposal of land or an interest in land in a mining permit area, and the amount the mineral miner derives from the disposal is less than the consideration that the mineral miner paid to acquire the land or interest in land; or

(iii) a mineral miner incurs an amount of mining development expenditure in relation to a mining permit area for which the mining permit has been relinquished, has expired, has been revoked or surrendered, as those terms are used in the Crown Minerals Act 1991, and the miner has no existing privilege for the permit area; and

(b) the mineral miner has a net mining loss for the mining permit area for the income year that is greater than the net income of the mineral miner for the income year from all other sources (the difference being the excess amount), calculated as follows:

(i) the mineral miner's net mining loss is treated as if their only income were income derived from the mining permit area:

(ii) the net income of the mineral miner from other sources is treated as if there were no income from the mining permit area.

Tax credit

(2) The mineral miner has a tax credit for the tax year corresponding to the income year for an amount calculated using the formula—

expenditure or loss × tax rate.

Definition of items in formula

(3) In the formula,—

(a) **expenditure or loss** is the excess amount referred to in subsection (1)(b) to the extent to which it consists of the amounts referred to in subsection (1)(a)(i) to (iii):

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Maximum

(4) Despite subsection (2), the maximum amount of the credit must not be more than the lesser of—

(a) the result of the formula; and

(b) the amount of income tax paid by the mineral miner on net income derived for all earlier tax years to the extent to which it relates to the mining permit area, calculated on a year-by-year basis and aggregated.

Treatment of trustees

(5) For the purposes of subsection (4), if the mineral miner is a trustee of a trust, the amount of tax paid for each earlier tax year is determined—

(a) first, by reference to the amount of income tax paid under the obligations of a trustee under section HC 32 (Liability of trustee as agent); and

(b) secondly, by reference to the amount of tax paid on trustee income; and

(c) calculated on a year-by-year basis and aggregated.

Treatment of individuals

(6) For the purposes of subsection (4), if the mineral miner is an individual, the amount of tax paid for earlier tax years is calculated on a year-by-year basis and aggregated, as if their only income were income derived from the mining permit area.

Calculated on a year-by-year basis

(7) In subsections (4)(b), (5)(c) and (6), a reference to a calculation on a year-by-year basis refers to a calculation starting with the immediately preceding tax year and working backwards to earlier tax years until the amount of tax paid is equal to or more than the amount referred to in subsection (4)(a).

Treatment of tax loss

(8) To the extent to which the mineral miner has a tax credit under this section, the amount of the net mining loss giving rise to the credit does not form part of either a tax loss component or a net mining loss for the mineral miner.

Nature of tax credit

(9) The tax credit is available for use under section LA 6(2) (Remaining refundable credits: PAYE, RWT, and certain other items).

Relationship with other sections

(10) Subsection (8) overrides sections IA 2 and IA 7 (which relate to losses generally) and IS 1, IS 2, and IS 6 (which relate to tax losses for mineral mining).

Defined in this Act: amount, income, income year, interest, land, mineral miner, mining development expenditure, mining rehabilitation expenditure, net income, net mining loss, pay, permit area, tax credit, tax loss, tax loss component, tax year

Section LU 1: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 106(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section LU 1(4)(b): amended (with effect on 1 April 2014), on 24 February 2016, by section 204(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LU 1 list of defined terms **net income**: inserted (with effect on 1 April 2014), on 24 February 2016, by section 204(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section LU 1 list of defined terms **net mining income**: repealed (with effect on 1 April 2014), on 24 February 2016, by section 204(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Subpart LY—Research and development tax credits

Subpart LY: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

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LY 1 Research and development tax credits

Purpose

(1) The purpose of this subpart is to—

(a) provide a tax credit (a **research and development tax credit**) as an incentive to a person for performing, or contracting for the performance of, activities to create new knowledge, or new or improved processes, services, or goods; and

(b) ensure that activities, expenditure and losses do not inappropriately qualify for research and development tax credits.

General structure of this subpart

(2) In this subpart—

(a) **research and development activity** is defined in section LY 2, along with other key terms:

(b) section LY 3 provides when this subpart applies:

(c) the amount of a person's research and development tax credit for a tax year is calculated under section LY 4 by reference to their expenditure or loss in relation to their research and development activities. Sections LY 5, LY 6, and LY 7 provide detailed rules as to what is eligible expenditure:

(d) section LY 8 provides for the carry forward of unused research and development tax credits from the current tax year:

(e) section LY 9 provides an empowering provision for the Governor-General to make Orders in Council to maintain the lists in schedules 21 and 21B (which relate to activities and expenditure or loss for the research and development tax credit):

(f) section LY 10 provides for a 5-yearly evaluation of the research and development tax credit regime.

Tax credit

(3) A person has a tax credit for the tax year equal to the total of—

(a) their credit calculated under section LY 4; and

(b) their credit carried forward and credited to the year, as provided by section LY 8.

Tax credit: joint venturers' apportionment

(4) Despite subsection (3), a person who is a member of a joint venture in relation to research and development activities has a tax credit for the tax year equal to their proportion of their interest in the joint venture.

Anti-avoidance

(5) Section GB 56 (Arrangements involving research and development tax credits) provides a specific anti-avoidance provision.

Expenditure or loss: GST

(6) For the purposes of calculating the amount of a person's expenditure or loss, section DB 2 (Goods and services tax) is applied to the amounts.

Defined in this Act: amount, goods, income year, research and development activity, research and development tax credit, services, tax year

Section LY 1: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 1(4): amended (with effect on 1 April 2019), on 23 March 2020, by section 162(1) (and see section 162(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

LY 2 Key terms

Meaning of core research and development activity

(1) **Core research and development activity**—

(a) means an activity that—

(i) is conducted using a systematic approach; and

(ii) has a material purpose of creating new knowledge, or new or improved processes, services, or goods; and

(iii) has a material purpose of resolving scientific or technological uncertainty; but

(b) does not include an activity, if knowledge required to resolve the uncertainty, described in paragraph (a)(iii), is—

(i) publicly available:

(ii) deducible by a competent professional in the relevant scientific or technological field; and

(c) does not include an activity to the extent to which it is performed outside New Zealand; and

(d) does not include an activity to the extent to which it is described in schedule 21, part A.

Meaning of research and development activity

(2) **Research and development activity**, for a person, means an activity that is—

(a) a core research and development activity:

(b) a supporting research and development activity.

Meaning of supporting research and development activity

(3) **Supporting research and development activity**—

(a) means an activity that has the only or main purpose of, is required for, and integral to, conducting a person's core research and development activity; but

(b) does not include an activity to the extent to which it is described in schedule 21, part B.

Defined in this Act: core research and development activity, goods, New Zealand, research and development activity, services, supporting research and development activity

Section LY 2: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

LY 3 When this subpart applies

When this subpart applies

(1) This subpart applies for a person for an income year, if—

(a) the person or a joint venture of which the person is a member performs a core research and development activity in New Zealand, or, if the person does not perform a core research and development activity in New Zealand, a research and development contractor performs a core research and development activity in New Zealand on behalf of the person as part of a business that the contractor carries on in New Zealand through a fixed establishment in New Zealand; and

(b) the person or a joint venture of which the person is a member carries on a business in New Zealand through a fixed establishment in New Zealand; and

(c) the person or a joint venture of which the person is a member may use the results of the relevant core research and development activity and any related supporting research and development activities for no consideration, or the results of the relevant core research and development activity and any related supporting research and development activity are—

(i) owned by the person:

(ii) if the person is a company, owned by another company that is resident in New Zealand or in a country with which New Zealand has a double tax treaty, and the other company is in the same group of companies as the person:

(iii) owned by a joint venture of which the person is a member; and

(d) the relevant research and development activity and the person, as applicable, are approved under section 68CB or 68CC of the Tax Administration Act 1994 (which relate to in-year approval).

When this subpart does not apply

(2) Despite subsection (1), this subpart does not apply for a person, for an income year,—

(a) if they fail to file a return of income for the income year on or before the date that is 1 year after the latest date for them to file the return of income for the year under section 37 of the Tax Administration Act 1994:

(b) if they receive a Callaghan Innovation Growth Grant, or they are directly or indirectly controlled by, or associated with, a recipient of a Callaghan Innovation Growth Grant:

(c) to the extent to which the person is a research and development contractor for another person (**person B**) in relation to a research and development activity, if person B carries on a business in New Zealand through a fixed establishment in New Zealand:

(d) if the person is, or is directly or indirectly controlled by, or is associated with,—

(i) a Crown research institute:

(ii) Health New Zealand:

(iii) a tertiary education organisation, including a foreign tertiary education organisation:

(iv) Callaghan Innovation:

(e) if the person is a member of a joint venture or a partner in a partnership or has owner's interests for a look-through company, and the person is not resident in New Zealand in the tax year:

(f) if the person is not a levy body researcher and the person derives exempt income under section CW 38, CW 39, CW 40, CW 41, CW 42, or CW 55BA (which relate to exempt income).

Exception: carry forward

(3) Despite subsection (1), sections LY 1(3)(b) and LY 8 may apply to carry forward a person's research and development tax credit.

Special rule: levy body researcher

(4) For the purposes of subsection (1), a person that is a levy body researcher is treated as carrying on a business in New Zealand through a fixed establishment in New Zealand.

Relationship with subject matter

(5) Section LZ 13 (Part-year override of section LY 3(2)(b)) overrides subsection (2)(c) for the 2020–21 income year.

Defined in this Act: associated, business, core research and development activity, exempt income, fixed establishment, group of companies, levy body researcher, look-through company, New Zealand, owner's interests, partner, partnership, research and development contractor, return of income

Section LY 3: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 3(1)(d): replaced, on 1 April 2020, by section 40(1) (and see section 38 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 3(2)(d)(ii): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section LY 3(2)(d)(iii): replaced (with effect on 1 April 2019), on 23 March 2020, by section 163(1) (and see section 163(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3(2)(d)(iv): inserted (with effect on 1 April 2019), on 23 March 2020, by section 163(1) (and see section 163(8) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3(2)(f): inserted, on 1 April 2020, by section 163(2) (and see section 163(7) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3(4) heading: amended, on 1 April 2020, by section 163(3) (and see section 163(7) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3(4): amended, on 1 April 2020, by section 163(4) (and see section 163(7) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3(5) heading: inserted, on 1 April 2020, by section 40(2) (and see section 38 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 3(5): inserted, on 1 April 2020, by section 40(2) (and see section 38 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 3(5): amended, on 1 April 2020, by section 163(5) (and see section 163(7) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3 list of defined terms **exempt income**: inserted, on 1 April 2020, by section 163(6)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3 list of defined terms **levy body researcher**: inserted, on 1 April 2020, by section 163(6)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 3 list of defined terms **non-business researcher**: repealed, on 1 April 2020, by section 163(6)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

LY 4 Calculation of tax credit

When this section applies: thresholds

(1) This section applies for a tax year and a person, ignoring, for purposes of this subsection only, sections HB 1 and HG 2 (which relate to entity transparency) and substituting as the relevant person the person's partnership or look-through company, when—

(a) the person's eligible research and development expenditure, together with eligible research and development expenditure for any joint venture of which the person is a member, is $50,000 or more for the year:

(b) the person has, for the year, eligible research and development expenditure for an approved research provider performing a research and development activity on behalf of the person.

Calculation of tax credit

(2) A person's research and development tax credit for a tax year is calculated using the formula—

$$0.15 \times \text{total eligible R \& D expenditure.}$$

Definition of item in formula

(3) In the formula, **total eligible R & D expenditure** means the lesser of—

(a) $120 million, or the person's approved research and development cap if the person has an approved research and development cap:

(b) the total amount of the person's eligible research and development expenditure for the corresponding income year.

Defined in this Act: amount, approved research and development cap, approved research provider, eligible research and development expenditure, look-through company, loss, partnership, research and development activity, tax year

Section LY 4: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

LY 5 Eligible research and development expenditure

Eligible research and development expenditure

(1) For the purposes of this subpart, **eligible research and development expenditure**—

(a) means expenditure or loss, described in schedule 21B, part A, if, for the income year, the expenditure or loss—

(i) directly relates to a research and development activity; and

(ii) is required for a research and development activity; and

(iii) is integral to a research and development activity; and

(ab) includes expenditure or loss, described in schedule 21B, part A, to the extent to which the expenditure or loss is incurred on a supporting research and development activity conducted—

(i) in the income year immediately before the income year that this subpart first applies for the core research and development activity to which the supporting activity relates:

(ii) in the income year immediately after the income year that this subpart last applies for the core research and development activity to which the supporting activity relates; but

(b) does not include expenditure or loss, to the extent to which the expenditure or loss is described in schedule 21B, part B:

(c) does not include expenditure or loss that would have been incurred in the absence of the research and development activity, if—

(i) the research and development activity is performed in the course of commercial production; and

(ii) the expenditure or loss is not in relation to an employee's contribution to a research and development activity.

Modification of eligible research and development expenditure

(2) Despite subsection (1), for an amount that is otherwise eligible research and development expenditure,—

(a) an amount that is for a research and development contractor to perform research and development activities for the person is only eligible research and development expenditure to the extent to which section LY 6 provides:

(b) an amount that is incurred on a research and development activity performed outside New Zealand, or is a payment of salary or wages to a non-resident, or is a payment for a service performed by a non-resident is only eligible research and development expenditure to the extent to which section LY 7 provides.

No double dip for contractors and others

(3) A person does not have eligible research and development expenditure to the extent to which the relevant expenditure or loss is eligible research and development expenditure of another person.

Defined in this Act: amount, eligible research and development expenditure, income year, loss, New Zealand, non-resident, pay, research and development activity, research and development contractor, salary or wages

Section LY 5: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 5(1)(a): replaced (with effect on 1 April 2019), on 30 March 2021, by section 120(1) (and see section 120(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 5(1)(a): amended (with effect on 1 April 2020), on 30 March 2022, by section 131(1) (and see section 131(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LY 5(1)(ab): inserted (with effect on 1 April 2020), on 30 March 2022, by section 131(2) (and see section 131(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

LY 6 Contracted research and development expenditure

When this section applies

(1) This section applies for a person for the purposes of section LY 5(2)(a) if the person has an amount of expenditure or loss (**contracted research and development expenditure**) for a research and development contractor to perform research and development activities for them.

Calculation of eligible research and development expenditure: contracted research and development expenditure

(2) For the purposes of section LY 5(2)(a), eligible research and development expenditure includes an amount of contracted research and development expenditure, described in subsection (1), to the extent of the amount calculated using the formula—

contract amount − ineligible expenditure.

Definition of items in formula

(3) In the formula,—

(a) **contract amount** means the amount of consideration paid or payable by the person to a contractor to perform research and development activities:

(b) **ineligible expenditure** means the contractor's expenditure or loss in relation to performing the research and development activity, to the extent to which the expenditure or loss is not eligible research and development expenditure under section LY 5(1), treating the contractor as the relevant person for the purposes of that section.

Relationship with subject matter

(4) If an amount of contracted research and development expenditure, described in subsection (1), is also foreign research and development expenditure, described in section LY 7(1), then section LY 7 overrides this section in relation to that amount.

Defined in this Act: amount, eligible research and development expenditure, loss, research and development activity, research and development contractor

Section LY 6: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

LY 7 Foreign research and development expenditure

When this section applies

(1) This section applies for a person for the purposes of section LY 5(2)(b) if the person has an amount of expenditure or loss (**foreign research and development expenditure**) that—

(a) is incurred on a supporting research and development activity performed outside New Zealand:

(b) is a payment of salary or wages to a non-resident person, and the non-resident performs the relevant activity in New Zealand:

(c) is a payment for a service performed by a non-resident person, and the non-resident performs the relevant activity in New Zealand.

Calculation of eligible research and development expenditure: foreign research and development expenditure

(2) For the purposes of section LY 5(2)(b), **eligible research and development expenditure** includes an amount of foreign research and development expenditure, described in subsection (1), to the extent the amount is less than or equal to the lesser of—

(a) the amount given by the formula in subsection (3):

(b) the amount given by the formula in subsection (5).

Actual overseas expenditure amount

(3) For the purposes of subsection (2)(a), the amount is calculated using the formula—

contract amount − ineligible expenditure + foreign in-house amount.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **contract amount** means the amount of foreign research and development expenditure, described in subsection (1)(a) and (c), for another person (a **foreign contractor**) to perform research and development activities on behalf of the person:

(b) **ineligible expenditure** means the foreign contractor's expenditure or loss in relation to performing the research and development activities, to the extent to which the expenditure or loss is not eligible research and development expenditure under section LY 5(1), treating the foreign contractor as the relevant person for the purposes of that section:

(c) **foreign in-house amount** means the amount of foreign research and development expenditure, described in subsection (1), under section LY 5(1) but ignoring amounts for a foreign contractor to perform research and development activities for the person.

Capped overseas expenditure amount

(5) For the purposes of subsection (2)(b), the amount is calculated using the formula—

$$0.1 \times \text{total NZ R \& D expenditure} \div 0.9.$$

Definition of item in formula

(6) In the formula in subsection (5), **total NZ R & D expenditure** means the amount of eligible research and development expenditure under section LY 5, but excluding any amount in relation to foreign research and development expenditure, described in subsection (1).

Defined in this Act: amount, core research and development activity, eligible research and development expenditure, loss, New Zealand, non-resident, research and development activity

Section LY 7: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

LY 8 Carry forward for remaining research and development tax credits

Carry forward

(1) For the purposes of section LA 5(4B) (Treatment of remaining credits), a person's remaining research and development tax credit for a tax year is carried forward to the next tax year and credited under section LY 1(3)(b) for that next tax year.

Carry forward: exception

(2) Despite subsection (1), if the person is a company, the remaining tax credit is extinguished and must not be carried forward and credited, unless the continuity rules in subsection (3) are met. This subsection is subject to subsections (4B) to (6).

Carry forward: another exception

(2B) Despite subsection (1), if a person is not a levy body researcher and the person derives exempt income for the tax year under section CW 38, CW 39, CW 40,

CW 41, CW 42, or CW 55BA (which relate to exempt income), the remaining tax credit is extinguished and must not be carried forward and credited.

Continuity rules

(3) For a company, the remaining tax credit is carried forward and credited if a group of persons exists that has, for the continuity period,—

(a) minimum voting interests in the company that total 49% or more; and

(b) when a market value circumstance exists for the company in the continuity period, minimum market value interests in the company that total 49% or more.

Some definitions

(4) In this section,—

continuity period means the period that starts on the first day of the income year that corresponds to the tax year in which the research and development tax credit first arises and ends on the last day of the income year that corresponds to the tax year to which the credit is being carried forward and credited to:

minimum market value interest means the lowest market value interest that a person has in the company for the continuity period:

minimum voting interest means the lowest voting interest that a person has in the company for the continuity period.

Breach of continuity

(4B) If a company's remaining tax credit cannot be carried forward and credited because the requirements of subsection (3) are not met, the company may apply subsection (4C), or subsections (5) and (6), to determine whether some or all of its remaining tax credit is carried forward and credited.

Carry forward of credits despite continuity breach

(4C) Despite a breach of continuity under subsection (3), a company may carry forward a remaining research and development tax credit arising in a tax year to a later tax year and credit it under section LY 1(3)(b) for that later tax year, if the remaining tax credit could be carried forward to that later tax year under subpart IB (Carrying forward companies' loss balances: continuity of business activities), treating the remaining tax credit as a tax loss component arising on the last day of the income year corresponding to the tax year in which the credit first arose.

Credits for earlier income years

(5) Despite a breach of continuity under subsection (3), a person's remaining research and development tax credit for an earlier tax year may be carried forward to a tax year (**year A**) and credited under section LY 1(3)(b) to the extent to which—

(a) the requirements for continuity of ownership would be met if the continuity period included only part of the income year of the company that corresponds to year A; and

(b) the company provides the Commissioner with adequate financial statements relating to the continuity period, calculating the amount of the person's income tax liability for the relevant part of the corresponding income year.

Credits for year of breach

(6) Despite a breach of continuity under subsection (3), a person's remaining research and development tax credit may be carried forward to the tax year (**year B**) from year A and credited under section LY 1(3)(b) to the extent to which—

(a) the requirements for continuity of ownership would be met if the continuity period included only part of the income year of the company that corresponds to year A; and

(b) the company provides the Commissioner with adequate financial statements relating to the continuity period, calculating the amount of the person's research and development tax credit for the relevant part of the corresponding income year.

Defined in this Act: company, continuity period, corresponding income year, exempt income, group of persons, income year, market value circumstance, market value interest, minimum market value interest, minimum voting interest, research and development tax credit, tax credit, tax loss component, tax year, voting interest

Section LY 8: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 8(2): amended (with effect on 1 April 2020), on 30 March 2021, by section 121(1) (and see section 121(6) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 8(2B) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 164(1) (and see section 164(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 8(2B): inserted (with effect on 1 April 2019), on 23 March 2020, by section 164(1) (and see section 164(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 8(4B) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 121(2) (and see section 121(6) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 8(4B): inserted (with effect on 1 April 2020), on 30 March 2021, by section 121(2) (and see section 121(6) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 8(4C) heading: inserted (with effect on 1 April 2020), on 30 March 2021, by section 121(2) (and see section 121(6) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 8(4C): inserted (with effect on 1 April 2020), on 30 March 2021, by section 121(2) (and see section 121(6) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 8(5): amended (with effect on 1 April 2020), on 30 March 2021, by section 121(3) (and see section 121(6) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 8(6): amended (with effect on 1 April 2020), on 30 March 2021, by section 121(4) (and see section 121(6) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section LY 8 list of defined terms **exempt income**: inserted (with effect on 1 April 2019), on 23 March 2020, by section 164(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section LY 8 list of defined terms **tax loss component**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 121(5) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

LY 9 Orders in Council

Purpose

(1) The purpose of subsection (2) is to provide a power to maintain the intent of the research and development tax credit regime in accordance with its stated purpose in section LY 1(1).

Order in Council

(2) The Governor-General may, by Order in Council made on the joint recommendation of the Minister of Revenue and the Minister of Science, Innovation, and Technology,—

(a) add the description of an activity or of an expenditure or loss, as applicable, to—

(i) schedule 21:

(ii) schedule 21B:

(b) remove the description of an activity or of an expenditure or loss, as applicable, from—

(i) schedule 21:

(ii) schedule 21B.

Recommendation

(3) Before making a recommendation referred to in subsection (2), the Ministers must be satisfied that—

(a) they have consulted with persons they consider to be appropriate in light of the relevant addition or removal; and

(b) they have had regard to—

(i) the purpose in section LY 1(1) and maintaining the intent of the definitions of research and development activity and eligible research and development expenditure; and

(ii) the effect of the recommendation on the creation of new scientific or technological knowledge; and

(iii) the fiscal impact of the recommendation.

Application for future tax years

(4) An addition or removal by Order in Council under this section must apply for the income year corresponding to the tax year after the tax year in which it is made, and subsequent income years.

Secondary legislation

(4B) An Order in Council under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Sunset

(5) An Order in Council under this section expires on the date that is 3 years after the last day of the tax year that the Order first applies for.

Defined in this Act: eligible research and development expenditure, income year, loss, research and development activity, research and development tax credit, tax year

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section LY 9: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 9(2): amended (with effect on 27 November 2023), on 29 March 2025, by section 108 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LY 9(4B) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section LY 9(4B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section LY 9 list of defined terms **research and development tax credit**: inserted (with effect on 1 April 2019), on 30 March 2022, by section 132 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LY 9 list of defined terms **research and development tax credits**: repealed (with effect on 1 April 2019), on 30 March 2022, by section 132 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

LY 10 Evaluation

The Minister of Science, Innovation, and Technology will lay a report before the House of Representatives as soon as practicable after the end of the 2023–24 tax year, and every 5 years subsequent, objectively and independently evaluating the research and development tax credit regime in terms of all of the following:

(a) the delivery of the policy intent of the regime:

(b) the stimulation of spending on research and development activities:

(c) the compliance costs of the regime:

(d) the administration of the regime:

(e) the compliance with the legal requirements of the regime by taxpayers:

(f) any other criteria specified by the Minister of Science, Innovation, and Technology.

Defined in this Act: research and development activity, research and development tax credit

Section LY 10: inserted, on 1 April 2019, by section 10 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LY 10: amended (with effect on 27 November 2023), on 29 March 2025, by section 109 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LY 10(f): amended (with effect on 27 November 2023), on 29 March 2025, by section 109 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section LY 10 list of defined terms **research and development activities**: repealed (with effect on 1 April 2019), on 30 March 2022, by section 133(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LY 10 list of defined terms **research and development activity**: inserted (with effect on 1 April 2019), on 30 March 2022, by section 133(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LY 10 list of defined terms **research and development tax credit**: inserted (with effect on 1 April 2019), on 30 March 2022, by section 133(b) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section LY 10 list of defined terms **research and development tax credits**: repealed (with effect on 1 April 2019), on 30 March 2022, by section 133(b) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

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Underlying foreign tax credits

[Repealed]

Heading: repealed, on 30 June 2014, by section 134 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

LZ 1 Low tax jurisdiction companies

[Repealed]

Section LZ 1: repealed, on 2 November 2012, by section 119 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Credits for certain non-resident investment companies

[Repealed]

Heading: repealed, on 30 June 2014, by section 134 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

LZ 2 Certain development projects

[Repealed]

Section LZ 2: repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 74(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

LZ 3 Interest derived from development investments

[Repealed]

Section LZ 3: repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 74(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

LZ 4 Dividends derived from development investments

[Repealed]

Section LZ 4: repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 74(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

LZ 5 Some definitions

[Repealed]

Section LZ 5: repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 74(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Credits for interest on home vendor mortgages

LZ 6 Interest on home vendor mortgages

When this section applies

(1) This section applies when, in a tax year, a person derives interest in relation to a home vendor mortgage.

Exclusions

(2) This section does not apply to—

- (a) an absentee; or
- (b) a company; or
- (c) a public authority; or
- (d) a Maori authority; or
- (e) an unincorporated body; or
- (f) a trustee liable for income tax under subpart HC (Trusts) and section HZ 2 (Trusts that may become complying trusts).

Tax credit

(3) The person is entitled to a tax credit equal to an amount calculated using the formula—

$$\text{interest} \times 0.020.$$

Definition of item in formula

(4) In the formula, **interest** means the amount of interest in complete dollars that the person derives in the tax year in relation to a home vendor mortgage.

Relationship to section LZ 7

(5) This section is overridden by section LZ 7.

Defined in this Act: absentee, amount, company, distribution, home vendor mortgage, income tax, interest, Maori authority, public authority, tax credit, tax year, trustee

Compare: 2004 No 35 s KE 1(1)

LZ 7 Maximum amount of credit under section LZ 6

Maximum amount: 1 person

(1) If only 1 person has provided the loan secured by a home vendor mortgage, the maximum amount of tax credit that the person is entitled to under section LZ 6 in a tax year is $500.

Maximum amount: 2 or more persons

(2) When 2 or more persons have provided the loan secured by a home vendor mortgage, for each person who has provided the loan, the maximum amount of tax credit under section LZ 6 in a tax year is calculated using the formula—

(loan provided ÷ loan secured) × $500.

Definition of items in formula

(3) In the formula,—

(a) **loan provided** is the amount of the loan provided by the persons:

(b) **loan secured** is the total amount of the loan secured by the home vendor mortgage.

Defined in this Act: amount, home vendor mortgage, loan, tax credit, tax year

Compare: 2004 No 35 s KE 1(1)

LZ 8 Meaning of home vendor mortgage

In sections LZ 6 and LZ 7, **home vendor mortgage** means a mortgage—

(a) that secures a loan provided by the vendor or vendors of a house; and

(b) that is guaranteed by the Housing New Zealand Corporation under its housing mortgage guarantee scheme; and

(c) that has been approved by the Housing New Zealand Corporation, on or before 5 August 1982, for the purpose of the credit under this section; and

(d) for which notice of such guarantee and approval and of any variation has been delivered by the Housing New Zealand Corporation to the Commissioner.

Defined in this Act: Commissioner, home vendor mortgage, loan, notice

Compare: 2004 No 35 s KE 1(3)

Credits for savings in special home ownership accounts

[Repealed]

Heading: repealed, on 2 June 2016, by section 50 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

LZ 9 Savings in special home ownership accounts

[Repealed]

Section LZ 9: repealed, on 2 June 2016, by section 50 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

LZ 10 Maximum amount for 1 special home ownership account for 1 tax year

[Repealed]

Section LZ 10: repealed, on 2 June 2016, by section 50 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

LZ 11 Maximum amount for all special home ownership accounts for all tax years

[Repealed]

Section LZ 11: repealed, on 2 June 2016, by section 50 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

LZ 12 Meaning of increase in savings

[Repealed]

Section LZ 12: repealed, on 2 June 2016, by section 50 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Research and development tax credits

Heading: inserted, on 1 April 2020, by section 41 (and see section 38 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

LZ 13 Part-year override of section LY 3(2)(b)

When this section applies

(1) This section applies for a person's 2020–21 income year if—

(a) the person's 2020–21 income year starts after 1 April 2020; and

(b) the person receives a Callaghan Innovation Growth Grant for only part of the 2020–21 income year.

Part-year override of section LY 3(2)(b)

(2) Despite section LY 3(2)(b) (When this subpart applies), subpart LY may apply to a person for the part of the year after their Callaghan Innovation Growth Grant contract ends, to the extent to which they appropriately apportion their eligible research and development expenditure to the research and development

tax credit and not to the Callaghan Innovation Growth Grant for that part of the year.

Defined in this Act: eligible research and development expenditure, income year, research and development tax credit

Section LZ 13: inserted, on 1 April 2020, by section 41 (and see section 38 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section LZ 13(2): amended, on 1 April 2020, by section 165 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

LZ 14 Research and development tax credits' refundability: option for 2019–20 income year

When this section applies

(1) This section applies for a person's 2019–20 income year when a person chooses to apply this section in their return of income for the 2019–20 income year.

(2) Despite section LA 5(4B), (5B), and (5C), a person's research and development tax credit is used by—

(a) first, the Commissioner refunding the tax credit up to a maximum of $255,000, by treating it as a refundable tax credit and applying section LA 6(2), if the person—

(i) meets the corporate eligibility criteria in section MX 2 (Corporate eligibility criteria); and

(ii) meets the wage intensity criteria in section MX 3 (Wage intensity criteria); and

(iii) does not derive exempt income, ignoring exempt income under sections CW 9 and CW 10 (which relate to income from dividends); and

(iv) is not associated with a person that derives exempt income, ignoring exempt income under sections CW 9 and CW 10:

(b) secondly, applying section LY 8 (Carry forward for remaining research and development tax credits), to the extent to which paragraph (a) does not apply to the tax credit.

Defined in this Act: associated person, exempt income, income year, refundable tax credit, research and development tax credit, return of income, tax credit

Section LZ 14: inserted (with effect on 1 April 2019), on 25 March 2020, by section 16(1) (and see section 16(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Part M
Tax credits paid in cash

Subpart MA—General provisions

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MA 1 What this Part does

This Part identifies the tax credits to which a natural person is entitled—

(a) under the family scheme for a tax year, *see* subparts MA to MG and MZ (which relate to working for families tax credits):

(ab) under the FamilyBoost tax credits scheme, *see* subpart MH (FamilyBoost tax credits):

(b) under the superannuation savings scheme for a year beginning on 1 July and ending on 30 June, *see* subpart MK (Tax credits for KiwiSaver schemes and complying superannuation funds):

(bb) for R&D tax losses for an income year beginning on or after 1 April 2015, *see* subpart MX (Tax credits for R&D tax losses).

(c) *[Repealed]*

Section MA 1: substituted, on 1 April 2008, by section 453 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 1: amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section MA 1(a): amended, on 1 July 2018, by section 6 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 1(ab): inserted, on 1 July 2024, by section 12 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section MA 1(bb): inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 205(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MA 1(c): repealed, on 1 April 2013, by section 6 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

MA 2 Relationship with core provisions

Section BC 8 (Satisfaction of income tax liability) deals with how a tax credit arising under this Part is applied.

Defined in this Act: tax credit

MA 3 Excluded income

A tax credit that a person has under this Part is excluded income of the person.

Defined in this Act: excluded income, tax credit

Compare: 2004 No 35 s KD 8

MA 4 Calculation of amounts of credit producing negative amounts

If a calculation under this Part produces a result that is negative for the amount of a tax credit or the amount of a component of a credit, the amount of the credit or component is zero.

Defined in this Act: amount, tax credit

Compare: 2004 No 35 s KB 3

MA 5 Advice from outside agencies

In determining a person's entitlement to a tax credit under subparts MB to MG and MZ, the Commissioner may obtain the advice of the chief executive or, as applicable, the General Manager of Veterans' Affairs New Zealand appointed under section 200(1) of the Veterans' Support Act 2014.

Defined in this Act: chief executive, Commissioner, tax credit

Compare: 2004 No 35 s KD 9

Section MA 5: amended, on 1 July 2018, by section 7 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 5: amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

MA 6 Avoidance arrangements

Arrangements involving tax credits for families

(1) Section GB 44 (Arrangements involving tax credits for families) may apply to reduce a tax credit under subparts MB to MG and MZ.

Arrangements involving FamilyBoost tax credits

(2) Section GB 44B (Arrangements involving FamilyBoost tax credits) may apply to reduce a tax credit under subpart MH (FamilyBoost tax credits).

Defined in this Act: tax credit

Section MA 6(1) heading: inserted, on 1 July 2024, by section 13(1) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section MA 6(1): amended, on 1 July 2018, by section 8 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 6(1): amended, on 1 April 2008, by section 454 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 6(2) heading: inserted, on 1 July 2024, by section 13(2) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section MA 6(2): inserted, on 1 July 2024, by section 13(2) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

MA 7 Meaning of full-time earner and earner for family scheme

Weekly employment: full-time earner

(1) In subparts MB to MG and MZ, a **full-time earner** means a person who, for a week,—

(a) is employed for 20 hours or more and does not have a spouse, civil union partner, or de facto partner during the week; or

(b) has a spouse, civil union partner, or de facto partner (the **partner**) during the week, and either the person or the partner or both of them in total are employed for 30 hours or more.

Weekly employment: earner

(1B) In subparts MB to MG and MZ, an **earner** means a person who, for a week—

(a) is employed during the week; or

(b) has a spouse, civil union partner, or de facto partner (the **partner**) during the week and the partner or both of them are employed during the week.

Modifications to weekly employment

(2) For the purposes of subsections (1) and (1B),—

(a) a person who is employed in a pay period that is longer than 1 week is treated as undertaking the employment activities to a uniform daily extent for the period:

(b) a person who is employed becomes incapacitated as described in subsection (3) and is unable to undertake employment in a week in which but for the incapacity they would be employed as provided by subsection (1B)(a) and (b) or would be employed for the number of hours set out in subsection (1)(a) and (b) is treated as having been employed or as having been employed for the hours referred to, as the case may be:

(bb) a person who has a payment period under the Compensation for Live Organ Donors Act 2016 and is employed at the start of the period is treated as being employed during the period for the hours for which the person would have been employed during the period but for the organ donation:

(c) a person is treated as employed in any week in relation to which the person receives parental leave payments or preterm baby payments under Part 7A of the Parental Leave and Employment Protection Act 1987 for the number of hours that the person would have worked in a week that the person normally worked in their last period of employment before that week:

(d) a person who receives or will receive weekly compensation from the Accident Compensation Corporation, Veterans' Affairs New Zealand, or both, as a surviving spouse or partner of a deceased claimant is treated as being employed, during the week to which that compensation relates, for the number of hours that the deceased claimant would have been employed for in a week before dying, but for their incapacity. The number of hours under this paragraph are in addition to the person's own hours.

Incapacity

(3) The incapacity referred to in subsection (2)(b) and (d) is an incapacity due to—

(a) personal injury by accident for which an accident compensation earnings-related payment has been, is being, or will be paid:

(b) a service-related (as defined in section 7 of the Veterans' Support Act 2014) injury, illness, condition, or whole-person impairment for which a payment has been, is being, or will be paid, under the Veterans' Support Act 2014, and the payment is—

(i) weekly income compensation paid under Part 3, subpart 4 of that Act:

(ii) weekly compensation paid under Part 4, subpart 5 of that Act:

(iii) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54 or 55 of that Act.

Defined in this Act: accident compensation earnings-related payment, civil union partner, de facto partner, employment, pay, pay period, spouse

Compare: 2004 No 35 s OB 1 "full-time earner"

Section MA 7 heading: amended, on 1 July 2020, by section 17(1) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MA 7(1) heading: replaced, on 1 July 2020, by section 17(2) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MA 7(1): amended, on 1 July 2018, by section 9 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 7(1B) heading: inserted, on 1 July 2020, by section 17(3) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MA 7(1B): inserted, on 1 July 2020, by section 17(3) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MA 7(2): amended, on 1 July 2020, by section 17(4) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MA 7(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 349(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MA 7(2)(b): replaced, on 1 July 2020, by section 17(5) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MA 7(2)(bb): inserted, on 5 December 2017, by section 30 of the Compensation for Live Organ Donors Act 2016 (2016 No 96).

Section MA 7(2)(c): replaced, on 1 April 2016, by section 83 of the Parental Leave and Employment Protection Amendment Act 2016 (2016 No 8).

Section MA 7(2)(d): inserted (with effect on 1 April 2008), on 2 November 2012, by section 120(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MA 7(2)(d): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section MA 7(3): replaced, on 31 March 2015, by section 13 of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section MA 7 list of defined terms **employment**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 349(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

MA 8 Some definitions for family scheme

In subparts MB to MG and MZ,—

abating WFF tax credit means a tax credit under section MD 1 (Abating WFF tax credit)

Best Start credit abatement means the component of the Best Start tax credit that is calculated using the formula in section MG 3 (Best Start credit abatement)

Best Start tax credit means a tax credit under section MG 1 (Best Start tax credit entitlement)

chief executive means the chief executive of the department currently responsible for administering the Social Security Act 2018

child tax credit means the component of the WFF tax credit that is calculated using the formula in section MZ 2 (Calculation of child tax credit)

family assistance credit *[Repealed]*

family credit abatement means the component of the abating WFF tax credit that is calculated using the formula in section MD 13 (Calculation of family credit abatement)

family plus *[Repealed]*

family scheme *[Repealed]*

family scheme income means the amount, described in section MB 1 (Adjustments for calculation of family scheme income), based on a person's net income and adjusted as provided by subpart MB (Adjustment of net income for family scheme), on which an entitlement and a tax credit under the family scheme is based

family support *[Repealed]*

family tax credit means the component of the abating WFF tax credit calculated using the formula in section MD 3 (Calculation of family tax credit)

in-work payment *[Repealed]*

in-work tax credit means the component of the abating WFF tax credit calculated using the formula in section MD 10 (Calculation of in-work tax credit)

minimum family tax credit means a tax credit under section ME 1 (Minimum family tax credit)

net family scheme income *[Repealed]*

New Zealand resident—

(a) means ordinarily resident; and

(b) does not include being unlawfully resident in New Zealand; and

(c) does not include being lawfully resident in New Zealand only because of holding a temporary entry class visa

parental tax credit means the component of the abating WFF tax credit calculated using the formula in section MD 12

social assistance payment means—

(a) a main benefit; or

(b) a veteran's pension; or

(c) New Zealand superannuation; or

(d) a basic grant or an independent circumstances grant, made under regulations made under section 645 of the Education and Training Act 2020, or a substituted provision; or

(e) an accident compensation earnings-related payment, when the compensation relates to a day forming part of a continuous period of eligibility for the compensation and the day falls after the earlier of—

(i) the day with the same date as the first day of the continuous period of eligibility for compensation and occurring in the third calendar month after that first day; and

(ii) the last day of the third calendar month after the first day of the continuous period of eligibility for compensation

WFF tax credit means a tax credit under—

(a) section MD 1 (Abating WFF tax credit):

(b) section ME 1 (Minimum family tax credit):

(c) section MG 1 (Best Start tax credit entitlement)

Defined in this Act: abating WFF tax credit, accident compensation earnings-related payment, amount, child tax credit, Commissioner, family tax credit, in-work payment, main benefit, minimum family tax credit, net income, New Zealand, New Zealand superannuation, parental tax credit, relationship period, resident in New Zealand, tax credit, tax year, veteran's pension, WFF tax credit

Section MA 8: amended, on 1 July 2018, by section 10(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 8 **abating WFF tax credit**: inserted, on 1 April 2008, by section 455(1)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **Best Start credit abatement**: inserted, on 1 July 2018, by section 10(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 8 **Best Start tax credit**: inserted, on 1 July 2018, by section 10(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 8 **chief executive**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section MA 8 **child tax credit**: amended, on 1 April 2008, by section 455(1)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **family assistance credit**: repealed, on 1 April 2008, by section 455(1)(c) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **family credit abatement**: amended, on 1 April 2008, by section 455(1)(d) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **family plus**: repealed, on 1 April 2008, by section 455(1)(e) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **family scheme**: repealed, on 1 July 2018, by section 10(3) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 8 **family scheme income**: amended, on 1 April 2014 (applying for the 2014–15 and later income years), by section 107(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MA 8 **family support**: repealed, on 1 April 2008, by section 455(1)(f) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **family tax credit**: substituted, on 1 April 2008, by section 455(1)(g) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **in-work payment**: repealed, on 1 April 2008, by section 455(1)(h) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **in-work tax credit**: inserted, on 1 April 2008, by section 455(1)(h) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **minimum family tax credit**: inserted, on 1 April 2008, by section 455(1)(i) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **net family scheme income**: repealed, on 1 April 2008, by section 455(1)(j) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **New Zealand resident**: substituted, on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section MA 8 **parental tax credit**: amended, on 1 April 2008, by section 455(1)(k) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 **social assistance payment** paragraph (a): replaced, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MA 8 **social assistance payment** paragraph (d): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section MA 8 **WFF tax credit**: replaced, on 1 July 2018, by section 10(4) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MA 8 list of defined terms **abating WFF tax credit**: inserted, on 1 April 2008, by section 455(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 list of defined terms **entitlement period**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MA 8 list of defined terms **full-time earner**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 350 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MA 8 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MA 8 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MA 8 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 455(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 list of defined terms **WFF tax credit**: inserted, on 1 April 2008, by section 455(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MA 8 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 455(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subpart MB—Adjustment of net income for family scheme

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MB 1 Adjustments for calculation of family scheme income

Family scheme income: derivation

(1) The calculation of an entitlement and tax credit under the family scheme is based on a person's family scheme income. A person's family scheme income

is an amount based on their net income, and is adjusted as provided by this subpart. The following paragraphs apply in relation to assessable income derived by the person in a relationship period in an income year:

(a) to the extent to which the income is derived from employment during all or part of the income year, it is treated as derived at a uniform daily rate during the period of the employment; and

(b) to the extent to which the income is derived as a main benefit, it is treated as derived at a uniform daily rate during the period in the income year for which the benefit is paid to the person; and

(c) despite section 38(1) of the Tax Administration Act 1994,—

(i) to the extent to which the income is derived otherwise than under paragraph (a) or (b), it is treated as derived at a uniform daily rate during the income year; and

(ii) any expenditure incurred in deriving the income referred to in subparagraph (i) that is allowed as a deduction is treated as incurred at a uniform daily rate during the income year.

Exempt income included

(2) For the purposes of subsection (1), an amount derived by the person in the income year is not treated as exempt income if it is—

(a) an amount referred to in section CW 28(2)(a) or CW 32 (which relate to overseas pensions and maintenance payments):

(b) an amount of salary or wages that is exempt from income tax under an Act, or under a regulation or Order in Council made under an Act, that is listed in schedule 38 (Acts exempting income from tax: income included in family scheme income).

Deduction

(3) For the purposes of subsection (1), the person is allowed a deduction for—

(a) the amount of any payment, made by the person during the income year, of the kind referred to in section CW 32 (Maintenance payments); and

(b) the amount of any payment made by the person during the income year under section 27K of the Social Security Act 1964, as saved by section 256 of the Child Support Act 1991.

Tax loss of qualifying company

[Repealed]

(4) *[Repealed]*

Income from portfolio investment entities

(5) For the purposes of subsection (1),—

(a) an amount of income attributed by a portfolio investment entity to the person for an income year—

(i) is not included in family scheme income of the person for the income year if the portfolio investment entity is a superannuation fund or retirement savings scheme:

(ii) is included in family scheme income of the person for the income year if subparagraph (i) does not apply:

(b) a distribution from a listed PIE that is derived by the person in an income year is included in family scheme income of the person for the income year.

Retirement scheme contributions

(5B) For the purposes of subsection (1), an amount of retirement scheme contribution that is not excluded income of the person and would be their excluded income in the absence of section CX 50B(2) (Contributions to retirement savings schemes) is not included in family scheme income.

Amounts of depreciation loss on disposal of building

(5C) For the purposes of subsection (1), in relation to a building from the disposal of which the person derives assessable income, an amount of depreciation loss allowed in the 2002–03 or earlier income year is not included in family scheme income. However, this subsection does not apply to an amount of depreciation loss of a business or investment activity that under section MB 3 is treated as having no net income for the purposes of calculating family scheme income.

Deposits in main income equalisation accounts

(5D) For the purposes of subsection (1), the person's family scheme income is increased by the amount of a main income equalisation deposit the person makes for the income year.

Refunds from main income equalisation accounts

(5E) For the purposes of subsection (1), the person's family scheme income does not include the amount of a main income equalisation refund the person receives for the income year.

All known income sources

[Repealed]

(6) *[Repealed]*

Transitional adjustments

(7) The amounts described in section MZ 2 (Calculation of child tax credit) are not included in the person's family scheme income.

Defined in this Act: amount, assessable income, business, Commissioner, deduction, depreciation loss, excluded income, exempt income, family scheme, family scheme income, income, income from employment, income tax, income year, listed PIE, main benefit, main income equalisation account, main income equalisation deposit, main income equalisation refund, net income, pay, portfolio investment entity, qualifying company, relationship period, retirement savings scheme, retirement scheme contribution, salary or wages, shareholder, superannuation fund, tax credit, tax loss, tax year

Compare: 2004 No 35 s KD 1(1)(a), (b), (e)(vii), (i), (3)

Section MB 1(1) heading: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 108(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 1(1): amended, on 1 April 2014 (applying for the 2014–15 and later income years), by section 108(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 1(1)(b): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MB 1(2): substituted, on 1 April 2011, by section 111(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1(2)(a): amended, on 17 July 2013, by section 75 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section MB 1(4) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section MB 1(4): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section MB 1(5) heading: substituted, on 1 April 2011, by section 111(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1(5): substituted, on 1 April 2011, by section 111(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1(5B) heading: inserted, on 1 April 2008, by section 456(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MB 1(5B): inserted, on 1 April 2008, by section 456(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MB 1(5C) heading: inserted (with effect on 1 April 2008), on 7 December 2009, by section 84(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section MB 1(5C) heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1(5C): inserted (with effect on 1 April 2008), on 7 December 2009, by section 84(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section MB 1(5C): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1(5C): amended (with effect on 1 April 2011), on 30 June 2014, by section 135 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 1(5D) heading: replaced (with effect on 1 April 2011), on 24 February 2016, by section 206(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1(5D): replaced (with effect on 1 April 2011), on 24 February 2016, by section 206(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1(5E) heading: inserted (with effect on 1 April 2011), on 24 February 2016, by section 206(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1(5E): inserted (with effect on 1 April 2011), on 24 February 2016, by section 206(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1(6) heading: repealed, on 1 April 2011, pursuant to section 111(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1(6): repealed, on 1 April 2011, by section 111(4) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1 list of defined terms **business**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section MB 1 list of defined terms **depreciation loss**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section MB 1 list of defined terms **income statement**: repealed, on 2 November 2012, by section 121 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MB 1 list of defined terms **income tax**: inserted, on 1 April 2011, by section 111(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MB 1 list of defined terms **LAQC**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section MB 1 list of defined terms **listed PIE**: inserted, on 1 April 2011, by section 111(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MB 1 list of defined terms **main income equalisation account**: inserted, on 1 April 2011, by section 111(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1 list of defined terms **main income equalisation deposit**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 206(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1 list of defined terms **main income equalisation refund**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 206(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 1 list of defined terms **portfolio investment entity**: inserted, on 1 April 2010, by section 351(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MB 1 list of defined terms **portfolio investor allocated income**: repealed, on 1 April 2010, by section 351(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MB 1 list of defined terms **retirement savings scheme**: inserted, on 1 April 2011, by section 111(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1 list of defined terms **retirement scheme contribution**: inserted, on 1 April 2008, by section 456(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MB 1 list of defined terms **salary or wages**: inserted, on 1 April 2011, by section 111(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 1 list of defined terms **superannuation fund**: inserted, on 1 April 2011, by section 111(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

MB 2 Adjustment for period that is less or more than 1 year

Calculation of adjustment

(1) If a person's income is calculated for a period that is less or more than a year, their family scheme income must be adjusted by an amount calculated using the formula—

person's family scheme income × 365 ÷ days.

Definition of items in formula

(2) In the formula,—

(a) **person's family scheme income** is the person's income calculated under subparts MB to MG and MZ:

(b) **days** is the total number of days in the period for which the income has been derived.

Defined in this Act: amount, family scheme income, income, year

Compare: 2004 No 35 s KD 1(4)–(6)

Section MB 2(2)(a): amended, on 1 July 2018, by section 11 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

MB 3 When person carries on 1 or more businesses or investment activities

When this section applies

(1) This section applies when a person carries on 1 or more businesses in the income year, or has or carries on 1 or more investment activities in the income year (each separate business or investment activity, a single **family scheme activity**).

Ignore income and deductions for net loss activity

(2) The income and deductions for a person's family scheme activity for an income year are ignored when calculating the person's family scheme income for the year if, treating the person as having only the income and deductions of that activity, the person would have a net loss for that year.

Modification of what counts as 1 family scheme activity

(3) For the purposes of applying subsection (2), and despite subsection (1), 2 or more family scheme activities may be treated as a single family scheme activity, if the Commissioner considers that the 2 or more activities are of the kind that are normally carried on in association with each other.

Apportionment of deductions between family scheme activities

(4) For the purposes of applying subsection (2) as modified by subsection (3), deductions that relate to an asset used in carrying on 2 or more family scheme activities must be appropriately apportioned between the activities on the basis of the use of that asset in those 2 or more activities.

Definition

(5) In this section, **investment activity** includes passive holding of an investment asset, other than a variable principal debt instrument.

Defined in this Act: business, deduction, family scheme income, income, income year, investment activity, net loss, variable principal debt instrument

Section MB 3: substituted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 93(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

MB 4 Family scheme income of major shareholders in close companies

When this section applies

(1) This section applies for the purposes of determining the amount that is included in the family scheme income of a person for an income year when the person is a major shareholder in a close company (the **company**) on the last day of the company's income year.

Income amount

(2) The amount included in the person's family scheme income is the greater of—

(a) zero; and

(b) the amount calculated using the formula in subsection (3), adjusted, if applicable, by subsections (7) and (8) for main income equalisation account amounts.

First formula: family scheme income

(3) For the purposes of subsection (2), the relevant amount is calculated using the formula—

(person's interest + attributed interest) × (income − dividends).

Definition of items in formula in subsection (3)

(4) In the formula in subsection (3),—

(a) **person's interest** is the percentage voting interests for the company held, on the last day of the company's income year, by the person:

(b) **attributed interest** is the amount calculated using the formula in subsection (5):

(c) **income** is the net income of the company for the company's income year:

(d) **dividends** is the total dividends paid by the company for the company's income year.

Second formula: attributed interest

(5) For the purposes of the item attributed interest in subsection (4)(b), the relevant amount is calculated using the formula—

dependent child interest ÷ relevant major shareholders.

Definition of items in formula in subsection (5)

(6) In the formula in subsection (5),—

(a) **dependent child interest** is the total percentage voting interests for the company held, on the last day of the company's income year, by—

(i) the person's dependent children:

(ii) dependent children of the person's spouse, civil union partner, or de facto partner:

(b) **relevant major shareholders** is the total number of the following people who are major shareholders of the company on the last day of the company's income year:

(i) the person:

(ii) the person's spouse, civil union partner, or de facto partner:

(iii) principal caregivers of the dependent children described in paragraph (a)(i) and (ii), but ignoring principal caregivers already counted under subparagraphs (i) and (ii) of this paragraph.

Main income equalisation deposits

(7) For the purposes of subsection (2)(b), if the company makes a main income equalisation deposit for the company's income year, the amount of the deposit is added to the item **income** in the formula in subsection (3).

Main income equalisation refunds

(8) For the purposes of subsection (2)(b), if the company receives a main income equalisation refund for the company's income year, the amount of the refund is subtracted from the item **income** in the formula in subsection (3).

Defined in this Act: amount, civil union partner, close company, de facto partner, dependent child, dividend, family scheme income, income year, main income equalisation account, main income equalisation deposit, main income equalisation refund, major shareholder, net income, principal caregiver, share, spouse, voting interest

Section MB 4: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 109(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 4(2): replaced (with effect on 1 April 2011), on 24 February 2016, by section 207(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 4(7) heading: inserted (with effect on 1 April 2011), on 24 February 2016, by section 207(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 4(7): inserted (with effect on 1 April 2011), on 24 February 2016, by section 207(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 4(8) heading: inserted (with effect on 1 April 2011), on 24 February 2016, by section 207(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 4(8): inserted (with effect on 1 April 2011), on 24 February 2016, by section 207(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 4 list of defined terms **main income equalisation account**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 207(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 4 list of defined terms **main income equalisation deposit**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 207(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 4 list of defined terms **main income equalisation refund**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 207(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

MB 5 Treatment of distributions from superannuation schemes

When this section applies

(1) This section applies when—

(a) a person receives a distribution from a superannuation scheme in an income year; and

(b) an employer of the person has made contributions to the superannuation scheme in—

(i) the income year in which the distribution was received; or

(ii) the 2 income years immediately before that income year; and

(c) the person continues to work for the employer for 1 month or more after the date of the distribution.

When this section does not apply

(2) This section does not apply to a person who receives a distribution from a superannuation scheme—

(a) as a result of and on or after the person's retirement from employment with an employer who was a contributor to the scheme:

(b) if the superannuation scheme is a KiwiSaver scheme or a complying superannuation fund.

Assessable income

(3) For the purposes of calculating family scheme income, the distribution referred to in subsection (1) is assessable income of the person derived in the tax year or years that corresponds to the income year or years in which the contributions were made. The amount does not include an amount attributable to a contribution by the person as a member of the superannuation scheme.

Defined in this Act: assessable income, complying superannuation fund, corresponding income year, employer, employment, family scheme income, income year, KiwiSaver scheme, superannuation scheme, tax year

Compare: 2004 No 35 s KD 1(1)(h)

Section MB 5(2): replaced (with effect on 1 April 2008), on 2 November 2012, by section 122(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MB 5 list of defined terms **complying superannuation fund**: inserted (with effect on 1 April 2008), on 2 November 2012, by section 122(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MB 5 list of defined terms **KiwiSaver scheme**: inserted (with effect on 1 April 2008), on 2 November 2012, by section 122(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

MB 6 Treatment of distributions from retirement savings schemes

When this section applies

(1) This section applies when—

(a) a person receives a distribution of a retirement scheme contribution from a retirement savings scheme in an income year; and

(b) RSCT has been withheld from the contribution; and

(c) at the time of the distribution, the person is—

(i) not eligible for New Zealand superannuation; and

(ii) eligible for a distribution of a retirement scheme contribution from a retirement scheme contributor.

Assessable income

(2) For the purposes of calculating family scheme income, the distribution is assessable income of the person derived in the income year in which the distribution is made.

Defined in this Act: assessable income, family scheme income, income year, New Zealand superannuation, retirement savings scheme, retirement scheme contribution, retirement scheme contributor, RSCT

Compare: 2004 No 35 s KD 1(1)(hb)

Section MB 6: added, on 1 April 2008, by section 457 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MB 7 Family scheme income of settlor of trust

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when the person is the settlor of a trust (the **person's trust**) at a time in the income year, other than solely as a result of providing personal services for less than market value in the administration of the trust or the maintenance of trust property.

Exception for some trusts

(2) This section does not apply if—

(a) the trustee of the person's trust is registered as a charitable entity under the Charities Act 2005:

(b) the person's trust is solely for the benefit of a local authority:

(c) interest and dividends derived by the trustee of the person's trust would be exempt income of the trustee under section CW 45 (Funeral trusts):

(d) the person's trust is a superannuation fund:

(e) the person and the members of the person's family are not permitted to benefit from the person's trust except under an order of a court.

Income amount

(2B) The amount included in the person's family scheme income is the amount calculated using the formulas in subsections (3) and (5), adjusted, if applicable, by subsections (7) and (8) for main income equalisation account amounts.

First formula: family scheme income

(3) For the purposes of subsection (2B), the relevant amount is calculated using the formula—

(trustee's adjusted net income + companies income) ÷ settlor number.

Definition of items in formula in subsection (3)

(4) In the formula in subsection (3),—

(a) **trustee's adjusted net income** is the net income of the trustee of the person's trust for the income year reduced, to not less than zero, by the amount of the trustee's income that vests or is paid by the trustee as beneficiary income for the income year:

(b) **companies income** is the greater of zero and the amount given by totalling the amounts calculated by applying the formula in subsection (5) to each company in which the trustee of the person's trust and associated persons hold, on the last day of the income year, voting interests of 50% or more:

(c) **settlor number** is the number of settlors of the person's trust who are alive at any time in the income year, including the person, for which this section applies.

Second formula: companies income

(5) For the purposes of the item **companies income** in subsection (4)(b), an amount to be totalled is, for each relevant company, calculated using the formula—

trustee's interest × (income − dividends).

Definition of items in formula in subsection (5)

(6) In the formula in subsection (5),—

(a) **trustee's interest** is the percentage voting interests for the relevant company held, on the last day of the company's income year, by the trustee:

(b) **income** is the net income of the relevant company for the company's income year:

(c) **dividends** is the total dividends paid by the relevant company for the company's income year.

Main income equalisation deposits

(7) For the purposes of subsection (2B), if the trustee or a company described in subsection (4)(b) makes a main income equalisation deposit for an income year, the amount of the deposit is added to—

(a) the item **trustee's adjusted net income** in the formula in subsection (3), if the trustee makes the deposit:

(b) the item **income** in the formula in subsection (5), if the company makes the deposit.

Main income equalisation refunds

(8) For the purposes of subsection (2B), if the trustee or a company described in subsection (4)(b) receives a main income equalisation refund for an income year, the amount of the refund is subtracted from—

(a) the item **trustee's adjusted net income** in the formula in subsection (3), if the trustee receives the refund:

(b) the item **income** in the formula in subsection (5), if the company receives the refund.

Defined in this Act: amount, beneficiary income, company, dividend, exempt income, family scheme income, income, income year, interest, local authority, main income equalisation account, main income equalisation deposit, main income equalisation refund, net income, settlor, superannuation fund, trustee, voting interest

Section MB 7: added, on 1 April 2011, by section 112 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 7(2B) heading: inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7(2B): inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7(3) heading: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(3): replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(3): amended (with effect on 1 April 2011), on 24 February 2016, by section 208(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7(3) formula: amended, on 29 March 2024, by section 106(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section MB 7(4) heading: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(4): replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(4)(a): amended, on 29 March 2024, by section 106(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section MB 7(5) heading: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(5): inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(6) heading: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(6): inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 110(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7(7) heading: inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7(7): inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7(7)(a): amended, on 29 March 2024, by section 106(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section MB 7(8) heading: inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7(8): inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7(8)(a): amended, on 29 March 2024, by section 106(4) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section MB 7 list of defined terms **main income equalisation account**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7 list of defined terms **main income equalisation deposit**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7 list of defined terms **main income equalisation refund**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 208(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 7 list of defined terms **market value**: repealed, on 1 April 2014, by section 110(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7 list of defined terms **market value circumstance**: repealed, on 1 April 2014, by section 110(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7 list of defined terms **market value interest**: repealed, on 1 April 2014, by section 110(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 7 list of defined terms **trustee income**: repealed, on 29 March 2024, by section 106(5) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

MB 7B Family scheme income from employment benefits: employees not controlling shareholders

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person to whom section MB 8 does not apply for an income year when the person has an employer who makes available—

(a) a motor vehicle for the person's private use when, under the terms of the person's employment, the person would be entitled to a greater amount of employment income should the person choose, or have chosen, not to receive the benefit of the motor vehicle:

(b) a short-term charge facility as defined in section CX 25(3) (Benefits provided by charitable organisations).

What is included in family scheme income

(2) The person's family scheme income for the income year includes an amount equal to the total for the person and the income year of amounts, each of which is—

(a) the amount by which the employment income of the person would be greater in the absence of a benefit referred to in subsection (1)(a):

(b) the value, including fringe benefit tax, of a benefit provided to the person under a short-term charge facility referred to in subsection (1)(b), if the total value of such benefits, not including fringe benefit tax, provided in the income year is more than the lesser for the income year of—

(i) 5% of the employee's salary or wages:

(ii) $1,200.

Calculating fringe benefit tax on benefit

(3) In calculating under subsection (2)(b) the amount of fringe benefit tax on a benefit, the person may use—

(a) the rate of fringe benefit tax used by the person's employer in calculating the fringe benefit tax payable on the benefit:

(b) the maximum basic rate of fringe benefit tax specified in schedule 1, part C, table 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Defined in this Act: amount, employee, employer, employment, employment income, family scheme income, fringe benefit, fringe benefit tax, income year, motor vehicle, private use, salary or wages, short-term charge facility

Section MB 7B: inserted, on 1 April 2014, by section 76 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section MB 7B(2)(b): amended (with effect on 1 April 2014), on 30 June 2014, by section 136(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 7B(2)(b): amended (with effect on 1 April 2014), on 30 June 2014, by section 136(b) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 7B(3) heading: inserted (with effect on 1 April 2014), on 30 March 2017, by section 165 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MB 7B(3): inserted (with effect on 1 April 2014), on 30 March 2017, by section 165 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

MB 8 Family scheme income from fringe benefits: controlling shareholders

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when—

(a) the person is an employee of a company in which the person and associated person hold, on the last day of the income year, voting interests of 50% or more; and

(b) the company provides a fringe benefit that must be attributed to the person under section RD 47 (Attribution of certain fringe benefits).

What is included in family scheme income

(2) The person's family scheme income for the income year includes an amount equal to the total of the following amounts:

(a) the taxable value of the fringe benefits that the company must attribute to the person under sections RD 47 to RD 49 for the income year; and

(b) the company's FBT liability in relation to the person under section RD 50 (Employer's liability for attributed benefits) for the income year.

Defined in this Act: associated person, company, employee, family scheme income, FBT, fringe benefit, income year, voting interest

Section MB 8: added, on 1 April 2011, by section 112 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 8 heading: replaced, on 1 April 2014, by section 77 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section MB 8(1)(a): replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 111(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 8 list of defined terms **market value circumstance**: repealed, on 1 April 2014, by section 111(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MB 8 list of defined terms **market value interest**: repealed, on 1 April 2014, by section 111(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

MB 9 Family scheme income from deposits in main income equalisation accounts

[Repealed]

Section MB 9: repealed (with effect on 1 April 2011), on 24 February 2016, by section 209 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

MB 10 Family scheme income from certain pensions and annuities

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when the person derives in the income year a pension or annuity that is exempt income of the person under section CW 4 (Annuities under life insurance policies) or is a pension from a superannuation fund.

Half of pension or annuity included in family scheme income

(2) The family scheme income of the person for the income year—

(a) includes half of the amount of pension or annuity derived in the income year; and

(b) does not include the other half of the amount of pension or annuity derived in the income year.

Defined in this Act: amount, excluded income, exempt income, family scheme income, income year

Section MB 10: added, on 1 April 2011, by section 112 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

MB 11 Family scheme income from amounts derived by dependent children

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when the person is a principal caregiver of a dependent child and the dependent child derives in the income year an amount that is—

(a) resident passive income:

(b) a royalty:

(c) rent:

(d) beneficiary income that is not an amount referred to in section HC 35(4)(b)(i), (ii), or (v) (Beneficiary income of minors):

(e) attributed income from a portfolio investment entity that is not a superannuation fund or retirement savings scheme:

(f) a distribution from a listed PIE.

Amount included in family scheme income

(2) If the total of amounts derived by the dependent child in the income year and referred to in subsection (1) is more than $500, the family scheme income

of the person for the income year includes an amount calculated using the formula—

(child's amounts − $500) ÷ principal caregivers.

Definitions of items in formula

(3) In the formula,—

(a) **child's amounts** is the total of amounts—

(i) derived by the dependent child in the income year; and

(ii) referred to in subsection (1):

(b) **principal caregivers** is the number of people who are each a principal caregiver of the child.

Defined in this Act: beneficiary income, dependent child, excluded income, family scheme income, income year, listed PIE, portfolio investment entity, principal caregiver, resident passive income, retirement savings scheme, royalty, superannuation fund

Section MB 11: added, on 1 April 2011, by section 112 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 11(1): amended (with effect on 1 April 2011), on 29 August 2011, by section 107(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MB 11(2) heading: substituted (with effect on 1 April 2011), on 29 August 2011, pursuant to section 107(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MB 11(2): substituted (with effect on 1 April 2011), on 29 August 2011, by section 107(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MB 11(3) heading: added (with effect on 1 April 2011), on 29 August 2011, by section 107(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MB 11(3): added (with effect on 1 April 2011), on 29 August 2011, by section 107(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MB 11 list of defined terms **principal caregiver**: inserted (with effect on 1 April 2011), on 29 August 2011, by section 107(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

MB 12 Family scheme income from non-residents' foreign-sourced income

The family scheme income of a person for an income year includes the non-residents' foreign-sourced income for the income year of the person's spouse, civil union partner, or de facto partner.

Defined in this Act: civil union partner, de facto partner, family scheme income, income year, non-residents' foreign-sourced income, spouse

Section MB 12: added, on 1 April 2011, by section 112 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

MB 12B Family scheme income from trusts, not being beneficiary income, and where recipient not settlor

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when—

(a) the person receives a payment from a trust in the income year; and

(b) the payment is not beneficiary income of the person; and

(c) the person is not the settlor of the trust.

Amounts included in family scheme income

(2) The amount of the payment is included in the family scheme income of the person for the income year.

Exclusion

(3) Despite subsection (2), the Commissioner may determine the circumstances in which a payment from a trust should be excluded for the purposes of calculating family scheme income. If a person receives a payment from a trust in circumstances in which the Commissioner has determined that a payment should be excluded for the purposes of calculating family scheme income, the amount of the payment is not included in the family scheme income of the person for the income year.

Defined in this Act: amount, beneficiary income, Commissioner, family scheme income, income year, pay, settlor

Section MB 12B: inserted, on 26 June 2019, by section 69 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

MB 13 Family scheme income from other payments

(1) The family scheme income of a person for an income year includes the value of payments—

(a) paid or provided to the person from any source; and

(b) used by the person to—

(i) replace lost or diminished income of the person or the person's family:

(ii) meet usual living expenses of the person or the person's family; and

(c) not excluded from family scheme income under subsection (2).

Payments and benefits excluded from family scheme income

(2) A payment to a person is not included under subsection (1) in the family scheme income of the person if it is—

(a) a loan under ordinary commercial terms and conditions:

(b) from an amount that is—

(i) proceeds of the disposal of property; and

(ii) not assessable income of the person disposing of the property:

(bb) a repayment of a loan or of a mistaken or misdirected payment:

(bc) a refund of a payment, including a refund of overpaid tax, student loan payments, or child support payments:

(bd) a payment, other than a payment by a trustee, from the person's ownership of an investment activity or business, and the payment—

(i) is received on capital account; and

(ii) is not a loan:

(be) a payment from a deceased's estate:

(bf) money won from **gambling** or from a **New Zealand lottery**, as those terms are used in the Gambling Act 2003:

(c) a payment on behalf of the person by a local authority or public authority:

(d) a forgiveness of debt by a public authority:

(e) a charitable distribution from a charitable entity registered under the Charities Act 2005:

(f) an educational scholarship or educational bursary:

(g) a student loan under the Student Loan Scheme Act 2011:

(h) a grant for the payment of expenses relating to medical treatment or a funeral:

(i) a payment under an insurance contract, other than a payment for a loss of income:

(j) compensation for a loss other than a loss of income:

(jb) a loan made under the small business cashflow scheme:

(jc) a payment made under the COVID-19 resurgence support payments scheme, or another COVID-19 support payments scheme, as defined in section 3(1) of the Tax Administration Act 1994:

(k) lump sum compensation under the Accident Compensation Act 2001:

(kb) a payment of a foster care allowance under section 363 of the Oranga Tamariki Act 1989:

(kc) a payment under section 386AAG or 386B of the Oranga Tamariki Act 1989:

(l) a monetary benefit under the Social Security Act 2018 that is exempt income:

(m) a pension or allowance under the Veterans' Support Act 2014 that is exempt income:

(n) a payment that is exempt income under section CW 33(1)(c), (cb), (e), or (f) (Allowances and benefits):

(o) an amount that is declared not to be income for the purposes of the Social Security Act 2018 by regulations made under section 422 of that Act:

(p) included in the family scheme income of the person under another section:

(q) expressly excluded from the family scheme income of the person under another section:

(r) a payment—

(i) to relieve the adverse effects of an event declared to be an emergency event by the Commissioner in a determination under section 91AAS of the Tax Administration Act 1994; and

(ii) in the period set by the Commissioner in the determination as relating to the event.

Exception for total value of payments less than threshold

(3) If, in the absence of this subsection, the total value of payments that would be included under subsection (1) in the family scheme income for the year of the person and the person's spouse, civil union partner, or de facto partner is less than or equal to $5,000, then the payments paid or provided to the person are not included in the person's family scheme income for the income year.

Defined in this Act: assessable income, dispose, exempt income, family scheme income, income, income year, insurance contract, land, loan, local authority, pay, public authority, small business cashflow scheme, trustee

Section MB 13: added, on 1 April 2011, by section 112 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MB 13(2)(bb): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 137(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 13(2)(bc): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 137(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 13(2)(bd): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 137(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 13(2)(be): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 137(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 13(2)(bf): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 137(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section MB 13(2)(f): replaced (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 24 February 2016, by section 210(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MB 13(2)(g): amended, on 1 April 2012, by section 223 of the Student Loan Scheme Act 2011 (2011 No 62).

Section MB 13(2)(jb): inserted (with effect on 30 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section MB 13(2)(jc): inserted, on 18 February 2021, by section 9 of the Taxation (COVID-19 Resurgence Support Payments and Other Matters) Act 2021 (2021 No 1).

Section MB 13(2)(jc): amended, on 25 November 2021, by section 9 of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MB 13(2)(kb): inserted (with effect on 1 April 2011), on 2 November 2012, by section 123 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MB 13(2)(kb): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section MB 13(2)(kc): inserted, on 1 July 2019, by section 70 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section MB 13(2)(l): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section MB 13(2)(m): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section MB 13(2)(n): amended, on 25 May 2022, by section 9 of the Taxation (Cost of Living Payments) Act 2022 (2022 No 25).

Section MB 13(2)(o): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section MB 13(2)(q): amended (with effect on 1 April 2011), on 24 May 2011, by section 7 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

Section MB 13(2)(r): added (with effect on 1 April 2011), on 24 May 2011, by section 7 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

Section MB 13 list of defined terms **small business cashflow scheme**: inserted (with effect on 30 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section MB 13 list of defined terms **trustee**: inserted, on 1 April 2015, by section 137(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

MB 14 Remission income of discharged bankrupt excluded

[Repealed]

Section MB 14: inserted (with effect on 1 April 2014 and applying for discharges from bankruptcy after 1 April 2014), on 30 March 2017, by section 166(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MB 14: repealed, on 30 March 2017, by section 167 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart MC—Entitlements under family scheme

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MC 1 What this subpart does

Rules about entitlements under family scheme

(1) This subpart provides the rules for determining whether a person and their spouse, civil union partner, or de facto partner are entitled to WFF tax credits as entitlements and tax credits under the family scheme.

WFF tax credits

(2) The WFF tax credit is the amount of a person's entitlement and tax credit made up of—

(a) the family tax credit calculated under section MD 3 (Calculation of family tax credit):

(b) the in-work tax credit, *see* sections MD 4 to MD 10 (which relate to the entitlement to and calculation of the in-work tax credit), or the child tax credit continued under section MZ 1 (Entitlement to child tax credit):

(c) the parental tax credit, *see* sections MD 11 and MD 12 (which relate to the entitlement to and calculation of the parental tax credit):

(d) the minimum family tax credit, *see* section ME 1 (Minimum family tax credit):

(e) the Best Start tax credit, *see* section MG 1 (Best Start tax credit entitlement).

Classification of credits

(3) For the purposes of the calculation of an amount of a WFF tax credit, entitlements and tax credits under the family scheme are divided into—

(a) abating WFF tax credits, made up of the family tax credit, in-work tax credit or child tax credit, and the parental tax credit:

(b) the minimum family tax credit:

(c) the Best Start tax credit.

Classification of credits

[Repealed]

(4) *[Repealed]*

Defined in this Act: abating WFF tax credit, amount, Best Start tax credit, child tax credit, civil union partner, Commissioner, de facto partner, family scheme, family tax credit, in-work tax credit, minimum family tax credit, parental tax credit, spouse, tax credit, WFF tax credit

Compare: 2004 No 35 s KD 1A

Section MC 1(1): amended, on 1 April 2008, by section 458(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1(2) heading: substituted, on 1 April 2008, by section 458(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1(2): substituted, on 1 April 2008, by section 458(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1(2)(d): amended, on 1 July 2018, by section 12(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 1(2)(e): inserted, on 1 July 2018, by section 12(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 1(3) heading: substituted, on 1 April 2008, by section 458(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1(3): substituted, on 1 April 2008, by section 458(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1(3)(b): amended, on 1 July 2018, by section 12(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 1(3)(c): inserted, on 1 July 2018, by section 12(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 1(4) heading: repealed, on 1 April 2008, by section 458(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1(4): repealed, on 1 April 2008, by section 458(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **abating WFF tax credit**: inserted, on 1 April 2008, by section 458(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **Best Start tax credit**: inserted, on 1 July 2018, by section 12(3) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 1 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 458(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **family plus**: repealed, on 1 April 2008, by section 458(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **family support**: repealed, on 1 April 2008, by section 458(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **in-work payment,**: repealed, on 1 April 2008, by section 458(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 458(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 458(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 list of defined terms **WFF tax credit**: inserted, on 1 April 2008, by section 458(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 1 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 353 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

MC 2 Who qualifies for entitlements under family scheme?

A person qualifies for an entitlement under the family scheme if, for an entitlement period, they meet—

(a) the qualifying criteria set out in sections MC 3 to MC 7; and

(b) the continuing requirements set out in section MC 8.

Defined in this Act: entitlement period, family scheme

MC 3 First requirement: person's age

The first requirement is that the person referred to in section MC 2 is 16 or older.

Compare: 2004 No 35 ss KD 2AA(4), KD 3(1), OB 1 "qualifying person" (a)(i)

MC 4 Second requirement: principal care

The second requirement is that the person referred to in section MC 2 is the principal caregiver for 1 or more dependent children.

Defined in this Act: dependent child, principal caregiver

Compare: 2004 No 35 ss KD 2AA(4), KD 3(1), OB 1 "qualifying person" (a)(ii)

MC 5 Third requirement: residence or entitlement to emergency benefit

Third requirement

(1) The third requirement is that—

(a) the person referred to in section MC 2 or the child referred to in section MC 4 meets the residence requirements of subsections (2) and (3), as applicable:

(b) the person referred to in section MC 2 is entitled to receive an emergency benefit under section 63 or 64 of the Social Security Act 2018.

When person meets residence requirements

(2) The person meets the residence requirements of subsection (1)(a) if the person—

(a) has been—

(i) both a New Zealand resident and present in New Zealand for a continuous period of 12 months at any time; and

(ii) resident in New Zealand under section YD 1 (Residence of natural persons) on the days for which a tax credit arises under section MD 1 (Abating WFF tax credit), ME 1 (Minimum family tax credit entitlement), or MG 1 (Best Start tax credit entitlement); and

(b) is not a transitional resident and is not the spouse, civil union partner, or de facto partner of a transitional resident.

When child meets residence requirements

(3) The child meets the residence requirements of subsection (1)(a) if the child is both a New Zealand resident and present in New Zealand for the entitlement period.

Defined in this Act: child, civil union partner, de facto partner, entitlement period, New Zealand, New Zealand resident, spouse, tax credit, transitional resident

Compare: 2004 No 35 ss KD 3(1), OB 1 "qualifying person" (a)(iii)

Section MC 5 heading: replaced, on 1 April 2020, by section 18(1) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MC 5(1): replaced, on 1 April 2020, by section 18(2) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MC 5(2): amended, on 1 April 2020, by section 18(3) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MC 5(2)(a): replaced (with effect on 1 April 2008), on 2 November 2012, by section 124 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MC 5(2)(a)(ii): amended, on 1 July 2018, by section 13 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 5(2)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 211(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MC 5(3): amended, on 1 April 2020, by section 18(4) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MC 5(3): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 108(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MC 5 list of defined terms **resident**: repealed (with effect on 1 April 2008), on 29 August 2011, by section 108(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

MC 6 When person does not qualify

Despite sections MC 3 to MC 5, a person does not qualify for—

(a) an abating WFF tax credit or a Best Start tax credit if, during the relationship period, they receive a parent's allowance continued by clause 3 of Schedule 1 of the Veterans' Support Act 2014 or a children's pension under section 72 or 75 of that Act:

(b) an in-work tax credit, parental tax credit, or minimum family tax credit if, during the relationship period, they receive—

  (i) a main benefit; or

  (ii) *[Repealed]*

  (iii) a parent's allowance or a children's pension:

(c) a Best Start tax credit for a dependent child in relation to a period, if they receive—

  (i) a parental leave payment or preterm baby payment, under Part 7A of the Parental Leave and Employment Protection Act 1987, for the dependent child in relation to the period:

  (ii) a parental tax credit, in relation to the dependent child:

  (iii) a parent's allowance or a children's pension, in relation to the dependent child.

Defined in this Act: abating WFF tax credit, Best Start tax credit, dependent child, in-work tax credit, main benefit, minimum family tax credit, parental tax credit, relationship period

Compare: 2004 No 35 s KD 3(1), "qualifying person"

Section MC 6(a): amended, on 1 July 2018, by section 14(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 6(a): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section MC 6(b): amended, on 1 April 2008, by section 460(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 6(b)(i): replaced, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MC 6(b)(ii): repealed (with effect on 1 April 2008), on 6 October 2009, by section 355(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MC 6(b)(iii): amended, on 1 July 2018, by section 14(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 6(b)(iii): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section MC 6(c): replaced (with effect on 1 July 2018), on 18 March 2019, by section 233(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MC 6 list of defined terms **abating WFF tax credit**: inserted, on 1 April 2008, by section 460(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 6 list of defined terms **Best Start tax credit**: inserted, on 1 July 2018, by section 14(3) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 6 list of defined terms **dependent child**: inserted (with effect on 1 July 2018), on 18 March 2019, by section 233(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MC 6 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 460(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 6 list of defined terms **family tax credit**: repealed, on 1 April 2008, by section 460(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 6 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MC 6 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 460(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 6 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MC 6 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 460(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 6 list of defined terms **parental tax credit**: inserted, on 1 April 2008, by section 460(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 6 list of defined terms **veteran's pension**: repealed, on 27 February 2014, by section 113 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MC 6 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 355(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

MC 7 When spouse or partner entitled under family scheme

When this section applies

(1) This section applies when a person has a spouse, civil union partner, or de facto partner throughout an entitlement period, and during the period—

(a) the person meets the criteria in sections MC 3 to MC 5 in relation to 1 or more dependent children; and

(b) the spouse or partner meets the criteria in sections MC 3 to MC 5 in relation to 1 or more dependent children; and

(c) the dependent child, or at least 1 of the dependent children, referred to in paragraph (b) is not a dependent child referred to in paragraph (a).

Single person

(2) In the circumstances described in subsection (1),—

(a) this section applies as if—

(i) the person or their spouse or partner meets the qualifying criteria in relation to all those children; and

(ii) the other person does not meet the qualifying criteria in relation to any of the children; and

(b) for all WFF tax credits other than the in-work tax credit, the Commissioner must determine which of the persons referred to in paragraph (a) meets the qualifying criteria.

Defined in this Act: civil union partner, Commissioner, de facto partner, dependent child, entitlement period, spouse

Compare: 2004 No 35 s KD 3A(2)–(4)

Section MC 7(2)(b): amended, on 1 April 2008, by section 461 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MC 8 Continuing requirements

Requirements for entitlement period

(1) To receive entitlements and tax credits under the family scheme, a person who meets the qualifying criteria set out in sections MC 3 to MC 7 must also meet the following requirements throughout the entitlement period:

(a) the person meets the qualifying criteria on each day of the period; and

(b) another person does not on any day start or stop being a spouse, civil union partner, or de facto partner of the person; and

(c) the person does not start or stop being the principal caregiver of a dependent child other than on the first or, as applicable, the last day; and

(d) a child for whom the person is the principal caregiver does not stop being a dependent child other than on the first or, as applicable, the last day; and

(e) the composition of a WFF tax credit does not change, other than on the first, or as applicable, the last day; and

(f) the person does not start or stop being a person receiving protected family tax credit, other than on the first, or as applicable, the last day.

Relationship with section MD 6(2)

(2) Section MD 6(2) (Second requirement: principal care) overrides this section in relation to the in-work tax credit.

Defined in this Act: child, civil union partner, de facto partner, dependent child, entitlement period, family scheme, in-work tax credit, principal caregiver, protected family tax credit, spouse, tax credit, WFF tax credit

Compare: 2004 No 35 s OB 1 "eligible period"

Section MC 8(1) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 356(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MC 8(e): amended, on 1 April 2008, by section 462(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 8(f): amended, on 1 April 2008, by section 462(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 8(2) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 356(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MC 8(2): added (with effect on 1 April 2008), on 6 October 2009, by section 356(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MC 8 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 462(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 8 list of defined terms **in-work tax credit**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 356(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MC 8 list of defined terms **protected family support**: repealed, on 1 April 2008, by section 462(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 8 list of defined terms **protected family tax credit**: inserted, on 1 April 2008, by section 462(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 8 list of defined terms **WFF tax credit**: inserted, on 1 April 2008, by section 462(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MC 9 Credits for person aged 18

For person aged 18

(1) A person is entitled to a tax credit under sections MD 1 (Abating WFF tax credit) and ME 1 (Minimum family tax credit) for a person aged 18 who—

(a) is not financially independent; and

(b) is attending school or a tertiary educational establishment.

Determining period

(2) The Commissioner must determine the period for which a person is entitled to an abating WFF tax credit or a minimum family tax credit for a person who is 18 years of age.

When period expires

(3) The period determined by the Commissioner ends on or before the first day fixed by the Commissioner for payments of instalments of tax credits under section 80KI of the Tax Administration Act 1994 in the calendar year following that in which the person turns 18 years of age.

Defined in this Act: abating WFF tax credit, Commissioner, family tax credit, financially independent, minimum family tax credit, pay, tax credit, year

Compare: 2004 No 35 ss KD 2AA(7)–(10), KD 3A(5)–(9)

Section MC 9(1): amended, on 1 April 2008, by section 463(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 9(2): amended, on 1 April 2008, by section 463(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 9 list of defined terms **abating WFF tax credit**: inserted, on 1 April 2008, by section 463(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 9 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 463(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 9 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 463(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MC 10 Principal caregiver

General meaning

(1) A **principal caregiver**, for a dependent child,—

(a) means the person, whether or not a parent of the child, who the Commissioner considers has the primary responsibility for the day-to-day care for the child, other than on a temporary basis:

(b) does not include—

(i) a body of persons, incorporated or otherwise:

(ii) the spouse, civil union partner, or de facto partner of a person eligible to be a transitional resident who has not made an election under section HR 8(4) (Transitional residents):

(iii) a person who is the proprietor of, or employed in, a residence established under the Oranga Tamariki Act 1989, or a residential disability care institution as defined in section 58(4) of the Health and Disability Services (Safety) Act 2001, or another institution in which a child is cared for.

Meaning for abating WFF tax credit, family tax credit, Best Start tax credit, child tax credit

(2) For the purposes of sections MD 3, MG 1, and MZ 1 (which relate to certain tax credits for families), a person is a **principal caregiver** of a dependent child if the person—

(a) lives apart from another person who qualifies under section MC 2 in relation to the dependent child; and

(b) has the dependent child in their exclusive care for periods totalling at least one-third of—

(i) a 4-month period:

(ii) the tax year:

(iii) the entitlement period, in the case of the parental tax credit.

Meaning for in-work tax credit

(3) For the purposes of section MD 6 (Second requirement: principal care), a person is a **principal caregiver** of a dependent child for an entitlement period if the person—

(a) lives apart from another person who qualifies under section MC 2 in relation to the dependent child; and

(b) has the dependent child in their exclusive care for periods, whether or not they coincide with the entitlement period, totalling at least one-third of a 4-month period or the tax year.

Entitlement to in-work tax credit

(4) If subsection (3) applies, section MD 10(3) (Calculation of in-work tax credit) is to be read as applying to the periods during which the principal caregiver has exclusive care of the dependent child.

Meaning for parental tax credit

(5) For the purposes of section MD 11 (Entitlement to parental tax credit), a person is a **principal caregiver** of a dependent child if the person—

(a) lives apart from another person who qualifies under section MC 2 in relation to the dependent child; and

(b) has the dependent child in their exclusive care for periods totalling at least one-third of the parental entitlement period.

Principal caregiver to notify Commissioner of change

(6) A person who is a principal caregiver under this section must notify the Commissioner immediately of a change in the arrangements for the care of the child that has, or will have, the effect of ending the person's status as a principal caregiver.

Defined in this Act: abating WFF tax credit, child tax credit, civil union partner, Commissioner, de facto partner, dependent child, entitlement period, family tax credit, in-work tax credit, notify, parental entitlement period, parental tax credit, principal caregiver, spouse, tax year, transitional resident

Compare: 2004 No 35 ss KD 2AA(2)–(3), OB 1 "principal caregiver"

Section MC 10(1)(b)(iii): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section MC 10(2) heading: amended, on 1 July 2018, by section 15(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 10(2) heading: amended, on 1 April 2008, by section 464(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10(2): amended, on 1 July 2018, by section 15(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MC 10(3) heading: amended, on 1 April 2008, by section 464(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10(4) heading: amended, on 1 April 2008, by section 464(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10(4): amended (with effect on 1 April 2008), on 6 October 2009, by section 357(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MC 10(4): amended, on 1 April 2008, by section 464(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10 list of defined terms **abating WFF tax credit**: inserted, on 1 April 2008, by section 464(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 464(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10 list of defined terms **family support**: repealed, on 1 April 2008, by section 464(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10 list of defined terms **family tax credit**: inserted, on 1 April 2008, by section 464(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 464(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 10 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 464(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MC 11 Relationship periods and entitlement periods

Meaning

(1) In subparts MB to MG and MZ,—

(a) a **relationship period** means an unbroken period in a tax year, whether the period consists of some or all of the days in the tax year:

(b) an **entitlement period**, for a person, means a period that forms all or part of a relationship period during which the person meets the continuing requirements set out in section MC 8.

When day included in more than 1 period

(2) If a day is part of more than 1 entitlement period or 1 relationship period, the day is treated as part only of the particular period that the Commissioner determines is fair in the circumstances.

Defined in this Act: Commissioner, entitlement period, relationship period, tax year

Compare: 2004 No 35 ss KD 2AA(1), (11), OB 1 “eligible period”, “specified period”

Section MC 11(1): amended, on 1 July 2018, by section 16 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Subpart MD—Abating WFF tax credits

Subpart MD heading: substituted, on 1 April 2008, by section 465 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

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Calculating amount of credit

MD 1 Abating WFF tax credit

Tax credit

(1) A person who qualifies under section MC 2 (Who qualifies for entitlements under family scheme?) is entitled to a tax credit (the **abating WFF tax credit**) equal to an amount calculated using the formula in subsection (2).

Formula

(2) The formula is—

family tax credit + (in-work tax credit or child tax credit)
+ parental tax credit − credit abatement.

Definition of items in formula

(3) In the formula,—

(a) **family tax credit** is the family tax credit for the entitlement period calculated using the formula in section MD 3:

(b) **in-work tax credit or child tax credit** is 1 of the following, as applicable:

(i) the in-work tax credit for the entitlement period calculated using the formula in section MD 10, if the person is entitled to the in-work tax credit for the entitlement period:

(ii) the amount of child tax credit for the entitlement period calculated using the formula in section MZ 2 (Calculation of child tax credit), if the person is not entitled to the in-work tax credit for the entitlement period, and is entitled to the child tax credit for the entitlement period under section MZ 1 (Entitlement to child tax credit):

(c) **parental tax credit** is the total amount, for the entitlement period, of parental tax credit calculated using—

(i) the formula in section MD 12; and

(ii) the formula in section MD 12B(2), if section MD 12B applies, and if the entitlement period includes the day described in section MD 12B(3)(a)(i) or (ii):

(d) **credit abatement** is the total amount, for the entitlement period, of—

(i) a family credit abatement calculated using the formula in section MD 13(2), and modified, if the item **parental tax credit** in paragraph (c) is greater than zero, by section MD 2(3) and (4); and

(ii) an amount of parental tax credit abatement calculated using the formula in section MD 16(2), if section MD 16 applies, and if the entitlement period includes the day described in section MD 16(3)(a)(i) or (ii).

Extra instalment

(4) This section is overridden by section 80KW of the Tax Administration Act 1994.

Defined in this Act: abating WFF tax credit, amount, child tax credit, entitlement period, family credit abatement, family tax credit, in-work tax credit, parental tax credit, tax credit

Compare: 2004 No 35 s KD 2(1), (2)

Section MD 1 heading: substituted, on 1 April 2008, by section 466(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(1): amended, on 1 April 2008, by section 466(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(2) formula: amended, on 1 April 2008, by section 466(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(2) formula: amended, on 1 April 2008, by section 466(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(2) formula: amended, on 1 April 2008, by section 466(3)(c) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(3)(a): amended, on 1 April 2008, by section 466(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(3)(b): amended, on 1 April 2008, by section 466(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(3)(b)(i): amended, on 1 April 2008, by section 466(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(3)(b)(ii): amended, on 1 April 2008, by section 466(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1(3)(c): replaced (with effect on 1 April 2008), on 30 March 2017, by section 168(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 1(3)(d): replaced (with effect on 1 April 2015 and applying for dependent children born on or after that date), on 30 March 2017, by section 168(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 1 list of defined terms **abating WFF tax credit**: inserted, on 1 April 2008, by section 466(7)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1 list of defined terms **family support**: repealed, on 1 April 2008, by section 466(7)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1 list of defined terms **family tax credit**: inserted, on 1 April 2008, by section 466(7)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 466(7)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 1 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 466(7)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 2 Calculating net contributions to credits

When this section applies

(1) This section applies when the Commissioner calculates the amounts making up the family tax credit, the in-work tax credit, the child tax credit, and the parental tax credit that relate to a period under this subpart.

Calculating net contributions

(2) The Commissioner must—

(a) treat the family tax credit, the in-work tax credit, the child tax credit, and the parental tax credit as tax credits corresponding to the period; and

(b) treat as a debit the amount of family credit abatement corresponding to the period; and

(c) apply the amount of the family credit abatement corresponding to the period,—

(i) first, to reduce the amount of the family tax credit corresponding to the period; and

(ii) second, to reduce the amount of the in-work tax credit or, as applicable, the child tax credit corresponding to the period; and

(iii) third, to reduce the amount of the parental tax credit corresponding to the period.

Calculation for parental tax credit

(3) For the purposes of subsection (2)(c)(iii) and sections MD 1(3)(d)(i) and MD 16(3)(a), the amount of family credit abatement for an entitlement period applied to reduce the amount of parental tax credit for that entitlement period is calculated using the formula—

(entitlement period abatement amount − amount used) × 365 ÷ 70.

Definition of items in formula

(4) In the formula,—

(a) **entitlement period abatement amount** is the family credit abatement for the entitlement period within the parental entitlement period calculated using the formula in section MD 13(2):

(b) **amount used** is the amount of the entitlement period abatement amount that the Commissioner must apply under subsection (2)(c)(i) and (ii) in calculating a net contribution for the entitlement period.

Defined in this Act: amount, child tax credit, Commissioner, family credit abatement, family tax credit, in-work tax credit, parental entitlement period, parental tax credit, tax credit

Compare: 2004 No 35 s KD 2A

Section MD 2(1): amended, on 1 April 2008, by section 467(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2(2)(a): amended, on 1 April 2008, by section 467(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2(2)(c)(i): amended, on 1 April 2008, by section 467(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2(2)(c)(ii): amended, on 1 April 2008, by section 467(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2(3) heading: replaced, on 1 April 2015 (applying for dependent children born on or after that date), by section 5(1) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 2(3): replaced (with effect on 1 April 2015 and applying for dependent children born on or after that date), on 30 March 2017, by section 169(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 2(4) heading: inserted, on 1 April 2015 (applying for dependent children born on or after that date), by section 5(1) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 2(4): replaced (with effect on 1 April 2015 and applying for dependent children born on or after that date), on 30 March 2017, by section 169(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 2 list of defined terms **family support**: repealed, on 1 April 2008, by section 467(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2 list of defined terms **family tax credit**: inserted, on 1 April 2008, by section 467(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 467(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 467(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 2 list of defined terms **parental entitlement period**: inserted, on 1 April 2015 (applying for dependent children born on or after that date), by section 5(2) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Family tax credit

Heading: substituted, on 1 April 2008, by section 468(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 3 Calculation of family tax credit

Entitlement

(1) A person who qualifies under section MC 2 (Who qualifies for entitlements under family scheme?) is entitled to an amount of family tax credit calculated using the formula in subsection (2).

Formula

(2) The formula is—

prescribed amount × days ÷ 365.

Definition of items in formula

(3) The items in the formula are defined in subsections (4) and (5).

Prescribed amount

(4) **Prescribed amount** is the sum of the following amounts:

(a) for the eldest dependent child for whom the person is a principal caregiver during the entitlement period, $7,524; and

(b) for each dependent child for whom the person is a principal caregiver during the entitlement period, other than the eldest dependent child, $6,130.

Days

(5) **Days** is the number of days in the entitlement period.

Order in Council increasing amount

(6) In subsection (4)(a) and (b), the amount referred to may be increased as prescribed by the Governor-General by Order in Council under section MF 7 (Orders in Council).

When another person cares for dependent child

(7) A family tax credit must be reduced in proportion to the time in the entitlement period that a dependent child spends in the exclusive care of another person who qualifies under section MC 2.

Defined in this Act: amount, child, dependent child, entitlement period, family tax credit, principal caregiver

Compare: 2004 No 35 ss KD 2(3), KD 2AA(3)

Section MD 3 heading: amended, on 1 April 2008, by section 468(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 3(1): amended, on 1 April 2008, by section 468(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 3(4)(a): replaced (with effect on 1 July 2018), on 18 March 2019, by section 234(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 3(4)(a): amended, on 1 April 2024, by clause 4(1) (and see clause 4(3) for application) of the Income Tax (Tax Credit) Order 2023 (SL 2023/288).

Section MD 3(4)(b): replaced (with effect on 1 July 2018), on 18 March 2019, by section 234(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 3(4)(b): amended, on 1 April 2024, by clause 4(2) (and see clause 4(3) for application) of the Income Tax (Tax Credit) Order 2023 (SL 2023/288).

Section MD 3(6): amended (with effect on 1 July 2018), on 18 March 2019, by section 234(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 3(7): amended, on 1 April 2008, by section 468(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 3 list of defined terms **family support**: repealed, on 1 April 2008, by section 468(5)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MC 3 list of defined terms **family tax credit**: inserted, on 1 April 2008, by section 468(5)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

In-work tax credit

Heading: substituted, on 1 April 2008, by section 469(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 4 Entitlement to in-work tax credit

Requirements

(1) A person is entitled to an in-work tax credit for a child if, for an entitlement period, the person meets the 5 requirements of sections MD 5 to MD 9.

When another person entitled to in-work tax credit or child tax credit

(2) If 2 persons are entitled to an in-work tax credit or a child tax credit for a child for an entitlement period, the entitlement of each is not affected by the entitlement of the other person.

Defined in this Act: child, entitlement period, in-work tax credit

Compare: 2004 No 35 s KD 2AAA(1), (3A)

Section MD 4 heading: amended, on 1 April 2008, by section 469(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 4(1): amended, on 1 April 2008, by section 469(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 4(2) heading: amended, on 1 April 2008, by section 469(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 4(2): amended, on 1 April 2008, by section 469(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 4 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 469(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 4 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 469(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 5 First requirement: person's age

The first requirement for an entitlement to an in-work tax credit is that the person referred to in section MD 4 is 16 or older.

Defined in this Act: in-work tax credit

Compare: 2004 No 35 s KD 2AAA(1)(a)

Section MD 5: amended, on 1 April 2008, by section 470(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 5 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 470(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 5 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 470(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 6 Second requirement: principal care

When child financially dependent

(1) The second requirement for an entitlement to an in-work tax credit is that the person referred to in section MD 4 is the principal caregiver for a child who is financially dependent on them.

Inclusions

(2) A child for whom payments are made under section 363 of the Oranga Tamariki Act 1989, or a child for whom an orphan's benefit or an unsupported child's benefit is paid, is treated as financially dependent on the person.

Relationship with section MC 8

(3) Subsection (2) overrides section MC 8 (Continuing requirements).

Defined in this Act: child, in-work tax credit, orphan's benefit, principal caregiver, unsupported child's benefit

Compare: 2004 No 35 s KD 2AAA(1)(b)

Section MD 6(1): amended, on 1 April 2008, by section 471(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 6(2): amended (with effect on 20 April 2020), on 30 April 2020, by section 12(1) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section MD 6(2): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section MD 6(2): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section MD 6(3) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 358(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 6(3): added (with effect on 1 April 2008), on 6 October 2009, by section 358(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 6 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 471(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 6 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 471(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 6 list of defined terms **orphan's benefit**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 12(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section MD 6 list of defined terms **unsupported child's benefit**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 12(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

MD 7 Third requirement: residence

Third requirement

(1) The third requirement for an entitlement to an in-work tax credit is that the person or child referred to in section MD 4 meet the residence requirements of subsections (2) and (3), as applicable.

When person meets residence requirements

(2) The person meets the residence requirements of subsection (1) if the person—

(a) has been—

(i) both a New Zealand resident and present in New Zealand for a continuous period of 12 months at any time; and

(ii) resident in New Zealand under section YD 1 (Residence of natural persons) on the days for which a tax credit arises under section MD 1; and

(b) is neither a transitional resident, nor the spouse, civil union partner, or de facto partner of a transitional resident.

When child meets residence requirements

(3) The child meets the residence requirements of subsection (1) if the child is both resident and present in New Zealand for the entitlement period.

Defined in this Act: child, civil union partner, de facto partner, entitlement period, in-work tax credit, New Zealand, New Zealand resident, spouse, tax credit, transitional resident

Compare: 2004 No 35 s KD 2AAA(1)(c), (3), (4)

Section MD 7(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 359(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 7(1): amended, on 1 April 2008, by section 472(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 7(2)(a): replaced (with effect on 1 April 2008), on 2 November 2012, by section 125(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 7 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 472(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 7 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 472(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 7 list of defined terms **resident**: repealed (with effect on 1 April 2008), on 2 November 2012, by section 125(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

MD 8 Fourth requirement: person not receiving benefit

The fourth requirement for an entitlement to an in-work tax credit is that the person referred to in section MD 4 and their spouse, civil union partner, or de facto partner, do not receive—

(a) a main benefit; or

(b) a basic grant and an independent circumstances grant made under regulations made under section 645 of the Education and Training Act 2020 or an enactment substituted for that section; or

(c) a parent's allowance continued by clause 3 of Schedule 1 of the Veterans' Support Act 2014 or a children's pension under section 72 or 75 of that Act.

Defined in this Act: civil union partner, de facto partner, in-work tax credit, main benefit, spouse

Compare: 2004 No 35 s KD 2AAA(1)(e)

Section MD 8: amended, on 1 April 2008, by section 473(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 8(a): replaced, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 8(b): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section MD 8(c): replaced, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section MD 8 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 8 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 473(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 8 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 473(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 8 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

MD 9 Fifth requirement: earner

Normally earner

(1) The fifth requirement for an entitlement to an in-work tax credit is that either or both the person referred to in section MD 4 and their spouse, civil union

partner, or de facto partner, is normally an earner (the **earner**). Also, the earner must—

(a) derive income as set out in subsections (2) and (3) as an earner, or derive an amount of compensation described in subsection (4), or not derive income but meet the alternative requirements in subsection (6); or

(b) if they are an earner in relation to a close company, be a major shareholder in the close company, and the company must derive gross income in the income year.

Income

(2) The income referred to in subsection (1)(a) is—

(a) a PAYE income payment that is—

(i) not excluded under subsection (3), although it does not matter if the person also derives income of the type described in subsection (3); and

(ii) not a benefit or allowance described in section MD 8; or

(b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C (which relate to income other than PAYE) applies; or

(c) income from a business carried on for profit; or

(d) an amount paid or benefit provided—

(i) by a person (the **claimant**), who receives a personal service rehabilitation payment from which an amount of tax has been withheld at a rate specified in section RD 10B (Amounts of tax for schedular payments); and

(ii) to another person for providing to the claimant a key aspect of social rehabilitation referred to in paragraph (c) of the definition of **personal service rehabilitation payment** in section YA 1 (Definitions).

Exclusions from income

(3) The following PAYE income payments are excluded from income under subsection (2):

(a) a payment referred to in paragraphs (a) to (c) of the definition of **accident compensation earnings-related payment**:

(b) a PAYE income payment referred to in section RD 5(6)(a) (Salary or wages), other than a parental leave payment or preterm baby payment referred to in section CF 1 (Benefits, pensions, compensation, and government grants):

(c) a PAYE income payment referred to in section RD 5(6)(bb), (bc), or (bd):

(d) a schedular payment that is a contract payment for a contract activity or service of a non-resident contractor:

(e) an amount paid as a result of incapacity, suffered before 1 January 2006, due to personal injury by accident within the meaning of section 26 of the Accident Compensation Act 2001.

Compensation payments for incapacities suffered between 1 January 2006 and 31 March 2006

(4) A person meets the fifth requirement if—

(a) they received a child tax credit for an entitlement period ending on 31 March 2006; and

(b) between 1 January 2006 and 31 March 2006 (both dates inclusive), they or their spouse, civil union partner, or de facto partner suffered an incapacity due to personal injury by accident within the meaning of section 26 of the Accident Compensation Act 2001; and

(c) weekly compensation within the meaning of section 6 of the Accident Compensation Act 2001 is being or will be paid for the incapacity; and

(d) at the time of the incapacity, the person or their spouse, civil union partner, or de facto partner—

(i) was deriving, as a full-time earner, income as set out in subsections (2) and (3), as those subsections were immediately before the amendment made by section 360(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009; and

(ii) would have been eligible for the tax credit calculated using the formula in section MD 10, as that section was immediately before the amendments made by section 127(1) and (3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012, had this Act come into force before the date of the incapacity.

Absence from work due to birth of child

(5) Despite subsection (1), a person also meets the fifth requirement if they normally derive income as set out in subsections (2) and (3) as a full-time earner but, in a 1-week period, they do not work, or work less than, the number of hours required to be a full-time earner because of the birth of a child. However, this subsection applies only if the person is entitled to receive the parental tax credit for the child.

14 day concession

(6) A person meets the fifth requirement if they do not derive income or otherwise do not meet the fifth requirement, but have met the fifth requirement within the last 14 days.

Defined in this Act: amount, business, child, child tax credit, civil union partner, close company, contract activity or service, contract payment, de facto partner, earner, entitlement period, full-time

earner, income, income from employment, income year, in-work tax credit, major shareholder, non-resident contractor, parental tax credit, pay, PAYE income payment, schedular payment, spouse, tax credit

Compare: 2004 No 35 s KD 2AAA(1)(d), (5)–(8)

Section MD 9 heading: amended, on 1 July 2020, by section 19(1) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 9(1) heading: replaced (with effect on 1 April 2011), on 2 November 2012, by section 126(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 9(1) heading: amended, on 1 July 2020, by section 19(2) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 9(1): replaced (with effect on 1 April 2011), on 2 November 2012, by section 126(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 9(1): amended, on 1 July 2020, by section 19(3) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 9(1): amended (with effect on 1 April 2008), on 2 November 2012, by section 126(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 9(1)(a): amended (with effect on 1 April 2021), on 30 March 2022, by section 134(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section MD 9(1)(a): amended, on 1 April 2021, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section MD 9(1)(b): amended, on 1 July 2020, by section 19(5) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 9(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 360(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 9(2)(b): replaced, on 29 March 2018 (with effect on 30 March 2017), by section 163 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section MD 9(2)(c): amended (with effect on 1 July 2008), on 6 October 2009, by section 360(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 9(2)(d): added (with effect on 1 July 2008), on 6 October 2009, by section 360(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 9(2)(d)(i): replaced, on 1 April 2017, by section 84 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section MD 9(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 360(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 9(3)(b): amended, on 1 April 2016, by section 83 of the Parental Leave and Employment Protection Amendment Act 2016 (2016 No 8).

Section MD 9(3)(c): amended (with effect on 5 January 2010), on 29 August 2011, by section 109 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MD 9(3)(e): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MD 9(4) heading: replaced (with effect on 1 July 2020), on 30 March 2022, by section 134(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section MD 9(4): replaced (with effect on 1 July 2020), on 30 March 2022, by section 134(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section MD 9(5): amended (with effect on 1 July 2020), on 30 March 2022, by section 134(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section MD 9(6) heading: inserted, on 1 April 2021, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section MD 9(6): inserted, on 1 April 2021, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section MD 9 list of defined terms **close company**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 126(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 9 list of defined terms **earner**: inserted, on 1 July 2020, by section 19(6)(b) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 9 list of defined terms **full-time earner**: inserted (with effect on 1 July 2020), on 30 March 2022, by section 134(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section MD 9 list of defined terms **income year**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 126(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 9 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 474(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 9 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 474(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 9 list of defined terms **major shareholder**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 126(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

MD 10 Calculation of in-work tax credit

Entitlement

(1) A person who meets the requirements of section MD 4 is entitled to an in-work tax credit calculated using the formula in subsection (2).

Formula

(2) The formula is—

(amount A + amount B × (children − 3)) × weekly periods ÷ 52.

Definition of items in formula

(3) In the formula,—

(a) **amount A** is $5,070:

(b) **amount B** is $780:

(c) **children** is the greater of—

(i) 3; and

(ii) the number of children for whom the person is allowed the in-work tax credit:

(d) **weekly periods**—

(i) for 2 or more entitlement periods forming 1 continuous period, is the number of whole periods of 1 week in the continuous period for which the person or their spouse, civil union partner, or de facto partner has, from the work activity, income to which section

MD 9(2) refers or is an earner described in section MD 9(1)(b), and includes whole periods of 1 week to which the alternative requirement in section MD 9(6) applies:

(ii) for an entitlement period to which subparagraph (i) does not apply, is the number of whole periods of 1 week in the entitlement period for which the person or their spouse, civil union partner, or de facto partner has, from the work activity, income to which section MD 9(2) refers or is an earner described in section MD 9(1)(b), and includes whole periods of 1 week to which the alternative requirement in section MD 9(6) applies.

Order in Council increasing amount

(4) In subsection (3)(a) and (b), the amount referred to may be increased as prescribed by the Governor-General by Order in Council under section MF 7 (Orders in Council).

Defined in this Act: amount, child, civil union partner, de facto partner, earner, entitlement period, in-work tax credit, spouse

Compare: 2004 No 35 s KD 2AAA(2)

Section MD 10 heading: amended, on 1 April 2008, by section 475(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 10(1): amended, on 1 April 2008, by section 475(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 10(3)(a): amended, on 31 July 2024, by section 27 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section MD 10(3)(c)(ii): amended, on 1 April 2008, by section 475(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 10(3)(d)(i): amended, on 1 April 2021, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section MD 10(3)(d)(i): amended, on 1 July 2020, by section 20(1) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 10(3)(d)(i): amended (with effect on 1 April 2011), on 2 November 2012, by section 127(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 10(3)(d)(ii): amended, on 1 April 2021, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section MD 10(3)(d)(ii): amended, on 1 July 2020, by section 20(2) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 10(3)(d)(ii): amended (with effect on 1 April 2008), on 2 November 2012, by section 127(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 10(3)(d)(ii): amended (with effect on 1 April 2011), on 2 November 2012, by section 127(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section MD 10(3)(d)(ii): amended (with effect on 1 April 2008), on 6 October 2009, by section 361(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MD 10 list of defined terms **earner**: inserted, on 1 July 2020, by section 20(3) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section MD 10 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 475(4)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 10 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 475(4)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Parental tax credit

MD 11 Entitlement to parental tax credit

When this section applies

(1) This section applies when—

(a) a person qualifies under section MC 2 (Who qualifies for entitlements under family scheme?) in relation to a dependent child; and

(ab) the dependent child is born before 1 July 2018, and, if the expected due date for the dependent child is on or after 1 July 2018, the person has elected in writing to apply this section; and

(b) a person or their spouse, civil union partner, or de facto partner does not receive or have, for 1 or more days during the first 70 days after the date of the dependent child's birth (the **parental entitlement period**), a social assistance payment or a suspended entitlement to a main benefit; and

(c) a person or their spouse, civil union partner, or de facto partner does not receive, at any time in the parental entitlement period, a parental leave payment under Part 7A of the Parental Leave and Employment Protection Act 1987.

Entitlement

(2) The person is entitled to a parental tax credit for the parental entitlement period.

If dependent child dies during parental entitlement period

(3) The person continues to be entitled to the parental tax credit if—

(a) the dependent child dies during the parental entitlement period; and

(b) the person and their spouse, civil union partner, or de facto partner otherwise meet the requirements of subsection (1).

When another person cares for dependent child

(4) The parental tax credit must be reduced in proportion to the time in the parental entitlement period that a dependent child spends in the exclusive care of another person who qualifies under section MC 2.

Relationship with section 2B of Parental Leave and Employment Protection Act 1987

(5) Section 2B of the Parental Leave and Employment Protection Act 1987 applies for the purposes of subsection (1)(b) if a person—

(a) gives birth to 2 or more children as a result of 1 pregnancy; or

(b) becomes the primary carer (as defined in the Parental Leave and Employment Protection Act 1987) in respect of 2 or more children within a 4-week period.

Payment of parental tax credit

(6) The parental tax credit is paid to the person either—

(a) in a lump sum payment, as a tax credit in an end-of-year assessment for the tax year of the birth; or

(b) in instalment payments, in the 70 days after the date on which an application is made if—

(i) the person applies to receive the parental tax credit by instalment under section MF 1 (Application for payment of tax credit by instalment); and

(ii) at any time during the period of 70 days, the person and their spouse, civil union partner, or de facto partner do not receive a social assistance payment and do not have a suspended entitlement to a main benefit.

Defined in this Act: apply, assessment, civil union partner, de facto partner, dependent child, main benefit, parental entitlement period, parental tax credit, social assistance payment, spouse, tax credit, tax year

Compare: 2004 No 35 ss KD 2AA(3), KD 2AB

Section MD 11(1)(ab): inserted, on 1 July 2018, by section 17 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MD 11(1)(b): replaced (with effect on 1 April 2015), on 18 March 2019, by section 236 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 11(1)(b): replaced (with effect on 1 April 2008), on 18 March 2019, by section 235 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 11(1)(b): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 11(1)(c): replaced (with effect on 1 April 2016), on 18 March 2019, by section 237 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 11(1)(c): inserted (with effect on 1 April 2008), on 18 March 2019, by section 235 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 11(5)(b): replaced, on 1 April 2016, by section 83 of the Parental Leave and Employment Protection Amendment Act 2016 (2016 No 8).

Section MD 11(6)(a): replaced, on 30 March 2017, by section 170(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 11(6)(b): amended, on 30 March 2017, by section 170(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 11(6)(b): amended, on 1 April 2015 (applying for dependent children born on or after that date), by section 6(2) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 11(6)(b)(ii): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 11(6)(b)(ii): amended, on 1 April 2015 (applying for dependent children born on or after that date), by section 6(3) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 11 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section MD 11 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 11 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 11 list of defined terms **tax year**: inserted, on 30 March 2017, by section 170(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

MD 12 Calculation of parental tax credit

Entitlement

(1) A person who meets the requirements of section MD 11 in an entitlement period is entitled to a parental tax credit calculated using the formula in subsection (2).

Formula

(2) The formula is—

prescribed amount × days ÷ 70.

Definition of items in formula

(3) In the formula,—

(a) **prescribed amount** is—

(i) $1,200 for each dependent child born on or after 1 October 1999 and before 1 April 2015; or

(ii) $2,200 for each dependent child born on or after 1 April 2015:

(b) **days** is the number of days in the entitlement period—

(i) that are in the parental entitlement period; and

(ii) for which the person meets the requirements of section MD 11.

Order in Council increasing amount

[Repealed]

(4) *[Repealed]*

Modification where 70-day period crosses 2 tax years and credit paid in lump sum

(5) If the 70-day parental entitlement period crosses 2 tax years, and the person is paid the parental tax credit as a lump sum for the tax year of the birth, then—

(a) an additional amount of parental tax credit for the tax year of the birth is calculated under section MD 12B, based on the number of days that are—

(i) in the parental entitlement period; and

(ii) in an entitlement period in the tax year following the tax year of the birth; and

(b) the formula in subsection (2) should not be used to calculate an amount of parental tax credit for the days described in paragraph (a), except for the purposes of determining the amount of parental tax credit for the single day described in section MD 12B(3)(a)(ii).

Defined in this Act: amount, dependent child, entitlement period, parental entitlement period, parental tax credit, tax year

Compare: 2004 No 35 s KD 2(5)

Section MD 12(1): amended (with effect on 1 April 2008), on 30 March 2017, by section 171(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12(2) formula: amended, on 1 April 2015 (applying for dependent children born on or after that date), by section 7(1) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 12(3)(a): replaced, on 1 April 2015 (applying for dependent children born on or after that date), by section 7(2) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 12(3)(b): replaced (with effect on 1 April 2008), on 30 March 2017, by section 171(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12(4) heading: repealed, on 30 March 2021, pursuant to section 122 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 12(4): repealed, on 30 March 2021, by section 122 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 12(5) heading: inserted (with effect on 1 April 2008), on 30 March 2017, by section 171(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12(5) heading: amended (with effect on 1 April 2015 and applying for dependent children born on or after that date), on 30 March 2017, by section 171(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12(5): inserted (with effect on 1 April 2008), on 30 March 2017, by section 171(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12(5): amended (with effect on 1 April 2015 and applying for dependent children born on or after that date), on 30 March 2017, by section 171(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12 list of defined terms **civil union partner**: repealed, on 1 April 2014, by section 116(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 12 list of defined terms **de facto partner**: repealed, on 1 April 2014, by section 116(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 12 list of defined terms **entitlement period**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 171(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12 list of defined terms **income-tested benefit**: repealed, on 1 April 2014, by section 116(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 12 list of defined terms **social assistance payment**: repealed, on 1 April 2014, by section 116(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 12 list of defined terms **spouse**: repealed, on 1 April 2014, by section 116(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 12 list of defined terms **tax year**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 171(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

MD 12B Additional parental tax credit amount included in lump sum if 70-day period crosses 2 tax years

When this section applies

(1) This section applies when—

(a) a person is entitled under section MD 11 to a parental tax credit for a parental entitlement period; and

(b) the credit is paid in a lump sum for the tax year of the birth; and

(c) the birth occurs less than 70 days before the end of the tax year; and

(d) a day in an entitlement period is in the parental entitlement period.

Amount of additional parental tax credit

(2) An additional amount of parental tax credit is calculated for the tax year of the birth using the formula—

daily parental tax credit amount × extra entitlement days.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **daily parental tax credit amount** is the amount of parental tax credit that the person would be entitled to for an entitlement period consisting of—

(i) the last day of the last entitlement period in the part of the parental entitlement period in the tax year of the birth, if there is an entitlement period in that part of the parental entitlement period; or

(ii) the first day of the first entitlement period in the part of the parental entitlement period in the tax year after the tax year of the birth, if subparagraph (i) does not apply:

(b) **extra entitlement days** is the number of days, each of which is—

(i) in the parental entitlement period; and

(ii) in an entitlement period in the tax year following the tax year of the birth.

Defined in this Act: amount, entitlement period, parental entitlement period, parental tax credit, pay, tax year

Section MD 12B: inserted (with effect on 1 April 2008), on 30 March 2017, by section 172(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12B heading: amended (with effect on 1 April 2015 and applying for dependent children born on or after that date), on 30 March 2017, by section 172(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 12B(1)(c): amended (with effect on 1 April 2015 and applying for dependent children born on or after that date), on 30 March 2017, by section 172(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Credit abatement

Heading: substituted, on 1 April 2008, by section 476(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 13 Calculation of family credit abatement

When this section applies

(1) This section applies for the purposes of section MD 1 to determine the amount of a person's family credit abatement for an entitlement period.

Formula

(2) The formula is—

full-year abatement × days ÷ 365.

Definition of items in formula

(3) In the formula,—

(a) **full-year abatement** is,—

(i) if the person has no spouse, civil union partner, or de facto partner during the entitlement period, and the person's family scheme income for the relationship period containing the entitlement period is more than $42,700, 27 cents for each complete dollar of the excess; or

(ii) if the person has a spouse, civil union partner, or de facto partner during the entitlement period, and the person's family scheme income, the family scheme income of their spouse, civil union partner, or de facto partner, or the sum of those incomes for the relationship period containing the entitlement period is more than $42,700, 27 cents for each complete dollar of the excess:

(b) **days** is the number of days in the entitlement period excluding the days of any calendar months in which the person receives protected family tax credit as described in section MD 14.

When 70-day period crosses 2 tax years and parental tax credit paid in instalments

(4) If a person who qualifies under section MC 2 (Who qualifies for entitlements under family scheme?) receives instalments of the parental tax credit in a 70-day period that crosses 2 tax years, the formula is applied so that—

(a) instalments of the parental tax credit received in the first tax year are abated against the person's family scheme income, the family scheme income of their spouse, civil union partner, or de facto partner, or the sum of those incomes for that tax year; and

(b) instalments of the parental tax credit received in the second tax year are abated against the person's family scheme income, the family scheme income of their spouse, civil union partner, or de facto partner, or the sum of those incomes for that tax year.

When 70-day period crosses 2 tax years and parental tax credit paid in lump sum

(4B) If a person who qualifies under section MC 2 has a 70-day parental entitlement period that crosses 2 tax years and the person receives a lump sum payment of the parental tax credit for the tax year of the birth, then—

(a) an additional amount of parental tax credit abatement for the tax year of the birth is calculated under section MD 16, based on the number of days that are—

(i) in the parental entitlement period; and

(ii) in an entitlement period in the tax year following the tax year of the birth; and

(b) the formula in subsection (2) should not be used to calculate an amount of parental tax credit abatement for the days described in paragraph (a), except for the purposes of determining the amount of parental tax credit abatement for the single day described in section MD 16(3)(a)(ii).

Order in Council increasing amount

(5) In subsection (3)(a), the amounts appearing as the amount of the threshold may be increased as prescribed by the Governor-General by Order in Council under section MF 7 (Orders in Council).

Defined in this Act: amount, civil union partner, de facto partner, entitlement period, family credit abatement, family scheme income, parental tax credit, protected family tax credit, relationship period, spouse, tax year

Compare: 2004 No 35 s KD 2(6), (7)

Section MD 13(3)(a)(i): amended, on 1 April 2022, by section 11(1) (and see section 11(3) for application) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MD 13(3)(a)(i): amended (with effect on 1 July 2018), on 18 March 2019, by section 238(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 13(3)(a)(ii): amended, on 1 April 2022, by section 11(2) (and see section 11(3) for application) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MD 13(3)(a)(ii): amended (with effect on 1 July 2018), on 18 March 2019, by section 238(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MD 13(3)(b): amended, on 1 April 2008, by section 476(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 13(4) heading: replaced (with effect on 1 April 2014), on 30 March 2017, by section 173(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 13(4) heading: amended, on 1 April 2015 (applying for dependent children born on or after that date), by section 8(1) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 13(4): amended (with effect on 1 April 2014), on 30 March 2017, by section 173(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 13(4): amended, on 1 April 2015 (applying for dependent children born on or after that date), by section 8(2) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 13(4): amended, on 27 February 2014, by section 117 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 13(4B) heading: inserted (with effect on 1 April 2014), on 30 March 2017, by section 173(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 13(4B) heading: amended (with effect on 1 April 2015 and applying for dependent children born on and after that date), on 30 March 2017, by section 173(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 13(4B): inserted (with effect on 1 April 2014), on 30 March 2017, by section 173(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 13(4B): amended (with effect on 1 April 2015 and applying for dependent children born on and after that date), on 30 March 2017, by section 173(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 13(5): amended, on 30 March 2017, by section 173(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 13 list of defined terms **protected family support**: repealed, on 1 April 2008, by section 476(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 13 list of defined terms **protected family tax credit**: inserted, on 1 April 2008, by section 476(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 14 Person receiving protected family tax credit

Requirements

(1) For the purposes of section MD 13(3)(b), a person who receives protected family tax credit for a calendar month in an entitlement period, is a person who, in the calendar month,—

(a) has no spouse, civil union partner, or de facto partner, receives a main benefit, and derives family scheme income that is less than the amount set out in section MD 13(3)(a)(i):

(b) has a spouse, civil union partner, or de facto partner, receives a main benefit, and derives family scheme income that together with the family scheme income of their spouse is less in total than the amount set out in section MD 13(3)(a)(ii).

Annualised equivalent

(2) Section MB 2 (Adjustment for period that is less or more than 1 year) applies to adjust the amount of family scheme income to provide an annualised equivalent.

Defined in this Act: amount, civil union partner, de facto partner, entitlement period, family scheme income, main benefit, protected family tax credit, spouse

Compare: 2004 No 35 s KD 2(6B)

Section MD 14 heading: amended, on 1 April 2008, by section 477(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 14(1): amended, on 1 April 2008, by section 477(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 14(1)(a): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 14(1)(b): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 14 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 14 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MD 14 list of defined terms **protected family support**: repealed, on 1 April 2008, by section 477(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 14 list of defined terms **protected family tax credit**: inserted, on 1 April 2008, by section 477(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MD 15 Family scheme income for purposes of section MD 14

For the purposes of section MD 14, in the calculation of family scheme income,—

(a) section MB 1(1)(a) and (b) (Adjustments for calculation of family scheme income) does not apply; and

(b) any income from employment that is derived in the calendar month as a result of an extra pay period that occurs in that month is disregarded; and

(c) for a person who derives, for part of an income year, income, other than from a PAYE income payment, to which section RD 3B or RD 3C (which relate to income other than PAYE) applies, or income from a business, the assessable income and any expenditure incurred in deriving that income that is allowed as a deduction are treated as derived and

incurred, respectively, at a uniform daily rate throughout that part of the income year.

Defined in this Act: assessable income, business, deduction, family scheme income, income, income from employment, income year, pay period

Compare: 2004 No 35 s KD 2(6C)

Section MD 15(c): amended, on 29 March 2018 (with effect on 30 March 2017), by section 164 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

MD 16 Additional parental tax credit abatement amount for lump sum if 70-day period crosses 2 tax years

When this section applies

(1) This section applies when—

(a) a person is entitled under section MD 11 to a parental tax credit for a parental entitlement period; and

(b) the credit is paid in a lump sum for the tax year of the birth; and

(c) the birth occurs less than 70 days before the end of the tax year; and

(d) a day in an entitlement period is in the parental entitlement period.

Amount of additional abatement

(2) An additional amount of abatement for the parental tax credit is calculated for the tax year of the birth using the formula:

daily parental tax credit abatement × extra entitlement days.

Definition of items in formula

(3) In the formula,—

(a) **daily parental tax credit abatement** is the amount by which the person's parental tax credit would be reduced by a family credit abatement calculated as if for the person and an entitlement period consisting of—

(i) the last day of the last entitlement period in the part of the parental entitlement period in the tax year of the birth, if there is an entitlement period in that part of the parental entitlement period:

(ii) the first day of the first entitlement period in the part of the parental entitlement period in the tax year after the tax year of the birth, if subparagraph (i) does not apply:

(b) **extra entitlement days** is the number of days, each of which is—

(i) in the parental entitlement period; and

(ii) in an entitlement period in the tax year following the tax year of the birth.

Defined in this Act: amount, entitlement period, family credit abatement, parental entitlement period, parental tax credit, pay, tax year

Section MD 16: added, on 1 April 2008, by section 478 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MD 16 heading: replaced (with effect on 1 April 2014), on 30 March 2017, by section 174(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 16 heading: amended (with effect on 1 April 2015), on 30 March 2017, by section 174(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MD 16(1)(b): replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 118(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 16(1)(c): replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 118(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 16(1)(c): amended, on 1 April 2015 (applying for dependent children born on or after that date), by section 9(1) of the Taxation (Parental Tax Credit) Act 2014 (2014 No 28).

Section MD 16(1)(d): inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 118(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 16(2) heading: replaced, on 1 April 2014, by section 118(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 16(2): replaced, on 1 April 2014, by section 118(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 16(3) heading: replaced, on 1 April 2014, by section 118(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 16(3): replaced, on 1 April 2014, by section 118(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section MD 16 compare note: repealed (with effect on 1 April 2008), on 17 July 2013, by section 78 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Subpart ME—Minimum family tax credit

Subpart ME heading: substituted, on 1 April 2008, by section 479 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

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ME 1 Minimum family tax credit

Tax credit

(1) A person who qualifies under sections MC 3 to MC 6 (which relate to the qualifying criteria) is entitled to a tax credit (the **minimum family tax credit**) for an entitlement period equal to an amount calculated using the formula in subsection (2).

Formula

(2) The formula is—

(prescribed amount − net family scheme income) × weekly periods ÷ 52.

Definition of items in formula

(3) In the formula,—

(a) **prescribed amount** is $35,316:

(b) **net family scheme income** is the net family scheme income, calculated using the formula in section ME 3, for a relationship period containing the entitlement period, of—

(i) the person; or

(ii) their spouse, civil union partner, or de facto partner; or

(iii) the person and their spouse, civil union partner, or de facto partner:

(c) **weekly periods** is the number of periods of 1 week in the entitlement period for which the person is a full-time earner.

Order in Council increasing amount

(4) In subsection (3)(a), the amount referred to may be increased as prescribed by the Governor-General by Order in Council under section MF 7 (Orders in Council).

Relationship with section 80KW of the Tax Administration Act 1994

(5) This section is overridden by section 80KW of the Tax Administration Act 1994.

Defined in this Act: amount, civil union partner, de facto partner, entitlement period, full-time earner, minimum family tax credit, net family scheme income, relationship period, spouse, tax credit

Compare: 2004 No 35 s KD 3(2)–(5)

Section ME 1 heading: substituted, on 1 April 2008, by section 480(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ME 1(1): amended, on 1 April 2008, by section 480(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ME 1(2) formula: substituted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 113(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section ME 1(3)(a): amended, on 31 July 2024, by section 28 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section ME 1(3)(b): amended, on 1 April 2008, by section 480(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ME 1 list of defined terms **family tax credit**: repealed, on 1 April 2008, by section 480(4)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ME 1 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 480(4)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

ME 2 Meaning of employment for this subpart

Meaning

(1) For the purposes of the calculation of a minimum family tax credit, **employment** in the definition of **full-time earner**, means the activity of a person that gives rise, or will give rise, to an entitlement to a PAYE income payment other than—

(a) a payment of any of the kinds referred to in section RD 5(3) and (6)(b), (bb), (bc), (bd), and (c) (Salary or wages):

(b) a schedular payment that is a contract payment for a contract activity or service of a non-resident contractor:

(c) a payment made by a close company to a person who is a major shareholder of the close company:

(d) a payment made by a person to their spouse, civil union partner, or de facto partner:

(e) a payment made by a business carried on by 2 or more persons jointly, whether in partnership or otherwise, to a spouse, civil union partner, or de facto partner of 1 of the persons in business.

When subsections (3) and (4) apply

(2) Subsections (3) and (4) apply when a person—

(a) receives a PAYE income payment; and

(b) on the date of receipt—

(i) does not undertake any employment; or

(ii) performs an activity to an extent less than would give rise to an entitlement to the PAYE income payment.

Commissioner's determination

(3) The Commissioner may treat the person as having undertaken the employment or performed the activity that would have given rise to the PAYE income payment.

Considerations

(4) The Commissioner must have regard to—

(a) the date of receipt of the PAYE income payment; and

(b) the pay period in which the PAYE income payment occurs; and

(c) the circumstances giving rise to the PAYE income payment; and

(d) any other matters that the Commissioner considers relevant.

Defined in this Act: business, civil union partner, close company, Commissioner, contract activity or service, contract payment, de facto partner, employment, full-time earner, minimum family tax credit, major shareholder, non-resident contractor, pay, pay period, PAYE income payment, schedular payment, spouse

Compare: 2004 No 35 ss KD 3(1) "employment", KD 3A(10)

Section ME 2(1): amended, on 1 April 2008, by section 481(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ME 2(1)(a): amended (with effect on 5 January 2010), on 29 August 2011, by section 110 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section ME 2 list of defined terms **family tax credit**: repealed, on 1 April 2008, by section 481(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ME 2 list of defined terms **full-time earner**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 362 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ME 2 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 481(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

ME 3 Meaning of net family scheme income

When this section applies

(1) This section applies for the purposes of this subpart.

Formula

(2) **Net family scheme income**, for a person and a relationship period, means the amount calculated using the formula—

adjusted income − adjusted liability + amount received − amount paid.

Definition of items in formula

(3) In the formula,—

(a) **adjusted income** is—

(i) the amount of the person's family scheme income for the tax year in which the relationship period falls that is attributable to the number of weeks in which the person is a full-time earner, adjusted to an annualised amount that is found by multiplying the amount by the fraction that is 52 divided by the number of weeks in the relationship period for which the person is a full-time earner; and

(ii) calculated without reference to the amounts referred to in section MB 1(2) and (3):

(b) *[Repealed]*

(c) **adjusted liability** is the amount that would be the person's income tax liability—

(i) treating the amount of adjusted income under paragraph (a) as if it were the person's net income:

(ii) *[Repealed]*

(d) **amount received** is the amount referred to in section MB 1(2) for the tax year:

(e) **amount paid** is the amount of the deduction referred to in section MB 1(3) for the tax year.

Defined in this Act: amount, deduction, family scheme income, full-time earner, income tax liability, net income, pay, relationship period, tax credit, tax year

Compare: 2004 No 35 s OB 1 "net specified income"

Section ME 3: added, on 1 April 2008, by section 482 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section ME 3(2) formula: substituted (with effect on 1 April 2008), on 6 October 2009, by section 363(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ME 3(3)(a)(i): substituted (with effect on 1 April 2008), on 6 October 2009, by section 363(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ME 3(3)(a)(i): amended (with effect on 1 April 2013 and applying for the 2013–14 and later tax years), on 17 July 2013, by section 79(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section ME 3(3)(b): repealed (with effect on 1 April 2008), on 6 October 2009, by section 363(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section ME 3(3)(c)(i): amended (with effect from 1 April 2008), on 29 May 2008, by section 34(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section ME 3(3)(c)(ii): repealed (with effect from 1 April 2008), on 29 May 2008, by section 34(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section ME 3 list of defined terms **family scheme income**: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later tax years), on 17 July 2013, by section 79(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Subpart MF—Payment of credits

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MF 1 Application for payment of tax credit by instalment

When this section applies

(1) This section applies when—

(a) a person who is a principal caregiver expects to be entitled, throughout a selected period, to a WFF tax credit; and

(b) section MF 2 does not apply to the person; and

(c) the person wants the tax credit to be paid by instalment before the end of the tax year that contains the selected period.

Application

(2) The person may ask the Commissioner to pay the tax credit by instalment to them.

Meaning of selected period

(3) **Selected period** is a relationship period chosen by the person for the purposes of this section and sections 80KA to 80KG of the Tax Administration Act 1994.

Defined in this Act: ask, Commissioner, pay, principal caregiver, relationship period, selected period, tax credit, tax year

Compare: 2004 No 35 s KD 5(1), (1A)

Section MF 1(1)(a): replaced, on 1 July 2018, by section 18 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 1 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

MF 2 When person not entitled to payment by instalment

When this section applies

(1) This section applies when—

(a) a person—

(i) expects that in a relationship period they will be entitled to receive a main benefit; or

(ii) applies under section 80KP of the Tax Administration Act 1994 to the chief executive for payment of a tax credit for a period after a main benefit has ended; and

(b) the chief executive is authorised by section 80KN of that Act to pay to the person—

(i) an abating WFF tax credit:

(ii) a Best Start tax credit; and

(bb) the chief executive and the Commissioner do not agree that the Commissioner will, and the chief executive will not, pay to the person, or each person in a class of persons to which the person belongs, the WFF tax credit that they are entitled to receive and that the chief executive is authorised to pay; and

(c) the chief executive does not ask the Commissioner under section 80KQ of that Act to accept from the person an application for a notice of entitlement.

No entitlement

(2) The person is not entitled to apply under section MF 1 for the payment of the tax credit by instalment for the relationship period.

Defined in this Act: abating WFF tax credit, apply, ask, Best Start tax credit, chief executive, Commissioner, main benefit, notice of entitlement, pay, relationship period, tax credit, WFF tax credit

Compare: 2004 No 35 s KD 5(8)

Section MF 2(1)(a)(i): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 2(1)(a)(ii): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 2(1)(b): replaced, on 1 July 2018, by section 19(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 2(1)(bb): inserted (with effect on 1 July 2018), on 18 March 2019, by section 239(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 2(1)(c): inserted, on 1 July 2018, by section 19(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 2(2): amended (with effect on 1 July 2018), on 18 March 2019, by section 239(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 2 list of defined terms **abating WFF tax credit**: inserted, on 1 April 2008, by section 484(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 2 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section MF 2 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section MF 2 list of defined terms **Best Start tax credit**: inserted, on 1 July 2018, by section 19(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 2 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 484(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 2 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 2 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 2 list of defined terms **WFF tax credit**: inserted (with effect on 1 July 2018), on 18 March 2019, by section 239(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

MF 3 Calculating amount of interim WFF tax credit

When this section applies

(1) This section applies when the Commissioner receives an application under section MF 1 and is required under section 80KD(2) of the Tax Administration Act 1994 to determine the amount of the tax credit to which the person applying would be entitled.

Method for determining family assistance credit

(2) The Commissioner must—

(a) calculate an amount (the **annual amount**) using the formula in subsection (3); and

(b) ascertain the amount (**amount A**) that, in schedule 31, column 2 (Annualised equivalent amount for Part M) is the equivalent of the annual amount represented in schedule 31, column 1; and

(c) calculate the WFF tax credit that the person would be entitled to for the tax year in which the calculation period falls if the family scheme income of the person for the calculation period were equal to amount A.

Formula

(3) The formula is—

attributed net income × 365 ÷ days.

Definition of items in formula

(4) In the formula,—

(a) **attributed net income** is equal to such amount of the family scheme income expected to be attributable to the part of the tax year that is the part (the **calculation period**) for which the Commissioner determines that a tax credit is allowable to the person:

(b) **days** is the number of days in the calculation period.

Defined in this Act: amount, apply, Commissioner, family scheme income, tax credit, tax year, WFF tax credit

Compare: 2004 No 35 s KD 5(6)

Section MF 3 heading: amended, on 1 April 2008, by section 485(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 3(2)(c): amended, on 1 April 2008, by section 485(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 3 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section MF 3 list of defined terms **family assistance credit**: repealed, on 1 April 2008, by section 485(2)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 3 list of defined terms **WFF tax credit**: inserted, on 1 April 2008, by section 485(2)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MF 4 Requirements for calculating instalment of tax credit

When this section applies

(1) This section applies for an instalment by way of tax credit under—

(a) section MD 1 (Abating WFF tax credit):

(b) section ME 1 (Minimum family tax credit):

(c) section MG 1 (Best Start tax credit entitlement).

How to calculate instalment: period

(2) The Commissioner must calculate the amount of the instalment as if the calculation period referred to in section MF 3 were a relationship period.

How to calculate instalment: amount

(3) The Commissioner must calculate the amount of the instalment using—

(a) a value for family scheme income as directed by section MF 3(2)(c); and

(b) the amounts of family tax credit, in-work tax credit, child tax credit, parental tax credit, family credit abatement, minimum family tax credit, Best Start tax credit, and Best Start credit abatement set out in sections MD 3, MD 4, MD 11, MD 12, MD 13, ME 1, MG 2, and MG 3.

Adjustments to instalment amount: abating WFF tax credit and minimum family tax credit

(3B) Despite subsection (3), when the Commissioner expects that the total of the parts of the instalments paid and still to be paid to a person for a tax year that relate to the person's estimated tax credit under sections MD 1 and ME 1 for the tax year will differ from the person's entitlement to a tax credit under sections MD 1 and ME 1 for the tax year if the Commissioner were, for the remaining instalments for the tax year, to pay to the person the part of the amount of the instalment calculated under subsection (3) that relates to amounts of family tax credit, in-work tax credit, child tax credit, parental tax credit, family credit abatement, and minimum family tax credit set out in sections MD 3, MD 4, MD 11, MD 12, MD 13, and ME 1, the Commissioner may—

(a) decrease the amount of the person's remaining instalments for the tax year to offset all or part of the expected excess; or

(b) increase the amount of the person's remaining instalments for the tax year to offset all or part of the expected shortfall.

Instalment shown in complete dollars

(4) The instalment is to be shown in a notice of entitlement in complete dollars.

Defined in this Act: amount, Best Start credit abatement, Best Start tax credit, child tax credit, Commissioner, family credit abatement, family scheme income, family tax credit, in-work tax credit, minimum family tax credit, notice of entitlement, parental tax credit, pay, relationship period, tax credit, tax year

Section MF 4: replaced, on 1 July 2018, by section 20 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 4(3B) heading: inserted, on 1 April 2019, by section 240(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 4(3B): inserted, on 1 April 2019, by section 240(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 4 list of defined terms **pay**: inserted, on 1 April 2019, by section 240(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 4 list of defined terms **tax year**: inserted, on 1 April 2019, by section 240(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

MF 4B Calculation of instalments: 1 April 2008 to 30 September 2008

[Repealed]

Section MF 4B: repealed, on 1 April 2011 (applying for the 2011–12 income year and later income years), by section 63(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

MF 4C Calculation of instalments: 1 October 2008 to 31 March 2009

[Repealed]

Section MF 4C: repealed, on 1 April 2011 (applying for the 2011–12 income year and later income years), by section 63(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

MF 4D Calculation of instalments: 1 April 2010 to 30 September 2010

[Repealed]

MF 4D: repealed, on 20 December 2017, by section 53 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

MF 4E Calculation of instalments: 1 October 2010 to 31 March 2011

[Repealed]

MF 4E: repealed, on 20 December 2017, by section 54 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

MF 4F Calculation of instalments: 1 April 2018 to 30 June 2018

[Repealed]

Section MF 4F: repealed (with effect on 1 April 2021), on 24 May 2021, by section 5 of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

MF 4G Calculation of instalments: 1 July 2018 to 31 March 2019

[Repealed]

Section MF 4G: repealed (with effect on 1 April 2021), on 24 May 2021, by section 5 of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

MF 4H Calculation of instalments: 1 April 2021 to 30 June 2021

When this section applies

(1) This section applies for calculating the amount of an instalment by way of tax credit under section ME 1 (Minimum family tax credit) for the period starting on 1 April 2021 and finishing on 30 June 2021.

Minimum family tax credit formula: section ME 1

(2) The instalments for the tax credit under section ME 1 are calculated using the formula—

(prescribed amount − net family scheme income) × weekly periods ÷ 52.

Definition of items in formula

(3) In the formula,—

(a) **prescribed amount** is $30,576:

(b) **net family scheme income** is the net family scheme income, calculated using the formula in section ME 3 (Meaning of net family scheme income), for a relationship period containing the entitlement period, of—

(i) the person; or

(ii) their spouse, civil union partner, or de facto partner; or

(iii) the person and their spouse, civil union partner, or de facto partner:

(c) **weekly periods** is the number of periods of 1 week in the entitlement period for which the person is a full-time earner.

Defined in this Act: amount, civil union partner, de facto partner, entitlement period, full-time earner, minimum family tax credit, net family scheme income, relationship period, spouse, tax credit

Section MF 4H: inserted (with effect on 1 April 2021), on 24 May 2021, by section 6 of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

MF 4I Calculation of instalments: 1 July 2021 to 31 March 2022

When this section applies

(1) This section applies for calculating the amount of an instalment by way of tax credit under section ME 1 (Minimum family tax credit) for the period starting on 1 July 2021 and finishing on 31 March 2022.

Minimum family tax credit formula: section ME 1

(2) The instalments for the tax credit under section ME 1 are calculated using the formula—

(prescribed amount − net family scheme income) × weekly periods ÷ 52.

Definition of items in formula

(3) In the formula,—

(a) **prescribed amount** is $31,096:

(b) **net family scheme income** is the net family scheme income, calculated using the formula in section ME 3 (Meaning of net family scheme income), for a relationship period containing the entitlement period, of—

(i) the person; or

(ii) their spouse, civil union partner, or de facto partner; or

(iii) the person and their spouse, civil union partner, or de facto partner:

(c) **weekly periods** is the number of periods of 1 week in the entitlement period for which the person is a full-time earner.

Defined in this Act: amount, civil union partner, de facto partner, entitlement period, full-time earner, minimum family tax credit, net family scheme income, relationship period, spouse, tax credit

Section MF 4I: inserted (with effect on 1 April 2021), on 24 May 2021, by section 6 of the Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19).

MF 4J Calculation of instalments: 1 April 2024 to 30 July 2024

When this section applies

(1) This section applies for calculating the amount of an instalment by way of tax credit under section MD 1 (Abating WFF tax credit) or, as applicable, sections MD 1 and ME 1 (Minimum family tax credit) for the period starting on 1 April 2024 and finishing on 30 July 2024.

In-work tax credit formula: section MD 10

(2) The instalments for the relevant tax credit are calculated using, for the calculation of the in-work tax credit, the formula—

$$(\text{amount A} + \text{amount B} \times (\text{children} - 3)) \times \text{weekly periods} \div 52.$$

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **amount A** is $3,770:

(b) **amount B** is $780:

(c) **children** is the greater of—

(i) 3; and

(ii) the number of children for whom the person is allowed the in-work tax credit:

(d) **weekly periods**,—

(i) for 2 or more entitlement periods forming 1 continuous period, is the number of whole periods of 1 week in the continuous period for which the person or their spouse, civil union partner,

or de facto partner has, from the work activity, income to which section MD 9(2) (Fifth requirement: earner) refers or is an earner described in section MD 9(1)(b), and includes whole periods of 1 week to which the alternative requirement in section MD 9(6) applies:

(ii) for an entitlement period to which subparagraph (i) does not apply, is the number of whole periods of 1 week in the entitlement period for which the person or their spouse, civil union partner, or de facto partner has, from the work activity, income to which section MD 9(2) refers or is an earner described in section MD 9(1)(b), and includes whole periods of 1 week to which the alternative requirement in section MD 9(6) applies.

Minimum family tax credit formula: section ME 1

(4) The instalments for the relevant tax credit are calculated using, for the calculation of the minimum family tax credit, the formula—

(prescribed amount − net family scheme income) × weekly periods ÷ 52.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **prescribed amount** is $35,204:

(b) **net family scheme income** is the net family scheme income, calculated using the formula in section ME 3 (Meaning of net family scheme income), for a relationship period containing the entitlement period, of—

(i) the person; or

(ii) their spouse, civil union partner, or de facto partner; or

(iii) the person and their spouse, civil union partner, or de facto partner:

(c) **weekly periods** is the number of periods of 1 week in the entitlement period for which the person is a full-time earner.

Defined in this Act: amount, child, civil union partner, de facto partner, earner, entitlement period, full-time earner, in-work tax credit, minimum family tax credit, net family scheme income, relationship period, spouse, tax credit

Section MF 4J: inserted (with effect on 1 April 2024), on 4 June 2024, by section 5 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

MF 4K Calculation of instalments: 31 July 2024 to 31 March 2025

When this section applies

(1) This section applies for calculating the amount of an instalment by way of tax credit under section MD 1 (Abating WFF tax credit) or, as applicable, sections MD 1 and ME 1 (Minimum family tax credit) for the period starting on 31 July 2024 and finishing on 31 March 2025.

In-work tax credit formula: section MD 10

(2) The instalments for the relevant tax credit are calculated using, for the calculation of the in-work tax credit, the formula—

(amount A + amount B × (children − 3)) × weekly periods ÷ 52.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **amount A** is $5,070:

(b) **amount B** is $780:

(c) **children** is the greater of—

(i) 3; and

(ii) the number of children for whom the person is allowed the in-work tax credit:

(d) **weekly periods**,—

(i) for 2 or more entitlement periods forming 1 continuous period, is the number of whole periods of 1 week in the continuous period for which the person or their spouse, civil union partner, or de facto partner has, from the work activity, income to which section MD 9(2) (Fifth requirement: earner) refers or is an earner described in section MD 9(1)(b), and includes whole periods of 1 week to which the alternative requirement in section MD 9(6) applies:

(ii) for an entitlement period to which subparagraph (i) does not apply, is the number of whole periods of 1 week in the entitlement period for which the person or their spouse, civil union partner, or de facto partner has, from the work activity, income to which section MD 9(2) refers or is an earner described in section MD 9(1)(b), and includes whole periods of 1 week to which the alternative requirement in section MD 9(6) applies.

Minimum family tax credit formula: section ME 1

(4) The instalments for the relevant tax credit are calculated using, for the calculation of the minimum family tax credit, the formula—

(prescribed amount − net family scheme income) × weekly periods ÷ 52.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **prescribed amount** is $35,316:

(b) **net family scheme income** is the net family scheme income, calculated using the formula in section ME 3 (Meaning of net family scheme income), for a relationship period containing the entitlement period, of—

(i) the person; or

(ii) their spouse, civil union partner, or de facto partner; or

(iii) the person and their spouse, civil union partner, or de facto partner:

(c) **weekly periods** is the number of periods of 1 week in the entitlement period for which the person is a full-time earner.

Defined in this Act: amount, child, civil union partner, de facto partner, earner, entitlement period, full-time earner, in-work tax credit, minimum family tax credit, net family scheme income, relationship period, spouse, tax credit

Section MF 4K: inserted (with effect on 1 April 2024), on 4 June 2024, by section 5 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

MF 5 Recovery of overpaid tax credit

When this section applies

(1) This section applies when the Commissioner considers that the amount of a tax credit under section MD 1 (Abating WFF tax credit) or ME 1 (Minimum family tax credit) set off or refunded to a person for a tax year is more than the proper amount.

Recovery of overpayment

(2) The Commissioner may recover the excess as if it were income tax payable by the person. However, if, throughout the tax year, the person is in a relationship with a spouse, civil union partner, or de facto partner, the person and that spouse or partner are jointly and severally liable for the payment of the excess.

Shortfall penalties

(3) The person is not liable for a shortfall penalty under Part 9 of the Tax Administration Act 1994 in relation to an amount that the Commissioner may recover under this section if the amount set off or refunded is more than the proper amount because the person—

(a) applied for a tax credit under section 41 of that Act before 1 April 2007; and

(b) was eligible to be a transitional resident at the time of the application; and

(c) notified the Commissioner before 1 June 2007 that they did not wish the application to be treated under section HR 8(5) (Transitional residents) as an election under section HR 8(4).

Defined in this Act: amount, apply, civil union partner, Commissioner, de facto partner, income tax, notify, pay, shortfall penalty, spouse, tax credit, tax year, transitional resident

Compare: 2004 No 35 s KD 4(4)

Section MF 5(1): amended, on 1 April 2008, by section 487 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 5(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 364(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MF 5 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

MF 6 Overpayment or underpayment of tax credit

When this section applies

(1) This section applies for the purposes of sections LA 3 and LA 4 (which relate to the treatment of a person's total tax credits) when—

(a) a person has an entitlement to a tax credit under section MD 1 (Abating WFF tax credit) or ME 1 (Minimum family tax credit); and

(b) the person—

(i) applies under section MF 1 to have the tax credit paid by instalment; or

(ii) is paid a tax credit under section 80KN of the Tax Administration Act 1994 by the chief executive of the administering department; and

(c) the instalments of the estimated tax credit, or the total of those instalments, differs from the tax credit, or total tax credit, to which the person is entitled under the family scheme because the instalment has, or the total instalments have, either been overpaid resulting in an excess or underpaid resulting in a shortfall; and

(d) the Commissioner—

(i) gives the person a notice of entitlement for the tax year because an instalment of the estimated tax credit has been paid to the person during the tax year; or

(ii) finds out, otherwise than by way of a notice of entitlement, that an instalment of the estimated tax credit has been paid to the person for the tax year.

Overpayment

(2) For an overpayment of the person's entitlement, an amount equal to the excess is—

(a) added to the tax payable by the person for the tax year; and

(b) recoverable by the Commissioner under section 80KLB of the Tax Administration Act 1994 as if it were tax payable by the person for the tax year.

Underpayment

(3) For an underpayment of the entitlement, an amount equal to the shortfall is used to satisfy the person's income tax liability, and any balance remaining is treated as tax paid in excess and available for use under section LA 7(2) (Remaining refundable credits: tax credits for social policy and other initiatives).

Treatment when tax credits paid by chief executive to certain persons

(4) The Commissioner may, in relation to a person referred to in subsection (1)(b)(ii), choose to treat the amount of the tax credit paid to the person for the tax year as equal to the person's entitlement for the tax year.

Defined in this Act: amount, apply, Commissioner, family scheme, income tax liability, notice of entitlement, pay, tax, tax credit, tax year

Section MF 6: substituted (with effect on 1 April 2008), on 6 October 2009, by section 365(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MF 6(1)(a): amended, on 1 April 2008, by section 488 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 6(1)(b): replaced (with effect on 1 April 2008), on 23 March 2020, by section 166(1) (and see section 166(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section MF 6(3): amended, on 1 April 2016, by section 212 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MF 6(4) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 166(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section MF 6(4): inserted (with effect on 1 April 2019), on 23 March 2020, by section 166(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section MF 6 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

MF 7 Orders in Council

What may be done by Order in Council

(1) The Governor-General may, by Order in Council,—

(a) increase the amounts in section MD 3(4)(a) and (b) (Calculation of family tax credit) by amounts that—

(i) correspond to the movement in the Consumers Price Index (all groups) after the quarter ended with 30 September 2021 that has not yet been taken into account by an increase:

(ii) are rounded up to the nearest whole dollar, without affecting the calculation of later increases made under this paragraph:

(ab) *[Repealed]*

(b) increase the amounts appearing as items in the formula for the in-work tax credit set out in section MD 10(3) (Calculation of in-work tax credit):

(c) *[Repealed]*

(cb) increase the amounts appearing as the amount of the threshold set out in section MD 13(3):

(d) increase the amount appearing as an item in the formula for the minimum family tax credit in section ME 1(3) (Minimum family tax credit):

(db) change the amounts in section MG 2(2)(a) (Best Start tax credit) by an amount that—

(i) corresponds to the movement in the Consumers Price Index (all groups) after the quarter ended with 30 September 2021 that has not yet been taken into account by an increase:

(ii) is rounded up to the nearest whole dollar, without affecting the calculation of later increases made under this paragraph:

(dc) change the amounts in section MG 3(2)(a) (Best Start tax credit abatement):

(e) replace schedule 31 (Annualised equivalent amount for Part M).

Order in Council under subsection (1)(a): requirements

(2) An Order in Council under subsection (1)(a),—

(a) *[Repealed]*

(b) in the case of the first Order in Council made under subsection (1)(a) after the date on which the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 receives the Royal assent, must be made when the total percentage increase in the movement in the Consumers Price Index (all groups) measured from that applying on 1 October 2021 is 5% or more:

(c) in the case of a subsequent Order in Council under subsection (1)(a), must be made when the total percentage increase in the movement in the Consumers Price Index (all groups) measured from that applying on the date when the requirement to make the immediately preceding adjustment arose is 5% or more.

Order in Council under subsection (1)(db): requirements

(2BA) An Order in Council under subsection (1)(db),—

(a) in the case of the first Order in Council made under subsection (1)(db) after the date on which the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 receives the Royal assent, must be made when the total percentage increase in the movement in the Consumers Price Index (all groups) measured from that applying on 1 October 2021 is 5% or more:

(b) in the case of a subsequent Order in Council under subsection (1)(db), must be made when the total percentage increase in the movement in the Consumers Price Index (all groups) measured from that applying on the date when the requirement to make the immediately preceding adjustment arose is 5% or more.

How movement in CPI determined

(2B) For the purposes of subsections (1)(a)(i) and (db)(i), (2), and (2BA), a movement in the Consumers Price Index (all groups) over a period is determined by comparing the following numbers:

(a) the number that, when the period started, was the most recent quarterly index number of the Consumers Price Index (all groups):

(b) the number that, when the period ended, was the most recent quarterly index number of the Consumers Price Index (all groups).

Order in Council under subsection (1)(ab)

[Repealed]

(2C) *[Repealed]*

Timing of Order in Council

(3) An Order in Council made under this section must be published under the Legislation Act 2019 no later than 1 December in each year and must apply from 1 April following that date.

Secondary legislation

(3B) An Order in Council under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Review of in-work tax credit

(4) The Minister responsible for the Inland Revenue Department, in consultation with the Minister responsible for the department currently responsible for administering the Social Security Act 2018, must cause a review to be undertaken of the amounts of the in-work tax credit allowable under subparts MB to MF and MZ.

Timing of review

(5) A review undertaken under subsection (4) must occur,—

(a) in the case of the first review, not later than 30 June 2008; and

(b) in the case of subsequent reviews, not later than 30 June in the third year after each preceding review.

Definitions

(6) In this section, **Consumers Price Index (all groups)** means the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index.

Defined in this Act: amount, family tax credit, in-work tax credit, minimum family tax credit, quarter

Compare: 2004 No 35 s KD 5C

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section MF 7(1)(a): amended (with effect on 1 July 2018), on 18 March 2019, by section 241(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 7(1)(a): amended, on 24 May 2011, by section 6(1) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section MF 7(1)(a): amended (with effect on 20 May 2010), on 28 May 2010, by section 94(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section MF 7(1)(a): amended, on 1 April 2008, by section 489(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7(1)(a)(i): replaced, on 25 November 2021, by section 13(1) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MF 7(1)(a)(i): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(1)(ab): repealed (with effect on 1 July 2018), on 18 March 2019, by section 241(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 7(1)(b): amended, on 1 April 2008, by section 489(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7(1)(c): repealed, on 30 March 2021, by section 123(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 7(1)(cb): inserted (with effect on 20 May 2010), on 28 May 2010, by section 94(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section MF 7(1)(d): amended, on 1 April 2008, by section 489(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7(1)(db): inserted, on 1 July 2018, by section 21(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(1)(db)(i): replaced, on 25 November 2021, by section 13(2) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MF 7(1)(db)(i): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(1)(dc): inserted, on 1 July 2018, by section 21(1) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(2)(a): repealed, on 25 November 2021, by section 13(3) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MF 7(2)(b): replaced, on 25 November 2021, by section 13(3) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MF 7(2)(b): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(2)(c): inserted, on 1 April 2018, by section 56(2) (and see section 56(4) for application) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(2)(c): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(2BA) heading: inserted, on 1 July 2018, by section 21(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(2BA): inserted, on 1 July 2018, by section 21(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(2BA)(a): replaced, on 25 November 2021, by section 13(4) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MF 7(2BA)(a): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(2BA)(b): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(2B) heading: replaced, on 1 April 2018, by section 56(3) (and see section 56(4) for application) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(2B): replaced, on 1 April 2018, by section 56(3) (and see section 56(4) for application) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(2B): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(2B): amended, on 1 July 2018, by section 21(3) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MF 7(2B)(a): replaced, on 25 November 2021, by section 13(5) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MF 7(2B)(a): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(2B)(b): replaced, on 25 November 2021, by section 13(5) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section MF 7(2B)(b): amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(2C) heading: repealed (with effect on 1 July 2018), on 18 March 2019, pursuant to section 241(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 7(2C): repealed (with effect on 1 July 2018), on 18 March 2019, by section 241(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MF 7(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section MF 7(3B) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section MF 7(3B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section MF 7(4) heading: amended, on 30 March 2021, by section 123(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 7(4) heading: amended, on 1 April 2008, by section 489(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7(4): amended, on 30 March 2021, by section 123(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 7(4): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section MF 7(4): amended, on 1 April 2008, by section 489(5) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7(6) heading: inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7(6): inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Section MF 7 list of defined terms **family support**: repealed, on 1 April 2008, by section 489(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 489(6)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 489(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7 list of defined terms **minimum family tax credit**: inserted, on 1 April 2008, by section 489(6)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MF 7 list of defined terms **parental tax credit**: repealed, on 30 March 2021, by section 123(4) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MF 7 list of defined terms **quarter**: inserted, on 25 November 2021, by section 13(6) of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Subpart MG—Best Start tax credit

Subpart MG: inserted, on 1 July 2018, by section 22 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

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MG 1 Best Start tax credit entitlement

Best Start tax credit for dependent child

(1) A person is entitled to a tax credit, the **Best Start tax credit**, for an entitlement period for a dependent child equal to an amount calculated using the formula in subsection (2), if—

(a) the person qualifies under section MC 2 (Who qualifies for entitlements under family scheme?); and

(b) the person is a principal caregiver for the dependent child during the entitlement period; and

(c) the dependent child is aged less than 3 years old; and

(d) the dependent child is born—

(i) on or after 1 July 2018; or

(ii) before 1 July 2018, but the expected due date for the child is on or after 1 July 2018.

Best Start tax credit formula

(2) The formula is—

Best Start tax credit − credit abatement.

Definition of items in formula

(3) In the formula,—

(a) **Best Start tax credit** is the person's Best Start tax credit for the entitlement period for the dependent child, calculated using the formula in section MG 2:

(b) **credit abatement** is the person's Best Start credit abatement, calculated using the formula in section MG 3.

Extra instalment

(4) This section is overridden by section 80KW of the Tax Administration Act 1994.

Defined in this Act: Best Start credit abatement, Best Start tax credit, dependent child, entitlement period, principal caregiver

Section MG 1: inserted, on 1 July 2018, by section 22 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

MG 2 Best Start tax credit

Best Start tax credit for dependent child

(1) For the purposes of section MG 1(3)(a), the person's Best Start tax credit for the entitlement period for the dependent child is calculated using the formula—

prescribed amount × days ÷ 365.

Definition of items in formula

(2) In the formula,—

(a) **prescribed amount** is, for the dependent child, $3,838:

(b) **days** is the number of days in the entitlement period.

If dependent child dies during entitlement period

(3) The person continues to be entitled to the Best Start tax credit for 4 weeks after the dependent child dies, if the person otherwise meets the requirements of section MG 1(1).

Order in Council increasing amount

(4) The amount in subsection (2)(a) may be changed as prescribed by the Governor-General by Order in Council under section MF 7 (Orders in Council).

When another person cares for dependent child

(5) A Best Start tax credit must be reduced in proportion to the time in the entitlement period that the dependent child spends in the exclusive care of another person who qualifies under section MC 2 (Who qualifies for entitlements under family scheme?).

Defined in this Act: amount, Best Start tax credit, dependent child, entitlement period

Section MG 2: inserted, on 1 July 2018, by section 22 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MG 2(2)(a): amended, on 1 April 2024, by clause 5(1) (and see clause 5(2) for application) of the Income Tax (Tax Credit) Order 2023 (SL 2023/288).

MG 3 Best Start credit abatement

When this section applies

(1) For the purposes of section MG 1(3)(b) the person's Best Start credit abatement for the entitlement period is calculated using the formula—

full-year abatement × days ÷ 365.

Definition of items in formula

(2) In the formula,—

(a) **full-year abatement** is,—

(i) if the person has no spouse, civil union partner, or de facto partner during the entitlement period, and the person's family scheme income for the relationship period containing the entitlement period is more than $79,000, 21 cents for each complete dollar of the excess; or

(ii) if the person has a spouse, civil union partner, or de facto partner during the entitlement period, and the person's family scheme income, the family scheme income of their spouse, civil union partner, or de facto partner, or the sum of those incomes for the relationship period containing the entitlement period is more than $79,000, 21 cents for each complete dollar of the excess:

(b) **days** is the number of days in the entitlement period excluding—

(i) the days on which the dependent child is less than 1 year old:

(ii) the days of any calendar months in which the person receives protected Best Start tax credit as described in section MG 4.

Order in Council increasing amount

(3) The amounts in subsection (2)(a) may be changed as prescribed by the Governor-General by Order in Council under section MF 7 (Orders in Council).

Defined in this Act: amount, Best Start credit abatement, Best Start tax credit, civil union partner, de facto partner, dependent child, entitlement period, family scheme income, protected Best Start tax credit, relationship period, spouse

Section MG 3: inserted, on 1 July 2018, by section 22 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MG 3 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

MG 4 Person receiving protected Best Start tax credit

Requirements

(1) For the purposes of section MG 3(2)(b)(ii), a person who receives protected Best Start tax credit for a calendar month in an entitlement period, is a person who, in the calendar month,—

(a) has no spouse, civil union partner, or de facto partner, receives a main benefit, and derives family scheme income that is less than the amount set out in section MG 3(2)(a)(i):

(b) has a spouse, civil union partner, or de facto partner, receives a main benefit, and derives family scheme income that together with the family scheme income of their spouse, civil union partner, or de facto partner is less than the amount set out in section MG 3(2)(a)(ii).

Annualised equivalent

(2) Section MB 2 (Adjustment for period that is less or more than 1 year) applies to adjust the amount of family scheme income to provide an annualised equivalent.

Defined in this Act: amount, Best Start tax credit, civil union partner, de facto partner, entitlement period, family scheme income, main benefit, protected Best Start tax credit, spouse

Section MG 4: inserted, on 1 July 2018, by section 22 of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section MG 4(1)(a): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MG 4(1)(b): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MG 4 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MG 4 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Subpart MH—FamilyBoost tax credits

Subpart MH: inserted, on 1 July 2024, by section 14 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

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MH 1 FamilyBoost tax credits: purpose

The purpose of the FamilyBoost tax credit is to provide financial assistance to caregivers with early childhood education costs.

Defined in this Act: caregiver, FamilyBoost tax credit

Section MH 1: inserted, on 1 July 2024, by section 14 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

MH 2 Some definitions

In this subpart,—

abatement amount means the amount calculated under section MH 5

caregiver means a person, whether or not a parent of the child, who the Commissioner considers has responsibility for the day-to-day care of a child, other than on a temporary basis

FamilyBoost tax credit means a tax credit under section MH 3

licensed early childhood service has the meaning set out in section 10 of the Education and Training Act 2020

licensed early childhood service fees includes optional charges but excludes any portion that is a donation

other income means a person's income that is not reportable income but also includes a PAYE income payment that is a schedular payment under section RD 8 (Schedular payments)

reportable income has the meaning set out in section 22D(3) of the Tax Administration Act 1994, but does not include a PAYE income payment that is a schedular payment under section RD 8

tax credit income means the amount determined under section MH 4

tax credit quarter means the quarter for which a person is entitled to a FamilyBoost tax credit under section MH 4.

Defined in this Act: abatement amount, amount, caregiver, Commissioner, FamilyBoost tax credit, licensed early childhood service, licensed early childhood service fees, other income, PAYE income payment, quarter, reportable income, schedular payment, tax credit, tax credit income, tax credit quarter

Section MH 2: inserted, on 1 July 2024, by section 14 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section MH 2 **other income**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 **reportable income**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 **tax credit quarter**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 list of defined terms **other income**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 list of defined terms **PAYE income payment**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 list of defined terms **quarter**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 list of defined terms **reportable income**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 list of defined terms **schedular payment**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 2 list of defined terms **tax credit quarter**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 110(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

MH 3 FamilyBoost tax credit

Entitlement to FamilyBoost tax credit

(1) A natural person is entitled to a FamilyBoost tax credit for a tax credit quarter for the amount calculated under subsections (2) and (3) if, during that quarter, the person—

(a) is a caregiver of 1 or more children enrolled with a licensed early childhood service; and

(b) incurs licensed early childhood service fees for that child or children; and

(c) is resident in New Zealand.

Amount of credit

(2) Subject to subsection (3), the FamilyBoost tax credit for a tax credit quarter is equal to 40% of the licensed early childhood service fees payable by the person for that quarter up to a maximum credit amount of $1,560.

Abatement of credit

(3) If the person's tax credit income calculated under section MH 4 is greater than $35,000 for the tax credit quarter, the FamilyBoost tax credit for the tax credit quarter is the lesser of—

(a) the amount of the FamilyBoost tax credit determined under subsection (2); and

(b) $1,560 less the abatement amount.

Person may apply for refund

(4) A person entitled to a FamilyBoost tax credit for a tax credit quarter may apply for a refund of that credit under section 41C of the Tax Administration Act 1994 if, subject to subsection (5),—

(a) the person has met their obligation to file a return of income by the due dates set out in section 37 of that Act; and

(b) the person's spouse, civil union partner, or de facto partner (**relationship partner**), if applicable, has also met their obligation to file a return of income by the due dates set out in section 37 of that Act.

Late filing of income tax return

(5) If a person or their relationship partner has failed to meet their obligation to file a return of income by the due dates set out in section 37 of the Tax Administration Act 1994, the person may be treated as complying with that section for the purposes of subsection (4) once they have filed the outstanding return or returns that would enable the Commissioner to assess their tax credit income under section MH 4.

One tax credit per couple

(6) If a person entitled to a FamilyBoost tax credit under subsection (1) has a relationship partner, the relationship partner is not also entitled to a FamilyBoost tax credit for the tax credit quarter, regardless of whether the licensed early childhood service fees are incurred by both the person and their relationship partner.

Separated persons

(7) Subsection (6) does not apply for a tax credit quarter if the person is separated from their relationship partner and does not have a relationship partner at the end of that quarter.

Deceased estate

(8) Despite subsection (4), when a person entitled to a FamilyBoost tax credit dies before applying for a refund of that credit, the trustee of that person's estate may apply for a refund of the FamilyBoost tax credit to which the deceased person was entitled under subsection (1) as if they were that person.

Defined in this Act: abatement amount, amount, caregiver, Commissioner, de facto partner, FamilyBoost tax credit, licensed early childhood service, licensed early childhood service fees, natural person, pay, resident in New Zealand, return of income, tax credit income, tax credit quarter, trustee

Section MH 3: replaced (with effect on 1 July 2024), on 29 March 2025, by section 111 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 3(2): amended (with effect on 1 July 2025), on 24 September 2025, by section 4(1) (and see section 4(3) for application) of the Income Tax (FamilyBoost) Amendment Act 2025 (2025 No 50).

Section MH 3(3)(b): amended (with effect on 1 July 2025), on 24 September 2025, by section 4(1) (and see section 4(3) for application) of the Income Tax (FamilyBoost) Amendment Act 2025 (2025 No 50).

MH 4 Meaning of tax credit income

Meaning of tax credit income

(1) The tax credit income of a person entitled to a FamilyBoost tax credit under section MH 3 is the amount determined under subsections (2) to (8).

Person has only reportable income

(2) When the person has only reportable income in a tax credit quarter, the person's tax credit income for the tax credit quarter is the same amount as their reportable income for that quarter.

Person has only other income for income year including tax credit quarter

(3) Subject to subsection (5), the person's tax credit income for a tax credit quarter is 25% of the person's taxable income for an income year when—

(a) the person has filed a return of income for that income year; and

(b) that income year includes the tax credit quarter; and

(c) the person has only other income for that income year.

Person has only other income for income year not including tax credit quarter

(4) If the person has not yet filed a return of income for an income year that includes a tax credit quarter, the Commissioner may determine the person's tax credit income based on the person's most recent return. Subject to subsection (5), the person's tax credit income for that quarter is 25% of the person's taxable income for an income year when—

(a) the most recent return has been filed in either of the 2 income years preceding the tax credit quarter; and

(b) the person has complied with the due dates for filing under section 37 of the Tax Administration Act 1994 or is treated as doing so under section MH 3(5).

Person has both reportable income and other income

(5) If the person has both reportable income and other income during an income year, the Commissioner may determine the person's tax credit income based on the person's most recent return of income. The person's tax credit income for the tax credit quarter is the greater of—

(a) the amount under subsection (2), calculated as if the person has only reportable income for that income year; and

(b) the amount under subsection (3) or (4), calculated as if the person has only other income for that income year.

Neither reportable nor other income

(6) Despite subsections (2), (3), (4), and (5), a person's tax credit income is zero if, throughout the 2-year period preceding the income year that includes the person's tax credit quarter, the person has not had an obligation to file a return

of income by the dates required under section 37 of the Tax Administration Act 1994 and has not derived reportable income for the tax credit quarter.

Combined tax credit incomes

(7) If the person has a spouse, civil union partner, or de facto partner (**relationship partner**) for the tax credit quarter, the person's tax credit income for the tax credit quarter is the combined total of the person's tax credit income and the tax credit income of their relationship partner for that quarter. For these purposes, their relationship partner's tax credit income is determined under subsections (2) to (6) as if their relationship partner were the person referred to in those subsections.

Separated persons

(8) Subsection (7) does not apply for a tax credit quarter if the person is separated from their relationship partner and does not have a relationship partner at the end of that quarter.

Defined in this Act: amount, de facto partner, FamilyBoost tax credit, other income, income year, quarter, reportable income, return, return of income, tax credit income, tax credit quarter, taxable income

Section MH 4: replaced (with effect on 1 July 2024), on 29 March 2025, by section 112 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

MH 5 FamilyBoost tax credit abatement

What this section does

(1) When a person is entitled to a FamilyBoost tax credit for a tax credit quarter under section MH 3 and the person's tax credit income for that quarter is greater than $35,000, this section calculates the abatement amount for the purposes of section MH 3(3)(b).

Rate of abatement

(2) Subject to subsection (3), the abatement amount is calculated at the rate of 7 cents for each complete dollar of the person's tax credit income for the tax credit quarter that is greater than $35,000.

Zero credit

(3) If the person's tax credit income for the tax credit quarter is $57,286 or more, the abatement amount is $1,560 and the FamilyBoost tax credit amount under section MH 3(2) and (3) is zero.

Defined in this Act: abatement amount, amount, FamilyBoost tax credit, tax credit income, tax credit quarter

Section MH 5: inserted, on 1 July 2024, by section 14 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section MH 5(1): amended (with effect on 1 July 2024), on 29 March 2025, by section 113(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 5(2): amended (with effect on 1 July 2025), on 24 September 2025, by section 5(1) (and see section 5(3) for application) of the Income Tax (FamilyBoost) Amendment Act 2025 (2025 No 50).

Section MH 5(2): amended (with effect on 1 July 2024), on 29 March 2025, by section 113(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 5(3): amended (with effect on 1 July 2025), on 24 September 2025, by section 5(2) (and see section 5(3) for application) of the Income Tax (FamilyBoost) Amendment Act 2025 (2025 No 50).

Section MH 5(3): amended (with effect on 1 July 2024), on 29 March 2025, by section 113(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 5 list of defined terms **quarter**: repealed (with effect on 1 July 2024), on 29 March 2025, by section 113(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section MH 5 list of defined terms **tax credit quarter**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 113(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Subpart MK—Tax credits for KiwiSaver schemes and complying superannuation funds

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MK 1 Tax credits for superannuation contributions

Tax credits for members paid to fund providers

(1) A fund provider of a person's KiwiSaver scheme or a complying superannuation fund has a tax credit for a tax credit year equal to an amount calculated under section MK 4 for a member credit contribution to the scheme or fund. Section MK 2 imposes some eligibility requirements for the tax credit year in relation to the person.

Tax credits for employers

[Repealed]

(2) *[Repealed]*

Calculations: fund providers

[Repealed]

(3) *[Repealed]*

Calculations: employers

[Repealed]

(4) *[Repealed]*

Meaning of tax credit year

(5) In this subpart, **tax credit year** is a year that begins on 1 July and ends on 30 June for which a tax credit referred to in subsection (1) is calculated.

Defined in this Act: amount, complying superannuation fund, fund provider, KiwiSaver scheme, member credit contribution, tax credit, tax credit year, year

Compare: 2004 No 35 ss KJ 1, KJ 6, OB 1 "member credit year"

Section MK 1: substituted, on 1 April 2008, by section 125 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 1(1): amended, on 1 July 2025, by section 9(1)(a) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1(1): amended, on 1 July 2025, by section 9(1)(b) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 366 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MK 1(2) heading: repealed, on 1 April 2009, pursuant to section 53 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section MK 1(2): repealed, on 1 April 2009, by section 53 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section MK 1(3) heading: repealed, on 1 July 2025, pursuant to section 9(2) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1(3): repealed, on 1 July 2025, by section 9(2) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1(4) heading: repealed, on 1 April 2009, pursuant to section 53 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section MK 1(4): repealed, on 1 April 2009, by section 53 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section MK 1(5) heading: inserted, on 1 July 2025, by section 9(3) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1(5): inserted, on 1 July 2025, by section 9(3) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1 list of defined terms **employee**: repealed, on 1 July 2025, by section 9(4)(a) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1 list of defined terms **employer**: repealed, on 1 July 2025, by section 9(4)(a) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1 list of defined terms **employer contribution**: repealed, on 1 July 2025, by section 9(4)(a) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1 list of defined terms **pay**: repealed, on 1 July 2025, by section 9(4)(a) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1 list of defined terms **tax credit year**: inserted, on 1 July 2025, by section 9(4)(b) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1 list of defined terms **tax year**: repealed, on 1 July 2025, by section 9(4)(c) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 1 list of defined terms **year**: inserted, on 1 July 2025, by section 9(4)(c) (and see section 9(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Tax credits for fund providers

Heading: inserted, on 1 April 2008, by section 126 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

MK 2 Eligibility requirements

Requirements for person

(1) For the purposes of section MK 1(1), the requirements for the person for the tax credit year are the following:

(a) they must be 16 years or older; and

(b) they must have a creditable membership of a complying superannuation fund or a KiwiSaver scheme; and

(c) they must not be entitled under schedule 1, clause 4 of the KiwiSaver Act 2006 or an equivalent provision to withdraw an amount from the scheme or fund; and

(cb) they must not have made a withdrawal under clause 12B of the KiwiSaver scheme rules (which relates to life-shortening congenital condition withdrawals); and

(cc) their taxable income, as determined under section MK 2B, must be $180,000 or less; and

(d) they must reside mainly in New Zealand, or otherwise they must—

(i) be an employee of the State services under the Public Service Act 2020 serving outside New Zealand; or

(ii) work overseas as a volunteer or for token payment for a charity (within the meaning of section 4(1) of the Student Loan Scheme

Act 2011) and the work meets 1 or more of the requirements in schedule 1, clause 2(1) of that Act.

Evidence

(2) For the purposes of subsection (1)(d)(i) and (ii), the person must give the fund provider written evidence that they meet the requirements, and of the period in which they meet the requirements.

Defined in this Act: amount, complying superannuation fund, creditable membership, employee, fund provider, KiwiSaver scheme, New Zealand, tax credit, tax credit year

Compare: 2004 No 35 s KJ 2

Section MK 2(1) heading: substituted, on 1 April 2008, by section 127(1) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 2(1): amended, on 1 July 2025, by section 10(1) (and see section 10(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 2(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 367 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MK 2(1): amended, on 1 April 2008, by section 127(1) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 2(1)(a): amended, on 1 July 2025, by section 10(2) (and see section 10(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 2(1)(b): substituted, on 1 April 2008, by section 127(2) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 2(1)(c): amended, on 1 July 2019, by section 242 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MK 2(1)(cb): inserted, on 1 April 2020, by section 167 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section MK 2(1)(cc): inserted, on 1 July 2025, by section 10(3) (and see section 10(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 2(1)(d)(i): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section MK 2(1)(d)(ii): replaced, on 14 May 2016, by section 45 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section MK 2 list of defined terms **creditable membership**: inserted, on 1 April 2008, by section 127(3) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 2 list of defined terms **fund provider**: inserted, on 1 July 2025, by section 10(4) (and see section 10(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 2 list of defined terms **resident in New Zealand**: repealed (with effect on 1 April 2008), on 28 March 2024, by section 107 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section MK 2 list of defined terms **tax credit year**: inserted, on 1 July 2025, by section 10(4) (and see section 10(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

MK 2B Taxable income

Taxable income

(1) For the purposes of section MK 2(1)(cc), a person's taxable income for the tax credit year is their taxable income for the corresponding tax year.

Meaning of corresponding tax year

(2) In this section, **corresponding tax year** means—

(a) the tax year (the **current year**) that ends during the tax credit year if the person—

(i) has filed their return of income for that tax year on or before the end of the tax credit year; or

(ii) is not required to file a return of income for that tax year under section 33 of the Tax Administration Act 1994; or

(b) in any other case, the tax year preceding the current year.

Defined in this Act: corresponding tax year, return of income, tax credit year, tax year, taxable income

Section MK 2B: inserted, on 1 July 2025, by section 11(1) (and see section 11(2) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

MK 3 Payment of tax credits

When this section applies

(1) This section applies—

(a) when a member credit contribution is made to a KiwiSaver scheme or a complying superannuation fund by a person; and

(b) the fund provider of the scheme or fund files a claim form under section 68C(3) or (4) of the Tax Administration Act 1994 for the person.

Payment

(2) Within 30 working days of the Commissioner being satisfied that the person meets the requirement in section MK 2(1)(cc), the Commissioner must pay a tax credit to the fund provider of the scheme or fund to which the person has contributed. The amount of the tax credit is calculated under section MK 4. Subsection (5) overrides this subsection.

Full amount paid

(3) The Commissioner must pay the full amount of the tax credit by direct credit to the fund provider without subtracting any amount that the person or fund provider may be obliged to pay to the Commissioner. Subsection (5) overrides this subsection.

Payment

[Repealed]

(4) *[Repealed]*

Exception: payment to person or another provider

(5) Despite subsections (2) and (3), the Commissioner may pay the amount of the tax credit as follows:

(a) to the person, if it would be impossible or impractical to pay it to the person's fund provider because either the person has no fund provider, or

because the person has died or has suffered a serious illness as defined in schedule 1, clause 12(3) of the KiwiSaver Act 2006; or

(b) to a fund provider (**provider B**) other than the fund provider referred to in subsections (2) and (3), if the person is transferring or has transferred to provider B.

Defined in this Act: amount, Commissioner, complying superannuation fund, fund provider, KiwiSaver scheme, member credit contribution, pay, tax credit, working day

Compare: 2004 No 35 ss KJ 1, KJ 4, OB 1 "member credit contributions"

Section MK 3(1) heading: substituted, on 1 April 2008, by section 128(1) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 3(1): replaced, on 1 July 2025, by section 12(1) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 3(2): amended, on 1 July 2025, by section 12(2) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 3(2): amended, on 1 April 2008, by section 128(2) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 3(3): amended, on 1 April 2008, by section 128(3) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 3(4) heading: repealed, on 1 July 2025, pursuant to section 12(3) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 3(4): repealed, on 1 July 2025, by section 12(3) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 3(5) heading: added, on 1 April 2008, by section 128(4) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 3(5): added, on 1 April 2008, by section 128(4) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 3(5)(b): amended, on 29 August 2011, by section 111 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section MK 3 list of defined terms **employer contribution**: repealed, on 1 July 2025, by section 12(4)(b) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 3 list of defined terms **employer's superannuation contribution**: repealed, on 1 July 2025, by section 12(4)(b) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 3 list of defined terms **member credit contribution**: inserted, on 1 April 2008, by section 128(5)(a) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 3 list of defined terms **superannuation contribution**: repealed, on 1 April 2008, by section 128(5)(b) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 3 list of defined terms **trustee**: repealed, on 1 July 2025, by section 12(4)(b) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 3 list of defined terms **working day**: inserted, on 1 July 2025, by section 12(4)(a) (and see section 12(5) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

MK 4 Amount of tax credit

What this section does

(1) This section sets out how to calculate the amount of a tax credit paid to a fund provider under section MK 3(2) for a tax credit year.

Amount of credit for year

(2) The amount of the tax credit is an amount equal to quarter of a person's total member credit contributions for the tax credit year for all of their complying superannuation funds and KiwiSaver schemes up to a maximum amount of $260.72.

Part-year equivalents: amount of tax credit

(3) Despite subsection (2), if the person meets the requirements of section MK 2 for only part of the tax credit year, the amount of the tax credit is,—

(a) equal to quarter of their total member credit contributions for the tax credit year, if that amount is equal to or less than the part-year maximum amount calculated under subsection (4); or

(b) equal to the part-year maximum amount calculated under subsection (4), if quarter of their total member credit contributions for the tax credit year is greater than the part-year maximum amount calculated under subsection (4).

Part-year equivalents: maximum amount

(4) The part-year maximum amount referred to in subsection (3) is calculated using the formula—

$$\$260.72 \times \text{days} \div 365.$$

Definition of item in formula

(5) In the formula, **days** is the number of days in the tax credit year in which the person meets the requirements of section MK 2.

Parts of years

(6) In subsection (3), a part of the tax credit year may include 1 or more periods of the tax credit year in which the person meets the relevant requirements and, if there are several periods, for the purposes of the item **days** in the formula, the days in those periods are added together.

Defined in this Act: amount, fund provider, member credit contribution, pay, tax credit, tax credit year

Compare: 2004 No 35 ss KJ 3, OB 1 "member credit year"

Section MK 4: substituted, on 1 April 2008, by section 129 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 4(1): amended, on 1 July 2025, by section 13(1) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(2): amended, on 1 July 2025, by section 13(2)(a) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(2): amended, on 1 July 2025, by section 13(2)(b) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(2): amended, on 1 July 2025, by section 13(5) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(2): amended, on 1 July 2011 (applying for calculating a tax credit for the year starting on 1 July 2011 and later years), by section 7(1)(a) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section MK 4(3)(a): substituted, on 1 July 2011 (applying for calculating a tax credit for the year starting on 1 July 2011 and later years), by section 7(2) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section MK 4(3)(a): amended, on 1 July 2025, by section 13(3) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(3)(a): amended, on 1 July 2025, by section 13(5) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(3)(b): substituted, on 1 July 2011 (applying for calculating a tax credit for the year starting on 1 July 2011 and later years), by section 7(2) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section MK 4(3)(b): amended, on 1 July 2025, by section 13(3) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(3)(b): amended, on 1 July 2025, by section 13(5) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(4) formula: amended, on 1 July 2025, by section 13(4) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(5): amended, on 1 July 2025, by section 13(5) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4(6): amended, on 1 July 2025, by section 13(5) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4 list of defined terms **employee**: repealed, on 1 July 2025, by section 13(6)(b) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4 list of defined terms **employer contribution**: repealed, on 1 July 2025, by section 13(6)(b) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4 list of defined terms **first payment period**: repealed, on 1 July 2025, by section 13(6)(b) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4 list of defined terms **pay**: inserted, on 1 July 2025, by section 13(6)(a) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4 list of defined terms **salary or wages**: repealed, on 1 July 2025, by section 13(6)(b) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4 list of defined terms **second payment period**: repealed, on 1 July 2025, by section 13(6)(b) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section MK 4 list of defined terms **tax credit year**: inserted, on 1 July 2025, by section 13(6)(a) (and see section 13(7) for application) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

MK 5 Crown contributions for members

A tax credit paid to a person's fund provider under section MK 3 is treated as a Crown contribution for the person, and the KiwiSaver scheme rules and complying fund rules, as applicable, apply to the amount.

Defined in this Act: amount, complying fund rules, fund provider, KiwiSaver scheme, pay, tax credit

Compare: 2004 No 35 s KJ 5(2)

MK 6 Credit given by fund providers

A fund provider who receives a tax credit under section MK 3 must credit the relevant person with the amount which must vest in the person immediately after it is paid to the fund provider. The provider must use the contribution allocation for a member to credit the amount of the tax credit on a pro rata basis across the investment products to which the person has subscribed or been allocated as a member of a KiwiSaver scheme or complying superannuation fund.

Defined in this Act: amount, complying superannuation fund, fund provider, KiwiSaver scheme, pay, tax credit

Compare: 2004 No 35 s KJ 5(3), (4)

Section MK 6: amended, on 1 April 2008, by section 130 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

MK 7 Amounts paid in excess

Despite section MK 6, a fund provider is treated as having the amount of a tax credit paid under section MK 3 for the purposes of recovering any amount paid in excess of that properly payable. For the purposes of this section, the fund provider may subtract an amount from a person's account to pay the Commissioner the excess amount.

Defined in this Act: amount, Commissioner, fund provider, pay, tax credit

Compare: 2004 No 35 s KJ 5(1), (5)

MK 8 Treatment of tax credits on permanent emigration

When this section applies

(1) This section applies in the case of a permanent emigration from New Zealand when a person for whom a tax credit has been paid asks their fund provider after their emigration to withdraw or transfer from their KiwiSaver scheme or complying superannuation fund under schedule 1, clause 14 of the KiwiSaver Act 2006 for a KiwiSaver scheme or under a provision equivalent to that one for a complying superannuation fund.

Payment to Commissioner

(2) The fund provider must pay to the Commissioner as soon as practicable the lesser of—

- (a) the amount of the tax credit paid for the person and held by the provider:
- (b) the amount of member's accumulation, as defined in the KiwiSaver Act 2006 for the person for a KiwiSaver scheme:
- (c) the amount of employee's superannuation accumulation for the person for a complying superannuation fund.

Recovery

(3) If the fund provider does not pay the amount under subsection (2) as soon as practicable, they are treated as having an amount of tax credit paid in excess of that properly payable.

Defined in this Act: amount, ask, Commissioner, complying superannuation fund, employee's superannuation accumulation, fund provider, KiwiSaver scheme, New Zealand, pay, tax credit

Compare: 2004 No 35 ss KJ 3, OB 1 "member credit year"

Section MK 8 heading: amended, on 1 July 2013, by section 115(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MK 8 heading: amended, on 1 July 2013, by section 94(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section MK 8(1): amended, on 1 July 2013, by section 115(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section MK 8(1): amended, on 1 July 2013, by section 94(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section MK 8(1): amended, on 1 July 2013, by section 94(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section MK 8(2)(a): amended, on 1 April 2008, by section 131 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section MK 8 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Tax credits for employers

[Repealed]

Heading: repealed, on 1 April 2009, by section 54 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

MK 9 Eligibility requirements

[Repealed]

Section MK 9: repealed, on 1 April 2009, by section 54 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

MK 10 Amount of credit

[Repealed]

Section MK 10: repealed, on 1 April 2009, by section 54 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

MK 11 When tax credits arise

[Repealed]

Section MK 11: repealed, on 1 April 2009, by section 54 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

MK 12 Using tax credits

[Repealed]

Section MK 12: repealed, on 1 April 2009, by section 54 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

MK 13 When short payment and unpaid compulsory employer contributions found after tax credit used

[Repealed]

Section MK 13: repealed, on 1 April 2009, by section 54 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

MK 14 Employees opting out

[Repealed]

Section MK 14: repealed, on 1 April 2009, by section 54 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

MK 15 Groups of persons

For the purposes of this subpart, a group of persons described in 1 of the following paragraphs is treated as 1 employer:

(a) 2 or more companies, if the companies are a group of companies; and

(b) all partners in a partnership; and

(c) all persons in whom property has become vested, or to whom the control of property has passed in the case of an estate of a deceased person, or a trust, or a company in liquidation, or an assigned estate, or other case in which property is vested or controlled in a fiduciary capacity.

Defined in this Act: company, employer, group of companies, group of persons

Compare: 2004 No 35 s KJ 12

Section MK 15: added, on 1 April 2008, by section 132 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

MK 16 Private domestic workers

For the purposes of this subpart, a private domestic worker who is an employer under paragraph (c) of the definition of **employer** in section 4 of the KiwiSaver Act 2006 is treated as paying salary or wages to themselves in the capacity of employee.

Defined in this Act: employee, private domestic worker, salary or wages

Compare: 2004 No 35 s KJ 6(4)

Section MK 16: added, on 1 April 2008, by section 132 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Subpart ML—Tax credits for redundancy payments

[Repealed]

Subpart ML: repealed, on 1 April 2013, by section 10 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

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ML 1 What this subpart does

[Repealed]

Section ML 1: repealed, on 1 April 2013, by section 10 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

ML 2 Tax credit for redundancy payments

[Repealed]

Section ML 2: repealed, on 1 April 2013, by section 10 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

ML 3 Payment by Commissioner

[Repealed]

Section ML 3: repealed, on 1 April 2013, by section 10 of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

Subpart MX—Tax credits for R&D tax losses

Subpart MX: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

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MX 1 When subpart applies

When this subpart applies

(1) This subpart applies to a person for an income year when—

(a) the person chooses that the subpart apply to the person for the income year; and

(b) the corporate eligibility criteria in section MX 2 are met; and

(c) ignoring this subpart, the person has a net loss for the corresponding tax year; and

(d) if the person is a member of a group of entities meeting the requirements of subsection (2), the R&D group, in aggregate and ignoring this subpart, has a net loss for the corresponding tax year; and

(e) the person incurs R&D expenditure in the income year; and

(f) the wage intensity criteria in section MX 3 are met; and

(g) intellectual property and know-how that results from the research or development vests in the person, solely or jointly.

Meaning of R&D group

(2) **R&D group** means a group of entities for which—

(a) each member of the group is a company, look-through company, or limited partnership; and

(b) all the members of the group that are companies are members of the same group of companies (the **company group**); and

(c) each member of the group that is a look-through company would be a member of the company group if the look-through company were treated as being a company; and

(d) each member of the group that is a limited partnership would be a member of the company group if the partnership were treated as being a company and each partner were treated as holding a proportion of the total shares in the company equal to the proportion of the total capital contributions, as defined in section HG 11 (Limitation on deductions by partners in limited partnerships), to the partnership that is capital contributions made by the partner to the partnership.

Defined in this Act: capital contribution, company, group of companies, income year, intellectual property, know-how, limited partnership, look-through company, net loss, partner, partnership share, R&D expenditure, R&D group, tax year

Section MX 1: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MX 1(1) heading: inserted, on 29 March 2018 (with effect on 1 April 2015), by section 165 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

MX 2 Corporate eligibility criteria

For the purposes of section MX 1(1)(b), a person meets the corporate eligibility criteria for an income year if, for the income year or for the part of the income year for which the person exists if that is not the whole income year,—

(a) the person is a company that is resident in New Zealand; and

(b) there is no double tax agreement under which the person is treated as being resident in a foreign country or territory; and

(c) the person is not an entity established by or subject to—

(i) the Education and Training Act 2020:

(ii) the Pae Ora (Healthy Futures) Act 2022:

(iii) the Crown Entities Act 2004; and

(d) a total of less than 50% of the shares in the person are held by entities that are each—

(i) a public authority:

(ii) a local authority:

(iii) a Crown Research Institute:

(iv) a State enterprise; and

(e) the person is not a listed company or otherwise listed on a recognised exchange.

Defined in this Act: company, Crown Research Institute, double tax agreement, income year, listed company, local authority, public authority, recognised exchange, resident in New Zealand, State enterprise

Section MX 2: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MX 2(c)(i): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section MX 2(c)(ii): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

MX 3 Wage intensity criteria

Wage intensity criteria

(1) For the purposes of section MX 1(1)(f), a person meets the wage intensity criteria for an income year if, for the income year or for the part of the income year for which the person exists (the **part-year**) if that is not the whole income year,—

(a) the amount calculated for the person using the formula in subsection (2) is 0.2 or more; and

(b) if the person is a member of an R&D group, the amount calculated for the R&D group in aggregate using the formula in subsection (2) is 0.2 or more.

Formula

(2) The formula is—

total R&D labour expenditure ÷ total labour expenditure.

Definition of items in formula

(3) In the formula,—

(a) **total R&D labour expenditure** for a person, or an R&D group of which the person is a member, is the total, for amounts incurred in the income year or the part-year, of—

(i) the total amount of contractor R&D consideration multiplied by 0.66:

(ii) the amount of salary or wages paid to employees for providing R&D material:

(iii) if the person chooses to include the amount referred to in subsection (4), the same proportion of that amount, for each employee who provides R&D material, as the proportion of the employee's salary or wages that is paid to the employee for providing R&D material:

(iv) the amount paid to shareholder-employees, to which section RD 3B(3) or RD 3C(4) (which relate to income derived by shareholders who are employees) apply, for providing R&D material:

(b) **total labour expenditure** for a person, or an R&D group of which the person is a member, is the total, for amounts incurred in the income year or the part-year, of—

(i) the total amount of contractor R&D consideration multiplied by 0.66:

(ii) the amount of salary or wages paid to employees:

(iii) if the person makes the election referred to in paragraph (a)(iii), the amount referred to in subsection (4) for each employee:

(iv) the amount paid to shareholder-employees to which section RD 3B(3) or RD 3C(4) apply.

Amount for optional inclusion in total R&D labour expenditure and total labour expenditure

(4) For the purposes of subsection (3)(a)(iii) and (b)(iii), the expenditure of an employer for an employee that the person may choose to include in the items total R&D labour expenditure and total labour expenditure is the total of all—

(a) the employer's superannuation cash contributions for the employee that are not salary or wages:

(b) tax on the employer's superannuation cash contributions for the employee:

(c) fringe benefits provided by the employer and attributed to the employee:

(d) the employer's FBT liability in relation to the employee and fringe benefits attributed to the employee.

Meaning of contractor R&D consideration

(5) In this Act, **contractor R&D consideration** means—

(a) for a person, an amount, excluding GST, paid by the person to another person (the **contractor**) who is not a member of an R&D group that includes the person and is not employed by the person or by a member

of an R&D group that includes the person, as consideration for R&D material provided by the contractor to the person:

(b) for an R&D group, an amount, excluding GST, paid by a member of the R&D group to a person (the **contractor**) who is not a member of the R&D group and is not employed by a member of the R&D group, as consideration for R&D material provided by the contractor to a member of the R&D group.

Defined in this Act: contractor R&D consideration, employee, income year, R&D group, R&D material, salary or wages, shareholder-employee

Section MX 3: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MX 3(3)(a)(iv): amended (with effect on 30 March 2017), on 30 March 2022, by section 135(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section MX 3(3)(b)(iv): amended (with effect on 30 March 2017), on 30 March 2022, by section 135(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

MX 4 R&D loss tax credits

Amount of tax credit

(1) For a tax year, the person has a tax credit equal to the least of the following:

(a) $500,000 multiplied by the basic tax rate for a company, if the tax year is the 2015–16 tax year:

(b) $800,000 multiplied by the basic tax rate for a company, if the tax year is the 2016–17 tax year:

(c) $1,100,000 multiplied by the basic tax rate for a company, if the tax year is the 2017–18 tax year:

(d) $1,400,000 multiplied by the basic tax rate for a company, if the tax year is the 2018–19 tax year:

(e) $1,700,000 multiplied by the basic tax rate for a company, if the tax year is the 2019–20 tax year:

(f) $2,000,000 multiplied by the basic tax rate for a company, if the tax year is the 2020–21 or later tax year:

(g) the person's net loss for the tax year multiplied by the basic tax rate for a company:

(h) the person's total R&D expenditure, incurred in the income year corresponding to the tax year, multiplied by the basic tax rate for a company:

(i) 1.5 multiplied by the person's total R&D labour expenditure, incurred in the income year corresponding to the tax year and described in section MX 3(3)(a), multiplied by the basic tax rate for a company.

Related provision in Tax Administration Act 1994

(2) Section 70C of the Tax Administration Act 1994 applies for an R&D loss tax credit.

Defined in this Act: basic tax rate, company, net loss, R&D expenditure, R&D labour expenditure, R&D loss tax credit, tax year

Section MX 4: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MX 4(1) heading: inserted, on 29 March 2018 (with effect on 1 April 2015), by section 166 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

MX 5 Cancellation of R&D tax losses

The Commissioner must extinguish the person's tax loss for a tax year to the extent of the amount calculated by dividing the amount of the R&D loss tax credits for the tax year by the basic tax rate for a company.

Defined in this Act: basic tax rate, Commissioner, company, R&D loss tax credit, tax loss, tax year

Section MX 5: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

MX 6 Deduction if increase in basic tax rate for company

When this section applies

(1) This section applies for a person who has an R&D loss tax credit for a tax year (the **credit year**) before a tax year (the **current year**) for which the basic tax rate for a company is increased (the **rate increase**) if the rate increase results in a basic tax rate for a company that is greater than the basic tax rate for—

(a) the latest tax year, before the current year, corresponding to an income year for which the person received a deduction under this section relating to the R&D loss tax credit; or

(b) the credit year, if the person has not received a deduction under this section relating to the R&D loss tax credit for an income year corresponding to a tax year before the current year.

Deduction

(2) The person has a deduction, for the current year, of an amount calculated for each credit year using the formula—

$$\text{tax credits} \times (\text{new rate} - \text{old rate}) \div (\text{new rate} \times \text{old rate}).$$

Definition of items in formula

(3) In the formula,—

(a) **tax credits** is the greater of zero and the amount calculated from the total amount of the company's R&D loss tax credits, for tax years before and including the credit year, minus the total amount of—

(i) the company's terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the period beginning with the earliest credit year and ending with the tax year before the current year:

(ii) earlier payments of R&D repayment tax relating to the R&D loss tax credits for credit years before the current year:

(b) **new rate** is the basic tax rate for a company after the rate increase:

(c) **old rate** is the greatest of—

(i) the basic tax rate for a company before the rate increase:

(ii) the basic tax rate for a company for the latest tax year, before the current year, corresponding to an income year for which the person received a deduction under this section relating to the credit year, if there is such a tax year:

(iii) the basic tax rate for a company for the credit year.

Defined in this Act: basic tax rate, company, income year, R&D loss tax credit, R&D repayment tax, tax year

Section MX 6: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

MX 7 Reinstatement of R&D tax losses and R&D repayment tax

When this section applies

(1) This section applies when a person (the **company**) has an R&D loss tax credit for a tax year (the **credit year**), and in an income year (the **reinstatement year**) corresponding to the credit year or a later tax year,—

(a) the company—

(i) disposes of or transfers intangible property, core technology, intellectual property, or know-how, other than to the amalgamated company as part of an amalgamation and other than for consideration that is assessable income of the company and has a value no less than the market value of the property transferred:

(ii) fails to meet a corporate eligibility requirement in section MX 2(a) or (b):

(iii) has a liquidator appointed:

(b) there is no group of persons that has, for the period (the **ownership period**) starting on the first day of the income year corresponding to the credit year and ending on the last day of the reinstatement year,—

(i) lowest voting interests in the company of each person for the ownership period that add up to 10% or more; and

(ii) when a market value circumstance exists for the company in the ownership period, lowest market value interests in the company of each person for the ownership period that add up to 10% or more.

R&D repayment tax: transfer of intellectual property

(2) If subsection (1)(a)(i) applies, and subsection (1)(a)(ii) and (iii) does not apply, for the reinstatement year, the company is liable for an amount of R&D repayment tax equal to the lesser of—

(a) the total of the company's R&D loss tax credits, for the tax years in the period that begins with the earliest credit year and ends with the tax year corresponding to the reinstatement year, minus the total amount of—

(i) the company's terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the tax years in the period:

(ii) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax years in the period:

(b) the amount calculated for the reinstatement year using the formula—

intangibles' market value × basic tax rate for a company.

Definition of item in formula

(3) In the formula, **intangibles' market value** is the market value of the company's intangible property, core technology, intellectual property, or know-how disposed of or transferred in the income year other than for consideration that is assessable income of the company and that has a value no less than the market value of the property transferred for that consideration.

R&D repayment tax: loss of continuity

(4) If subsection (1)(b) applies, and subsection (1)(a)(ii) and (iii) does not apply, for the reinstatement year, the company is liable for an amount of R&D repayment tax, calculated for the tax years in the period that begins with the earliest credit year and ends with the tax year corresponding to the reinstatement year, equal to the lesser of—

(a) the total of the company's R&D loss tax credits for the tax years in the period minus the total amount of—

(i) the company's terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the tax years in the period:

(ii) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax years in the period:

(b) the total of the amounts calculated for each tax year in the period using the formula—

shares' market value × basic tax rate for a company.

Definition of item in formula

(5) In the formula, **shares' market value** is the market value of the company's voting interests or market value interests disposed of or transferred in the income year.

R&D repayment tax: eligibility loss or liquidation

(6) If subsection (1)(a)(ii) or (iii) applies, the company is liable for an amount of R&D repayment tax equal to the total of the company's R&D loss tax credits, for the tax years in the period that begins with the earliest credit year and ends with the tax year corresponding to the reinstatement year, minus the total amount of—

(a) the company's terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the tax years in the period:

(b) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax years in the period.

Reinstatement of R&D tax losses

(7) The company is allowed a deduction under section DV 26 (Deduction for reinstatement of R&D tax losses) of an amount equal to the R&D repayment tax divided by the basic tax rate for a company.

Related provisions in Tax Administration Act 1994

(8) Sections 70C and 97C of the Tax Administration Act 1994 apply for R&D repayment tax.

Defined in this Act: amalgamated company, amalgamation, assessable income, basic tax rate, company, core technology, deduction, imputation credit, imputation debit, income tax, income year, intellectual property, know-how, liquidation, market value, market value circumstance, market value interest, R&D loss tax credit, R&D repayment tax, refundable tax credit, tax credit, tax year, terminal tax, voting interest

Section MX 7: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 213(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section MX 7(2): replaced (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 175(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MX 7(4): replaced (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 175(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MX 7(6): replaced (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 175(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section MX 7 list of defined terms **tax year**: inserted (with effect on 1 April 2016), on 30 March 2017, by section 175(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart MZ—Terminating provisions

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MZ 1 Entitlement to child tax credit

When this section applies

(1) This section applies when—

(a) a person is claiming or receiving a child tax credit for a child for an entitlement period ending on 31 March 2006; and

(b) the person is not entitled to an in-work tax credit under section MD 4 (Entitlement to in-work tax credit).

Entitlement

(2) If the person maintains continuously their entitlement after 31 March 2006, they remain entitled to receive the child tax credit for entitlement periods after that date.

When another person entitled to credit

(3) If 2 persons are entitled to an in-work tax credit or a child tax credit for a child for an entitlement period, the amount to which each is entitled is not affected by the entitlement of the other person.

Defined in this Act: amount, child, child tax credit, entitlement period, in-work tax credit

Compare: 2004 No 35 ss KD 2AA(3A), KD 2AAAB

Section MZ 1(1)(b): amended, on 1 April 2008, by section 491(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MZ 1(3): amended, on 1 April 2008, by section 491(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MZ 1 list of defined terms **in-work payment**: repealed, on 1 April 2008, by section 491(3)(b) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section MZ 1 list of defined terms **in-work tax credit**: inserted, on 1 April 2008, by section 491(3)(a) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

MZ 2 Calculation of child tax credit

Entitlement

(1) A person who meets the requirements of section MZ 1 is entitled to a child tax credit calculated using the formula in subsection (2).

Formula

(2) The formula is—

$780 × dependent children × days in entitlement period ÷ 365.

Definition of items in formula

(3) In the formula,—

(a) **dependent children** is the number of dependent children for whom the person is a principal caregiver during the entitlement period:

(b) **days in entitlement period** is the number of days in the entitlement period for which the person and their spouse, civil union partner, or de facto partner do not receive a social assistance payment and do not have a suspended entitlement to a main benefit.

Defined in this Act: amount, child tax credit, civil union partner, de facto partner, dependent child, entitlement period, main benefit, principal caregiver, social assistance payment, spouse

Compare: 2004 No 35 s KD 2(4)

Section MZ 2(3)(b): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MZ 2 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section MZ 2 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

MZ 3 Exclusions from determination of family scheme income

When this section applies

(1) This section applies for the purposes of determining under section MB 1 (Adjustments for calculation of family scheme income) the entitlement and tax credit of a person under the family scheme.

Refunds of main deposit

(2) An amount of main deposit made in relation to the 2002–03 or earlier income year that is refunded to the person in the 2003–04 or later income year under any of sections EH 10, EH 13, EH 15, EH 17, and EH 23 (which relate to income equalisation accounts) is not included in family scheme income.

Refunds of adverse event deposit

[Repealed]

(3) *[Repealed]*

Treatment of interest

(4) The amount of a refund under subsections (2) and (3) does not include an amount of interest payable under section EH 6 or EH 40 (which relate to interest on deposits), as applicable.

Defined in this Act: adverse event deposit, amount, family scheme, family scheme income, income year, interest, main deposit, tax credit

Compare: 2004 No 35 s KD 1(1)(e)(i), (vi)

Section MZ 3: added (with effect on 1 April 2008), on 6 October 2009, by section 371(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section MZ 3(3) heading: repealed, on 18 March 2019, pursuant to section 243(1) (and see section 243(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section MZ 3(3): repealed, on 18 March 2019, by section 243(1) (and see section 243(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part O
Memorandum accounts

Subpart OA—General provisions

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Introductory provisions

OA 1 What this Part does

This Part provides some rules of general application for recording amounts as credits and debits to a memorandum account.

Defined in this Act: memorandum account

OA 2 Memorandum accounts

Types of account in this Part

(1) The following accounts are dealt with in this Part:

(a) an imputation credit account, *see* subparts OB and OP:

(b) *[Repealed]*

(c) *[Repealed]*

(d) a branch equivalent tax account, *see* subpart OE:

(e) an available subscribed capital (ASC) account, *see* subpart OF:

(f) *[Repealed]*

(g) a Maori authority credit account, *see* subpart OK.

Role of accounts

(2) A memorandum account is an account listed in subsection (1) that provides a record of the credits and debits arising in the account.

Tax year

(3) A memorandum account is maintained for a tax year and each subsequent tax year unless a provision in this Part expressly states otherwise.

Tables

(4) The credits and debits that arise in a memorandum account are listed in tables in each of the subparts. The tables—

(a) state the credits and the debits; and

(b) provide the credit dates and the debit dates; and

(c) refer to the section that fully defines the credits and debits, and their credit dates and debit dates.

Determination

(5) The Commissioner may issue a determination under section 104B of the Tax Administration Act 1994 adjusting the amount of a credit or debit, or a credit date or debit date recorded in a memorandum account if the Commis-

sioner considers the amount or date is not correct. The determination may be reviewed in challenge proceedings under Part 8A of that Act.

Defined in this Act: ASC account, branch equivalent tax account, Commissioner, CTR account, imputation credit account, Maori authority credit account, memorandum account, tax year

Compare: 2004 No 35 ss ME 1(1), ME 3(1), ME 10(1), (1A)–(1C), ME 15, ME 17(1), ME 20, ME 21(1), ME 22(1), ME 25, ME 26(2), ME 40, MF 1(1), MF 3(1), MF 6, MF 7(1), MF 11(1), MF 12(1), MG 2(1), MG 3(1), MG 12, MG 13(1), MG 14(1), MG 15(1), MI 2(1), (4), MI 3(1), MI 14, MI 17(1), MI 18(1), MJ 1(1), MJ 3(1), MJ 8, MK 1(1), MK 3(1), MK 9

Section OA 2(1)(b): repealed, on 1 April 2017, by section 176(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 2(1)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 81(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 2(1)(d): amended, on 1 July 2012 (applying for income years beginning on or after that date), by section 81(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 2(1)(f): repealed, on 1 July 2010, by section 372(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 2(3): amended, on 29 March 2018 (with effect on 1 April 2008), by section 167 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 2 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 176(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 2 list of defined terms **policyholder credit account**: repealed, on 1 April 2017, by section 176(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OA 3 General rules for maintaining memorandum accounts

What this section does

(1) This section sets out the rules that apply in relation to a memorandum account to a person who—

(a) is required to maintain a memorandum account; or

(b) may choose to maintain an account.

Record

(2) A person who maintains a memorandum account must record all credits and all debits that arise in the account as at their credit date or debit date. The credits and debits are listed in provisions in the relevant subpart for each type of memorandum account.

Credit balances

(3) The credit balance recorded in a memorandum account during a tax year or income year, as applicable, is the excess of credits over debits.

Debit balances

(4) The debit balance recorded in a memorandum account during a tax year or income year, as applicable, is the excess of debits over credits.

Defined in this Act: amount, income year, memorandum account, tax year

Compare: 2004 No 35 ss ME 2, ME 3(1), ME 16, ME 17(1), ME 22(1), ME 26, MF 2, MF 3(1), MF 8, MF 12(1), MG 1, MG 3(1), MG 14(1), MG 15(1), MI 1, MI 3(1), MI 17(1), MI 18(1), MJ 2, MJ 3(1), MK 2, MK 3(1)

OA 4 Certain credits and debits arising only in group accounts

Certain credits or debits of a consolidated group may arise only in the memorandum account of the consolidated group and not in the memorandum account of a group company. Memorandum accounts of consolidated groups are dealt with in subpart OP (Memorandum accounts of consolidated groups).

Defined in this Act: company, consolidated group, memorandum account

Compare: 2004 No 35 ss ME 13, ME 28(4), MF 9, MF 11(3), MG 16, MI 19

Credits and debits

OA 5 Credits

What this section does

(1) This section defines the credits that arise under this Part in a memorandum account.

Imputation credits

(2) A credit is an **imputation credit** if it is an amount—

(a) set out in any of sections OA 7, OB 4 to OB 29, and OP 7 to OP 27:

(b) described in a row of table O1: imputation credits or table O19: imputation credits of consolidated imputation groups.

(c) *[Repealed]*

FDP credits

[Repealed]

(3) *[Repealed]*

CTR credits

[Repealed]

(4) *[Repealed]*

Branch equivalent tax credits

(5) A credit is a **branch equivalent tax credit** if it is an amount, for a BETA person,—

(a) set out in section OA 7 or OE 19:

(b) described in a row of table O9: person's branch equivalent tax credits.

ASC credits

(6) A credit is an **ASC credit** if it is an amount—

(a) set out in section OA 7 or OF 4:

(b) described in a row of table O11: ASC credits.

Policyholder credits

[Repealed]

(7) *[Repealed]*

Maori authority credits

(8) A credit is a **Maori authority credit** if it is an amount—

(a) set out in any of sections OA 7 and OK 2 to OK 9:

(b) described in a row of table O17: Maori authority credits.

Defined in this Act: amount, ASC credit, BETA person, branch equivalent tax credit, consolidated group, consolidated imputation group, imputation credit, Maori authority credit, memorandum account

Section OA 5(2)(b): amended, on 30 March 2017, by section 177(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5(2)(c): repealed, on 30 March 2017, by section 177(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5(3) heading: repealed, on 1 April 2017, pursuant to section 177(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5(3): repealed, on 1 April 2017, by section 177(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5(4) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 82(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 5(4): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 82(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 5(5): replaced, on 1 July 2012 (applying for income years beginning on or after that date), by section 82(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 5(7) heading: repealed, on 1 July 2010, pursuant to section 373(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 5(7): repealed, on 1 July 2010, by section 373(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 5 list of defined terms **BETA company**: repealed, on 1 July 2012, by section 82(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 5 list of defined terms **consolidated BETA group**: repealed, on 1 July 2012, by section 82(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 5 list of defined terms **consolidated FDP group**: repealed, on 1 April 2017, by section 177(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5 list of defined terms **CTR credit**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 82(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 5 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 177(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5 list of defined terms **PCA company**: repealed, on 30 March 2017, by section 177(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5 list of defined terms **PCA person**: repealed, on 30 March 2017, by section 177(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 5 list of defined terms **policyholder credit**: repealed, on 1 July 2010, by section 373(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OA 6 Debits

What this section does

(1) An ICA company has an imputation credit for an amount representing an entitlement to funds held in a tax pooling account if the intermediary transfers the entitlement from another person to the company.

Imputation debits

(2) A debit is an **imputation debit** if it is an amount—

(a) set out in any of sections OA 7, OB 30 to OB 59, OP 28 to OP 50, and OZ 3:

(b) described in a row of table O2: imputation debits or table O20: imputation debits of consolidated imputation groups.

FDP debits

[Repealed]

(3) *[Repealed]*

CTR debits

[Repealed]

(4) *[Repealed]*

Branch equivalent tax debits

(5) A debit is a **branch equivalent tax debit** if it is an amount, for a BETA person,—

(a) set out in any of sections OA 7 and OE 20 to OE 22:

(b) described in a row of table O10: person's branch equivalent tax debits.

ASC debits

(6) A debit is an **ASC debit** if it is an amount—

(a) set out in section OA 7 or OF 5:

(b) described in a row of table O12: ASC debits.

Policyholder debits

[Repealed]

(7) *[Repealed]*

Maori authority debits

(8) A debit is a **Maori authority debit** if it is an amount—

(a) set out in any of sections OA 7 and OK 10 to OK 18:

(b) described in a row of table O18: Maori authority debits.

Defined in this Act: amount, ASC debit, BETA person, branch equivalent tax debit, consolidated group, consolidated imputation group, imputation debit, Maori authority debit, memorandum account

Section OA 6(3) heading: repealed, on 1 April 2017, pursuant to section 178(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 6(3): repealed, on 1 April 2017, by section 178(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 6(4) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 83(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 6(4): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 83(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 6(5): replaced, on 1 July 2012 (applying for income years beginning on or after that date), by section 83(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 6(7) heading: repealed, on 1 July 2010, pursuant to section 374(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 6(7): repealed, on 1 July 2010, by section 374(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 6 list of defined terms **BETA company**: repealed, on 1 July 2012, by section 83(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 6 list of defined terms **consolidated BETA group**: repealed, on 1 July 2012, by section 83(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 6 list of defined terms **consolidated FDP group**: repealed, on 1 April 2017, by section 178(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 6 list of defined terms **CTR debit**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 83(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 6 list of defined terms **FDP debit**: repealed, on 1 April 2017, by section 178(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 6 list of defined terms **PCA company**: repealed, on 30 March 2017, by section 178(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 6 list of defined terms **PCA person**: repealed, on 30 March 2017, by section 178(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 6 list of defined terms **policyholder debit**: repealed, on 1 July 2010, by section 374(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Opening balances

OA 7 Opening balances of memorandum accounts

Balances carried forward

(1) The opening balance of a memorandum account at the start of a tax year or income year, as applicable, is the closing balance of the account in the previous tax year or income year, as applicable.

Credits and debits forming opening balances

(2) The amount of each credit or debit that forms part of the opening balance of a memorandum account is treated as recorded in the relevant memorandum account on the date on which it was originally recorded.

First year

(3) If a consolidated group, company, or person starts a memorandum account during a tax year, the treatment of existing credits and debits is set out as follows:

(a) when the companies of 2 or more consolidated imputation groups choose to combine to form, or to join, an imputation group, *see* section OP 3(2) (Changes in consolidated imputation groups):

(b) when the companies that are part of an imputation group choose to convert their status to that of a consolidated group that is a consolidated imputation group, *see* section OP 3(3):

(c) for a resident imputation subgroup associated with a trans-Tasman imputation group, *see* section OP 4 (Resident imputation subgroups).

Defined in this Act: amount, company, consolidated group, consolidated imputation group, imputation group, income year, memorandum account, resident imputation subgroup, tax year, trans-Tasman imputation group

Compare: 2004 No 35 ss ME 3(2), ME 10(1A)–(1C), (2), ME 17(2), ME 22(2), ME 26(1), MF 3(2), MF 8(1), MF 12(2), MG 3(2), MG 13(3), MI 3(2), MI 15, MJ 3(2), MK 3(2)

Section OA 7(2) heading: replaced, on 29 March 2018 (with effect on 1 April 2008), by section 168(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7(2): replaced, on 29 March 2018 (with effect on 1 April 2008), by section 168(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7(3): replaced, on 29 March 2018 (with effect on 1 April 2008), by section 168(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7 list of defined terms **amount**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 168(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7 list of defined terms **ASC account**: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 168(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7 list of defined terms **BETA company**: repealed, on 1 July 2012, by section 84(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 7 list of defined terms **BETA person**: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 168(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7 list of defined terms **branch equivalent tax account**: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 168(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7 list of defined terms **CTR account**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 84(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 7 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 179(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 7 list of defined terms **imputation credit account**: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 168(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7 list of defined terms **Maori authority credit account**: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 168(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OA 7 list of defined terms **PCA company**: repealed, on 30 March 2017, by section 179(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 7 list of defined terms **PCA person**: repealed, on 30 March 2017, by section 179(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 7 list of defined terms **policyholder credit account**: repealed, on 1 July 2010, by section 375(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Shareholder continuity requirements

OA 8 Shareholder continuity requirements for memorandum accounts

When this section applies

(1) This section applies when a company or a consolidated group maintains a memorandum account.

Shareholder continuity requirement

(2) An amount that is a credit in the account may be carried forward from a credit date to a later time only if the company or consolidated group that has the credit maintains a 66% continuity of shareholding under subsection (7) from the credit date to the later time. Subsections (3B) to (5) override this subsection.

Continuity

(3) A credit is treated as continuing to exist to the extent to which it is not reduced by an earlier or later debit arising in the account.

Exclusions: qualifying companies

(3B) Subsection (2) does not apply to a qualifying company. But, if section HA 11(1) (When requirements no longer met) applies to the company,—

(a) an adjustment must be made under section HA 18 (Treatment of dividends when qualifying company status ends) to the company's imputation credit account; and

(b) the shareholder continuity requirements apply to the company from the day on which the status as a qualifying company ends.

Exclusion: ASC accounts

(4) Subsection (2) does not apply to a person who maintains an ASC account.

Modification: CTR accounts

[Repealed]

(5) *[Repealed]*

When continuity lost

(6) For a memorandum account and for a company or consolidated group that maintains the account when the continuity of shareholding required by subsection (7) is lost, a debit arises under the relevant section in each subpart only to the extent to which an unused amount of credit remains in the memorandum account. The relevant sections are—

(a) section OB 41 (ICA debit for loss of shareholder continuity):

(b) *[Repealed]*

(c) *[Repealed]*

(d) section OK 15 (MACA debit for loss of shareholder continuity):

(e) section OP 42 (Consolidated ICA debit for loss of shareholder continuity).

(f) *[Repealed]*

(g) *[Repealed]*

Shareholder continuity requirement

(7) The shareholder continuity requirement is that, while some or all of the credit still exists, a group of persons must continue to hold—

(a) aggregate minimum voting interests in a company or consolidated group of at least 66%; and

(b) if a market value circumstance exists for a company or, in the case of a consolidated group, a group company, aggregate minimum market value interests in the company or group of at least 66%.

Modifications

(8) The following rules apply for the purposes of subsection (7):

(a) the minimum interest referred to in subsection (7)(a) or (b) of a person must be counted if their interests change after the credit arises; and

(b) a credit retains its separate character and is not treated as part of a credit referred to in section OA 7 in a later tax year; and

(c) the amount by which a credit is reduced by an earlier or later debit is found by—

(i) treating debits as reducing credits in the order in which credits arise; and

(ii) counting an amount of a debit only once in the reduction of some or all of a credit; and

(iii) applying any relevant terminating modifications set out in section OZ 4 (Terminating modifications to debits for loss of shareholder continuity) for a credit arising before 1 April 1992.

Defined in this Act: amount, ASC account, branch equivalent tax account, company, consolidated group, group of persons, imputation credit account, Maori authority credit account, market value circumstance, market value interest, memorandum account, minimum market value interest, minimum voting interest, shareholder, tax year, voting interest

Compare: 2004 No 35 ss ME 5(3), ME 12(1)(h), ME 13(2), (4), MF 4(5), MF 8(4), MG 15(1), MI 5(3)–(7), MI 18(1)(e), (3), (4), MK 5(3), (4)

Section OA 8(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 376(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 8(3B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 376(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 8(3B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 376(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 8(3B)(a): amended, on 1 April 2017, by section 180(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 8(4) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 376(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 8(4): substituted (with effect on 1 April 2008), on 6 October 2009, by section 376(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OA 8(5) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 85(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 8(5): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 85(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 8(6)(b): repealed, on 1 April 2017, by section 180(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 8(6)(c): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 85(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 8(6)(f): repealed, on 1 April 2017, by section 180(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 8(6)(g): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 85(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 8 list of defined terms **CTR account**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 85(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 8 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 180(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 8 list of defined terms **policyholder credit account**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 376(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Treatment of credits and debits on resident's restricted amalgamation

General provision

OA 9 General treatment of credits and debits on resident's restricted amalgamation

When this section applies

(1) This section applies—

(a) on a resident's restricted amalgamation, in relation to an amalgamated company and a memorandum account, if an amalgamating company ends its existence on the amalgamation and, at the time of the amalgamation, the amalgamating company maintains 1 or more memorandum accounts of the type referred to in sections OA 2(1)(a) to (d), and (f); and

(b) for the purposes of determining whether a credit or debit arises in the same type of account of the amalgamated company.

Treatment of pre-amalgamation credits and debits

(2) A credit or debit recorded in the memorandum account of the amalgamating company before the date of the amalgamation is treated as if it were recorded in the same type of account of the amalgamated company on the date it was recorded in the amalgamating company's account with effect from the time of the amalgamation.

Treatment of pre-amalgamation period

(3) For the purposes of section OA 8(7) and (8), in determining at a time after the amalgamation whether continuity of shareholding exists for the credit or debit in the memorandum account, the amalgamated company is treated for all times before the amalgamation as if—

(a) it did not separately exist; and

(b) it were instead the amalgamating company, with the same shareholders and option holders.

Avoidance provisions

(4) For the purposes of determining the credits and debits in the memorandum account of an amalgamating company, sections GB 34 and GB 41 (which relate to arrangements to defeat the application of certain provisions) apply, modified as necessary.

Defined in this Act: amalgamated company, amalgamating company, consolidated group, memorandum account, resident's restricted amalgamation, shareholder

Compare: 2004 No 35 ss ME 29(1)(a), MF 16(1)(a), MG 17(1)(a), MI 13

Section OA 9(3): amended (with effect on 1 April 2008), on 30 March 2022, by section 136 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OA 9(4): amended, on 1 July 2012 (applying for income years beginning on or after that date), by section 86(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

When companies amalgamate

OA 10 When credits or debits due to amalgamating company but not recorded

When this section applies

(1) This section applies on a resident's restricted amalgamation if, at the time of the amalgamation, an amalgamating company maintains—

(a) an imputation credit account.

(b) *[Repealed]*

(c) *[Repealed]*

(d) *[Repealed]*

(e) *[Repealed]*

Credits and debits due

(2) A credit or a debit due to the amalgamating company but not recorded in its memorandum account before the date of amalgamation is recorded in the same type of memorandum account of the amalgamated company. Subsections (3) and (4) override this subsection.

Exclusion: shareholder continuity rules

(3) Subsection (2) does not apply to a debit for loss of shareholder continuity in an imputation credit account arising under section OB 41 (ICA debit for loss of shareholder continuity) and described in table O2: imputation debits, row 14 (debit for loss of shareholder continuity).

Recording in imputation credit account

(4) The credit or debit is recorded in the imputation credit account of the amalgamated company.

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, memorandum account, resident's restricted amalgamation

Compare: 2004 No 35 ss ME 29(1), MF 16(1), MG 17(1), MI 13

Section OA 10(1)(b): repealed, on 1 April 2017, by section 181(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 10(1)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 87(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 10(1)(d): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 87(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 10(1)(e): repealed, on 30 March 2017, by section 181(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 10(3): replaced, on 1 July 2012 (applying for income years beginning on or after that date), by section 87(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 10(4): replaced, on 1 April 2017, by section 181(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 10 list of defined terms **branch equivalent tax account**: repealed, on 1 July 2012, by section 87(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 10 list of defined terms **CTR account**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 87(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 10 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 181(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 10 list of defined terms **policyholder credit account**: repealed, on 30 March 2017, by section 181(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OA 11 FDP account on resident's restricted amalgamation

[Repealed]

Section OA 11: repealed, on 1 April 2017, by section 182 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OA 12 CTR account on resident's restricted amalgamation

[Repealed]

Section OA 12: repealed (with effect on 30 June 2009), on 6 October 2009, by section 377(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OA 13 Policyholder credit account on resident's restricted amalgamation

[Repealed]

Section OA 13: repealed, on 30 March 2017, by section 183 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Amalgamation of companies in consolidated groups

OA 14 Continuity of shareholding when group companies amalgamate

What this section does

(1) This section and section OA 15 apply when all the companies in a consolidated group or consolidated imputation group amalgamate on a resident's restricted amalgamation, and the amalgamation results in—

(a) the end of the group's existence; and

(b) the formation of an amalgamated company.

Other company

(2) The amalgamation may include a company that is not part of the consolidated group or consolidated imputation group.

Continuity of shareholding: credits and debits

(3) Subsections (4) and (5) apply for the purposes of determining whether a credit or debit arises in the memorandum account of the amalgamated company that is of the type referred to in section OA 2(1)(a), (b), (d), and (f).

Treatment of pre-amalgamation credits and debits

(4) A credit or debit recorded in the memorandum account of the consolidated group before the date of the amalgamation is treated as if it were recorded in the same type of account of the amalgamated company on the date it was recorded in the consolidated group's account with effect from the date of amalgamation.

Treatment of pre-amalgamation period

(5) For the purposes of section OA 8(7)(b) and (8), in determining at a time after the amalgamation whether continuity of shareholding exists for the credit or debit in the memorandum account, the amalgamated company is treated for all times before the amalgamation as if—

(a) it did not separately exist; and

(b) it were instead the consolidated group, with the same shareholders and option holders.

Avoidance provisions

(6) For the purposes of determining the credits and debits in the memorandum account of a consolidated group, sections GB 34 and GB 41 (which relate to arrangements to defeat the application of certain provisions) apply, modified as necessary.

Defined in this Act: amalgamated company, company, consolidated group, consolidated imputation group, memorandum account, resident's restricted amalgamation, shareholder, voting interest

Compare: 2004 No 35 ss ME 29(2)(a), MF 16(2)(a), MG 17(2)(a)

Section OA 14(1): amended, on 1 April 2017, by section 184(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 14(6): amended, on 1 July 2012 (applying for income years beginning on or after that date), by section 88(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OA 15 When credits or debits due to consolidated group but not recorded

When this section applies

(1) This section applies on a resident's restricted amalgamation referred to in section OA 14 when, at the time of the amalgamation, a consolidated group maintains—

(a) an imputation credit account.

(b) *[Repealed]*

(c) *[Repealed]*

(d) *[Repealed]*

Credits and debits due

(2) A credit or a debit due to the consolidated group but not recorded in its account before the date of amalgamation is recorded in the same type of memorandum account of the amalgamated company. Subsections (3) and (4) override this subsection.

Exclusion: shareholder continuity rules

(3) Subsection (2) does not apply to a debit for loss of shareholder continuity in an imputation credit account arising under section OP 42 (Consolidated ICA debit for loss of shareholder continuity) and described in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity).

Recording in imputation credit account

(4) The credit or debit is recorded in the imputation credit account of the amalgamated company.

Defined in this Act: amalgamated company, consolidated group, imputation credit account, resident's restricted amalgamation, shareholder, voting interest

Compare: 2004 No 35 ss ME 29(2)(b), MF 16(2)(b), MG 17(2)(b)

Section OA 15(1)(b): repealed, on 1 April 2017, by section 185(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 15(1)(c): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 89(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 15(1)(d): repealed, on 30 March 2017, by section 185(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 15(3): replaced, on 1 July 2012 (applying for income years beginning on or after that date), by section 89(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 15(4): replaced, on 1 April 2017, by section 185(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 15 list of defined terms **branch equivalent tax account**: repealed, on 1 July 2012, by section 89(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 15 list of defined terms **CTR account**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 89(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 15 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 185(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 15 list of defined terms **policyholder credit account**: repealed, on 30 March 2017, by section 185(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OA 16 When FDP account ends on resident's restricted amalgamation

[Repealed]

Section OA 16: repealed, on 1 April 2017, by section 186 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OA 17 When policyholder credit account ends on resident's restricted amalgamation

[Repealed]

Section OA 17: repealed, on 30 March 2017, by section 187 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Maximum permitted ratios

OA 18 Calculation of maximum permitted ratios

When this section applies

(1) This section applies in relation to an imputation credit and a Maori authority credit, for the purposes of the calculation of—

(a) an imputation ratio; and

(b) *[Repealed]*

(c) *[Repealed]*

(d) *[Repealed]*

(e) *[Repealed]*

(f) a Maori authority credit ratio.

Maximum permitted ratio

(2) A dividend or distribution with a credit attached must not have a ratio for the amount of the credit to the amount of the dividend or distribution that is more than the maximum permitted ratio calculated using the formula—

$$\text{tax rate} \div (1 - \text{tax rate}).$$

Definition of item in formula

(3) In the formula, **tax rate** is—

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

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

Relationship with sections OZ 8 and OZ 9

(4) Sections OZ 8 and OZ 9 (which relate to the calculation of maximum permitted ratios in certain income years) may apply to modify this section.

Defined in this Act: amount, combined imputation and CTR ratio, dividend, imputation credit, income tax, income year, Maori authority credit ratio, maximum permitted ratio, pay, tax year

Compare: 2004 No 35 ss ME 8(1), MG 8(1), MG 10(1), MI 8(1), MK 7(1)

Section OA 18(1): amended, on 1 April 2017, by section 188(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 18(1)(b): repealed, on 1 April 2017, by section 188(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 18(1)(c): repealed, on 1 April 2017, by section 188(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 18(1)(d): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 90(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 18(1)(e): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 90(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 18(3): substituted (with effect on 1 April 2008), on 7 December 2009, by section 85(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OA 18(4) heading: added, on 1 April 2008, by section 492 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OA 18(4): added, on 1 April 2008, by section 492 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OA 18 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OA 18 list of defined terms **combined imputation and FDP ratio**: repealed, on 1 April 2017, by section 188(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 18 list of defined terms **CTR credit**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 90(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OA 18 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 188(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OA 18 list of defined terms **pay**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Subpart OB—Imputation credit accounts (ICA)

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Introductory provisions

OB 1 General rules for companies with imputation credit accounts

New Zealand resident

(1) A company that is resident in New Zealand is a company (an **ICA company**) that must establish and maintain an imputation credit account for a tax year. Subsection (2) overrides this subsection.

Exclusions

(2) A company that is resident in New Zealand is excluded from being an ICA company if it is—

(a) a company that—

(i) *[Repealed]*

(ii) *[Repealed]*

(iii) has a constitution that prohibits a distribution to a shareholder; or

(iv) derives only exempt income other than income exempt under sections CW 9 and CW 10 (which relate to income from equity); or

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

(b) a Maori authority; or

(c) a local authority; or

(d) a Crown Research Institute; or

(e) a subsidiary of the Accident Compensation Corporation affected by section 266 of the Accident Compensation Act 2001, or section 334(1) of the Accident Insurance Act 1998; or

(f) a multi-rate PIE.

Exception to subsection (2): Australian resident

[Repealed]

(3) *[Repealed]*

Defined in this Act: company, Crown Research Institute, double tax agreement, exempt income, group investment fund, ICA company, imputation credit account, income, local authority, Maori authority, multi-rate PIE, New Zealand, resident in New Zealand, shareholder, tax, tax year, trustee

Compare: 2004 No 35 s ME 1

Section OB 1(1): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 119(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section OB 1(2)(a)(i): repealed (with effect on 1 April 2008), on 6 October 2009, by section 378(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 1(2)(a)(ii): repealed, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OB 1(2)(a)(iv): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 2 November 2012, by section 128(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section OB 1(2)(a)(iv): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 91(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 1(2)(e): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section OB 1(2)(f): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 378(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 1(3) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 378(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 1(3): repealed (with effect on 1 April 2008), on 6 October 2009, by section 378(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 1 list of defined terms **Australian ICA company**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 378(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 1 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 378(6)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 1 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 378(6)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 1 list of defined terms **resident in Australia**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 378(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 2 Australian companies with imputation credit accounts

Election to be Australian ICA company

(1) A company that is resident in Australia may choose, by notifying the Commissioner, to be obliged to establish and maintain an imputation credit account.

Ineligibility

(2) Despite meeting the residency requirements, a company is not eligible to make an election referred to in subsection (1) if—

(a) the company—

(i) is a company referred to in section OB 1(2)(a)(iii) or (iv), and (b) to (f); or

(ib) is treated as not being resident in Australia under a double tax agreement between New Zealand and Australia; or

(ii) is treated as resident in a country other than Australia under an agreement between Australia and the other country that would be a double tax agreement if negotiated between New Zealand and that other country; or

(b) an earlier election has been revoked by the Commissioner under subsection (7)(b), and the company has not shown the Commissioner that it has taken adequate steps to prevent the grounds of revocation occurring again.

When electing company becomes Australian ICA company

(3) A company making an election under subsection (1) must maintain an imputation credit account from the following date, as applicable:

(a) the first day of the tax year in which the Commissioner is notified:

(b) for the purposes of section OB 60,—

(i) for a company that is formed or becomes eligible in the tax year, the first day of the tax year in which the Commissioner receives the notice and the Commissioner notifies the company of that date; or

(ii) if subparagraph (i) does not apply, 30 days after the date on which the Commissioner receives the notice.

When New Zealand resident company becomes Australian ICA company

(3B) If a company that is resident in New Zealand stops being a company that is required by section OB 1 to maintain an imputation credit account because, under a double tax agreement between New Zealand and Australia, the company is treated as not being resident in New Zealand, the company continues to be required to maintain an imputation credit account.

Joint and several liability

(4) A company that is part of the same wholly-owned group of companies as an Australian ICA company may have joint and several liability with the Australian ICA company for further income tax, civil penalties, and interest under Part 7 of the Tax Administration Act 1994 imposed on the Australian ICA company for a breach by the Australian ICA company of the imputation rules.

Exclusion

(5) Despite subsection (4), no joint and several liability arises if the Australian ICA company is prohibited by an independent regulatory body from being subject to the liability.

Dividend in Australian currency

(6) An Australian ICA company that pays a dividend in Australian currency must make a currency conversion under section OB 60(6).

How status ends

(7) A company ends its status as an Australian ICA company if—

(a) the company ceases to be resident in Australia or meets a requirement of subsection (2)(a) or (b); or

(b) for a company that has made an election under subsection (1),—

(i) the company revokes the election by notifying the Commissioner; or

(ii) the Commissioner gives the company notice revoking the election.

(c) *[Repealed]*

When status ends

(8) For the purposes of subsection (7), the company ends its status as an Australian ICA company—

(a) from the day on which the relevant circumstance of ineligibility in subsection (2) applies; or

(b) for a company that has made an election under subsection (1), unless paragraph (a) or (c) applies, from the last day of the tax year in which the company or the Commissioner revokes the election; or

(c) for the purposes of section OB 60,—

(i) when the company notifies the Commissioner, on the date on which the Commissioner receives the notice; or

(ii) on the date set out in the Commissioner's notice.

Outstanding obligations

(9) A company that stops being an Australian ICA company for a tax year must nevertheless satisfy all obligations that the company had as an Australian ICA company.

Defined in this Act: Australian ICA company, Commissioner, company, dividend, double tax agreement, imputation credit account, imputation rules, income, New Zealand, notice, notify, pay, resident in Australia, resident in New Zealand, tax year, wholly-owned group of companies

Compare: 2004 No 35 s ME 1A

Section OB 2 heading: replaced (with effect on 15 March 2017), on 31 March 2023, by section 91(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2(1) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 120(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section OB 2(1): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 120(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section OB 2(2)(a)(i): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OB 2(2)(a)(i): amended, on 1 April 2008, by section 493(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 2(2)(a)(ib): inserted (with effect on 15 March 2017), on 31 March 2023, by section 91(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2(2)(a)(ii): substituted, on 1 April 2008, by section 493(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 2(3) heading: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 120(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section OB 2(3): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 120(4) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section OB 2(3B) heading: inserted (with effect on 15 March 2017), on 31 March 2023, by section 91(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2(3B): inserted (with effect on 15 March 2017), on 31 March 2023, by section 91(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2(7)(a): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 120(5) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section OB 2(7)(b): replaced (with effect on 15 March 2017), on 31 March 2023, by section 91(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2(7)(c): repealed (with effect on 15 March 2017), on 31 March 2023, by section 91(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2(8)(b): amended (with effect on 15 March 2017), on 31 March 2023, by section 91(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2 list of defined terms **resident in New Zealand**: inserted (with effect on 15 March 2017), on 31 March 2023, by section 91(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 2 list of defined terms **resident in New Zealand**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 379(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 3 Imputation credit accounts

General rules

(1) The general rules on memorandum accounts set out in sections OA 2 and OA 3 (which relate to the treatment of memorandum accounts) apply to an imputation credit account of an ICA company.

Consolidated imputation groups

(2) Under section OP 2 (When credits and debits arise only in group accounts), certain credits and debits do not arise in an ICA company's memorandum account if the company is part of a consolidated imputation group.

Defined in this Act: consolidated imputation group, ICA company, imputation credit account, memorandum account

Compare: 2004 No 35 s ME 13(1)

OB 3B General rule for life insurer's policyholder base

An imputation credit does not arise in relation to a life insurer's policyholder base. Similarly, an imputation debit does not arise in relation to a life insurer's policyholder base.

Defined in this Act: imputation credit, imputation debit, life insurer, policyholder base

Section OB 3B: inserted, on 1 July 2010, by section 380(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Imputation credits

OB 4 ICA payment of tax or transfer to account

Credit

(1) An ICA company has an imputation credit for an amount of income tax or provisional tax paid or an amount of excess tax transferred under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies). Subsection (3) overrides this subsection.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 2 (provisional tax or income tax paid), row 2B (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 2C (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), and row 2D (transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)).

No credit

(3) An ICA company does not have an imputation credit for an amount of—

- (a) a transfer from a tax pooling account to a tax account with the Commissioner; or
- (b) income tax paid on income derived when the company is not an ICA company; or
- (c) income tax paid by a life insurer to satisfy its schedular income tax liability for schedular policyholder base income; or
- (d) income tax paid under sections LA 2 and LE 1 (which relate to tax credits for imputation credits and their use) by crediting an imputation credit; or
- (e) *[Repealed]*
- (eb) *[Repealed]*
- (f) income tax paid by a tax credit under subpart LP (Tax credits for supplementary dividends); or
- (fb) income tax paid by crediting a research and development tax credit against income tax liability; or

(g) further income tax applied under section OB 69 to pay income tax or provisional tax; or

(gb) *[Repealed]*

(h) *[Repealed]*

(i) income tax paid as a trustee, unless paid on category A income of the type described in paragraph (c) of the definition of **company** in section YA 1 (Definitions).

Credit date

(4) The credit date is—

(a) for an amount of income tax or provisional tax paid other than an amount referred to in paragraph (c), the day the tax is paid:

(b) *[Repealed]*

(c) for an amount of excess tax transferred in a tax year (the **transfer year**) from another period or tax type of the ICA company on a date under section 173L of the Tax Administration Act 1994, or from another ICA company on a date under section 173M of that Act or section RC 32(5)(b),—

(i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the transfer year; or

(ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the ICA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act or section RC 32(5)(b), and the ICA to which the transfer is made is in credit; or

(iii) the date referred to in the opening words of this paragraph, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

Limitation on credits

(5) No amount may give rise to more than 1 imputation credit.

Defined in this Act: amount, category A income, Commissioner, company, further income tax, ICA company, imputation credit, imputation credit account, income, income tax, life insurer, notice, pay, provisional tax, research and development tax credit, schedular income tax liability, schedular policyholder base income, tax account with the Commissioner, tax credit, tax pooling account, tax year, trustee

Compare: 2004 No 35 s ME 4(1)(a), (1C), (2)(a)

Section OB 4 heading: replaced, on 30 March 2022, by section 137(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 4(1): replaced, on 30 March 2022, by section 137(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 4(2): amended, on 30 March 2022, by section 137(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 4(3)(c): substituted, on 1 July 2010, by section 381(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 4(3)(e): repealed, on 1 April 2017, by section 189(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 4(3)(eb): repealed (with effect on 1 April 2009), on 30 March 2017, by section 189(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 4(3)(fb): inserted, on 1 April 2019, by section 11(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section OB 4(3)(gb): repealed, on 1 April 2017, by section 189(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 4(3)(h): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 92(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 4(4): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 112(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section OB 4(4)(a): amended, on 30 March 2022, by section 137(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 4(4)(b): repealed, on 30 March 2022, by section 137(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 4(4)(c): inserted, on 30 March 2022, by section 137(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 4 list of defined terms **branch equivalent tax account**: repealed, on 1 July 2012, by section 92(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 4 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 189(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 4 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section OB 4 list of defined terms **policyholder base income tax liability**: repealed, on 1 July 2010, by section 381(3)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 4 list of defined terms **research and development tax credit**: inserted, on 1 April 2019, by section 11(2) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section OB 4 list of defined terms **schedular income tax liability**: inserted, on 1 July 2010, by section 381(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 4 list of defined terms **schedular policyholder base income**: inserted, on 1 July 2010, by section 381(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 5 ICA deposit in tax pooling account

Credit

(1) An ICA company has an imputation credit for an amount provided by it and paid by an intermediary into a tax pooling account.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 3 (deposit in tax pooling account).

Credit date

(3) The credit date is the day the amount is deposited.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, intermediary, pay, tax pooling account

Compare: 2004 No 35 s ME 4(1)(ac), (2)(ac)

OB 6 ICA transfer from tax pooling account

Credit

(1) An ICA company has an imputation credit for an amount representing an entitlement to funds held in a tax pooling account if the intermediary transfers the entitlement from another person to the company.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 4 (transfer from tax pooling account).

Credit date

(3) The credit date is,—

(a) for an entitlement to funds that are transferred by the intermediary from the tax pooling account to the company's tax account with the Commissioner, the credit date under section RP 19 (Transfers from tax pooling accounts) for the amount transferred; or

(ab) for an entitlement to funds that are transferred by the intermediary from the tax pooling account to the Commissioner to satisfy a liability of the company that is an increased amount of tax under section RP 17B (Tax pooling accounts and their use) other than income tax, the date of the transfer; or

(b) for an entitlement to funds that are refunded by the intermediary from the tax pooling account to the company, the date of the refund; or

(c) for an entitlement that is transferred by the intermediary from the company to another person, the date of the transfer.

Defined in this Act: amount, Commissioner, ICA company, imputation credit, intermediary, tax account with the Commissioner, tax pooling account, transfer

Compare: 2004 No 35 s ME 4(1)(ad), (2)(ad)

Section OB 6(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 95(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 6(3): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 95(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 6(3)(ab): inserted (with effect on 6 October 2009), on 30 March 2017, by section 190 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 6 list of defined terms **transfer**: inserted, on 1 April 2025, by section 114 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

OB 7 ICA payment of further income tax

Credit

(1) An ICA company has an imputation credit for an amount of further income tax paid under section OB 65 or OB 66.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 5 (payment of further income tax).

Credit date

(3) The credit date is the day the further income tax is paid.

Defined in this Act: amount, further income tax, ICA company, imputation credit, pay

Compare: 2004 No 35 s ME 4(1)(c), (2)(a)

OB 7B ICA payment of qualifying company election tax

Credit

(1) An ICA company has an imputation credit for an amount of qualifying company election tax paid under section HA 40 (Liability for qualifying company election tax).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 5B (payment of qualifying company election tax).

Credit date

(3) The credit date is the day the qualifying company election tax is paid.

Defined in this Act: amount, ICA company, imputation credit, pay, qualifying company election tax

Compare: 2004 No 35 s ME 4(1)(ae), (2)(ae)

Section OB 7B: inserted, on 1 April 2008, by section 495 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

OB 7BB ICA payment of multinational top-up tax

Credit

(1) An ICA company has an imputation credit for an amount of multinational top-up tax paid under section HP 1 (Liability for multinational top-up tax) to the

extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 5BB (payment of multinational top-up tax).

Credit date

(3) The credit date is the day the multinational top-up tax is paid.

Defined in this Act: amount, global anti-base erosion model rules, ICA company, imputation credit, multinational top-up tax, pay

Section OB 7BB: inserted, on 1 January 2026, by section 108 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

OB 7C ICA expenditure on research and development

[Repealed]

Section OB 7C: repealed (with effect on 1 April 2009), on 30 March 2017, by section 191 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 8 ICA resident withholding tax withheld

Credit

(1) An ICA company has an imputation credit for resident withholding tax (RWT) that is treated under section RA 9(1)(b) (Treatment of amounts withheld as received) as derived by the company other than as policyholder base income.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 6 (amount of tax withheld for resident passive income).

Credit date

(3) The credit date is the day the amount of tax is withheld.

Defined in this Act: amount, amount of tax, ICA company, imputation credit, policyholder base income, resident passive income, RWT

Compare: 2004 No 35 s ME 4(1)(i), (2)(g)

Section OB 8(1): amended, on 1 July 2010, by section 382(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 8 list of defined terms **policyholder base income**: inserted, on 1 July 2010, by section 382(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 8 list of defined terms **resident withholding tax**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 9 ICA dividend derived with imputation credit

Credit

(1) An ICA company has an imputation credit for the amount of an imputation credit attached to a dividend derived by the company.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 7 (dividend derived with imputation credit).

Credit date

(3) The credit date is the day the dividend is paid to the company.

Defined in this Act: amount, dividend, ICA company, imputation credit, pay

Compare: 2004 No 35 s ME 4(1)(d), (2)(c)

OB 9B ICA attributed PIE income with imputation credit

Credit

(1) An ICA company that is an investor in a multi-rate PIE has an imputation credit for the amount of an imputation credit attributed to it under section HM 54 (Use of tax credits other than foreign tax credits by investors).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 7B (attributed PIE income with imputation credit).

Credit date

(3) The credit date is the day the amount is attributed.

Defined in this Act: amount, attributed PIE income, ICA company, imputation credit, multi-rate PIE

Section OB 9B: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 384(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 9C ICA credit for research and development tax credit

Credit

(1) An ICA company has an imputation credit for the amount of research and development tax credit it is entitled to.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 7C (Research and development tax credits).

Credit date

(3) The credit date is the date the company files its return of income for the income year.

Defined in this Act: amount, ICA company, imputation credit, research and development tax credit

Section OB 9C: inserted, on 1 April 2019, by section 12 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

OB 10 ICA dividend derived with FDP credit

[Repealed]

Section OB 10: repealed, on 1 April 2017, by section 192 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 11 ICA payment of FDP

[Repealed]

Section OB 11: repealed (with effect on 30 June 2009), on 6 October 2009, by section 385(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 12 ICA transfer from FDP account

[Repealed]

Section OB 12: repealed, on 1 April 2017, by section 193 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 13 ICA transfer of debit balance on leaving wholly-owned group

Election

(1) If the requirements of subsections (2) and (3) are met, an ICA company may choose to transfer a debit balance in its imputation credit account when the company stops being part of a wholly-owned group of companies.

Eligibility

(2) The company may make an election under subsection (1) if, at a particular time,—

(a) the company is or has recently been part of a wholly-owned group of companies; and

(b) the company is no longer part of the group, or will shortly no longer be part of the group; and

(c) the company has a debit balance in its imputation credit account; and

(d) the group has a loss balance carried forward from earlier tax years of more than $1,000,000 for the income year before the particular time.

Credit and debit

(3) The company may choose that an amount of no more than the debit balance is—

(a) an imputation credit in its imputation credit account; and

(b) an imputation debit in the imputation credit account of another company in the group after the date on which the company stops being part of the wholly-owned group.

Table references

(4) The imputation credit in subsection (3)(a) is referred to in table O1: imputation credits, row 11 (debit balance on leaving wholly-owned group). The imputation

debit in subsection (3)(b) is referred to in table O2: imputation debits, row 17 (debit balance on leaving wholly-owned group).

Form and timing of election

(5) The company must make the election—

(a) in a form that the Commissioner may require; and

(b) with a notice of agreement from the group company in whose account the imputation debit arises under subsection (3)(b); and

(c) before the company stops being part of the wholly-owned group.

Further time

(6) For the purposes of subsection (5)(b), the Commissioner may allow further time in which to provide the notice if the company did not have sufficient information at the time it stops being part of the wholly-owned group.

Credit date

(7) The credit date is the day the company stops being part of the wholly-owned group.

Defined in this Act: amount, Commissioner, company, ICA company, imputation credit, imputation credit account, imputation debit, income year, notice, tax loss, wholly-owned group of companies

Compare: 2004 No 35 ss ME 4(1)(cb), (2)(bb), ME 9B(1), (2)

OB 14 ICA payment of tax on leaving wholly-owned group

Credit

(1) An ICA company has an imputation credit for a payment of imputation additional tax that it chooses to pay under section OB 71, excluding an excess tax payment applied under section OB 71(8).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 12 (payment of tax on leaving wholly-owned group).

Credit date

(3) The credit date is the day the imputation additional tax is paid to the Commissioner.

Defined in this Act: amount, Commissioner, excess tax payment, ICA company, imputation additional tax, imputation credit, pay

Compare: 2004 No 35 s ME 4(1)(cc), (2)(bc)

OB 15 ICA payment of tax on joining wholly-owned group

Credit

(1) An ICA company has an imputation credit for a payment of imputation additional tax for which it is liable under section OB 72, excluding an excess tax payment applied under section OB 72(9).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 13 (payment of tax on joining wholly-owned group).

Credit date

(3) The credit date is the day the imputation additional tax is paid to the Commissioner.

Defined in this Act: amount, Commissioner, excess tax payment, ICA company, imputation additional tax, imputation credit, pay

Compare: 2004 No 35 s ME 4(1)(cd), (2)(bd)

OB 16 ICA attribution for personal services

Credit

(1) An ICA company that is not a qualifying company has an imputation credit for an amount equal to 38.89% of the personal services attribution under section GB 29 (Attribution rule: calculation).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 14 (attribution for personal services).

Credit date

(3) The credit date is the last day of the tax year for which the attribution is made.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, qualifying company, tax year

Compare: 2004 No 35 s ME 4(1)(ab), (2)(ab)

Section OB 16(1): amended, on 1 April 2011, by section 96 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 16(1): amended, on 1 April 2008, by section 496 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

OB 17 ICA transfer from policyholder credit account

[Repealed]

Section OB 17: repealed, on 1 July 2010, by section 386(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 18 ICA transfer from ASC account

Credit

(1) An ICA company has an imputation credit for the transfer of an amount from its available subscribed capital (ASC) account. The amount is calculated under section OF 5(4) (ASCA transfer to imputation credit account).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 16 (transfer from ASC account).

Credit date

(3) The credit date is the day the amount is transferred.

Defined in this Act: amount, ASC account, ICA company, imputation credit, imputation credit account

Compare: 2004 No 35 s ME 4(1)(da), (2)(ca)

OB 19 ICA transfer to master fund

Credit

(1) An ICA company that is a master fund has an imputation credit for the transfer of an amount of expenditure under sections DV 5 to DV 7 (which relate to the transfer of expenditure to master funds). The amount is calculated using the formula—

expenditure transferred × tax rate.

Definition of items in formula

(2) In the formula,—

(a) **expenditure transferred** is the amount of expenditure transferred under sections DV 5 to DV 7 (which relate to the expenditure of investment funds) to the company as a master fund:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Table reference

(3) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 17 (transfer to master fund).

Credit date

(4) The credit date is the last day of the tax year corresponding to the income year in which the expenditure is deducted.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, income tax, master fund

Compare: 2004 No 35 s ME 4(1)(aab), (2)(aab)

Section OB 19(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 387(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 19(2)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 19 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 19B ICA transfer to loss-using group company

Credit

(1) An ICA company that uses a tax loss made available under section IC 5 (Company B using company A's tax loss) by another company has an imputation

credit for the amount of an imputation credit transferred to it by an ICA company under an election under section OB 83 relating to the tax loss.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 17B (transfer of credit to loss-using group company).

Credit date

(3) The credit date is the day on which the credit is transferred.

Defined in this Act: company, ICA company, imputation credit, tax loss

Section OB 19B: inserted (with effect on 1 October 2016 and applying for the 2017–18 and later income years), on 30 March 2017, by section 194(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 20 ICA distribution with Maori authority credit

Credit

(1) An ICA company has an imputation credit for the amount of a Maori authority credit attached to a distribution received by the company.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 18 (distribution with Maori authority credit).

Credit date

(3) The credit date is the day the distribution is paid.

Defined in this Act: amount, ICA company, imputation credit, Maori authority credit, pay

Compare: 2004 No 35 s ME 4(1)(ea), (2)(cb)

OB 21 ICA balance of Maori authority credit account

Credit

(1) An ICA company has an imputation credit for an amount equal to the amount of a Maori authority debit under section OK 18 (MACA final balance) when the Maori authority stops being a Maori authority.

Table references

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 19 (balance of Maori authority credit account). The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 10 (final balance).

Credit date

(3) The credit date is the same as the debit date recorded for the debit under section OK 18.

Defined in this Act: amount, ICA company, imputation credit, Maori authority, Maori authority debit

Compare: 2004 No 35 s ME 4(1)(k), (2)(k)

OB 22 ICA replacement payment to company under share-lending arrangement

Credit

(1) An ICA company has an imputation credit for the amount of an imputation credit attached under section OB 64, or treated as attached under section RE 25 (When amount of tax treated as imputation credit) to a replacement payment paid under a share-lending arrangement to the company.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 20 (replacement payment under share-lending arrangement).

Credit date

(3) The credit date is the day the replacement payment is paid.

Defined in this Act: amount, ICA company, imputation credit, pay, replacement payment, share-lending arrangement

Compare: 2004 No 35 s ME 4(1)(eb), (ec), (2)(cc)

OB 23 ICA credit transfer to company

Credit

(1) An ICA company has an imputation credit for the amount of an imputation credit shown in a credit transfer notice given to the company.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 21 (credit in credit transfer notice).

Credit date

(3) The credit date is the day the notice is given.

Defined in this Act: amount, credit transfer notice, ICA company, imputation credit

Compare: 2004 No 35 s ME 4(1)(ed), (2)(cd)

OB 23B ICA transfer from consolidated imputation group to departing member for unused tax payment

Credit

(1) An ICA company that ceases to be a member of a consolidated imputation group may choose to have an imputation credit for the amount of an imputation debit that the consolidated imputation group has under section OP 41B (Consolidated ICA debit for unused tax payment of departing member) because, immediately before the ICA company ceases to be a member, the imputation credit account of the consolidated imputation group contains an imputation credit arising under section OP 7 or OP 8 (which relate to consolidated ICAs) from a payment (the **unused imputation credit payment**) that is made by the ICA company when the ICA company is a member of the consolidated imputation group and is held, unused, by the Commissioner or a tax pooling intermediary when the membership ceases.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 21B (unused imputation credit payment by member before departure).

When credit arises

(3) The credit date is the date of the credit to the imputation credit account of the consolidated imputation group for the unused imputation credit payment.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, ICA company, imputation credit, imputation credit account, imputation debit, income tax, pay, provisional tax, tax pooling intermediary

Section OB 23B: inserted (with effect on 1 April 2021), on 31 March 2023, by section 92(1) (and see section 92(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

OB 24 ICA credit on resident's restricted amalgamation

Credit

(1) An ICA company has an imputation credit for the amount of a credit that arises on or after a resident's restricted amalgamation in the imputation credit account of the amalgamated company under 1 of the sections listed in subsection (3).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 22 (credit on resident's restricted amalgamation).

Sections

(3) The sections are—

(a) section OA 10 (When credits or debits due to amalgamating company but not recorded) for imputation credits in the imputation credit account of an amalgamating company:

(b) *[Repealed]*

(c) *[Repealed]*

(d) *[Repealed]*

(e) section OA 14 (Continuity of shareholding when group companies amalgamate) for imputation credits in the imputation credit account of a consolidated imputation group that ends its existence on the amalgamation.

(f) *[Repealed]*

(g) *[Repealed]*

Defined in this Act: amalgamated company, amalgamating company, amount, consolidated group, consolidated imputation group, ICA company, imputation credit, imputation credit account, resident's restricted amalgamation

Compare: 2004 No 35 ss ME 29, MG 17, MI 13

Section OB 24(3)(b): repealed, on 1 April 2017, by section 195(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24(3)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 93(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 24(3)(d): repealed, on 30 March 2017, by section 195(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24(3)(f): repealed, on 1 April 2017, by section 195(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24(3)(g): repealed, on 30 March 2017, by section 195(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24 list of defined terms **consolidated FDP group**: repealed, on 1 April 2017, by section 195(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24 list of defined terms **CTR account**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 93(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 24 list of defined terms **CTR credit**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 93(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 24 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 195(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 195(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24 list of defined terms **policyholder credit**: repealed, on 30 March 2017, by section 195(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 24 list of defined terms **policyholder credit account**: repealed, on 30 March 2017, by section 195(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 25 ICA reversal of tax advantage arrangement

When this section applies

(1) This section applies when it is established that an imputation credit in an ICA company's imputation credit account was incorrectly determined to be the subject of an arrangement to obtain a tax advantage.

Credit

(2) The company has an imputation credit for an amount equal to the amount of a debit in the company's imputation credit account under section OB 54.

Table references

(3) The imputation credit in subsection (2) is referred to in table O1: imputation credits, row 23 (reversal of tax advantage arrangement). The imputation debit in subsection (2) is referred to in table O2: imputation debits, row 27 (tax advantage arrangement).

Credit date

(4) The credit date is the same as the debit date of the debit under section OB 54.

Defined in this Act: amount, arrangement, ICA company, imputation credit, imputation credit account, imputation debit, tax advantage

Compare: 2004 No 35 s ME 4(1)(h), (2)(f)

OB 26 ICA elimination of double debit

When this section applies

(1) This section applies when an imputation debit in an ICA company's imputation credit account under section OB 41 has the effect of cancelling an imputation credit under section OB 5.

Credit

(2) The company has an imputation credit for an amount equal to the amount of the debit referred to in subsection (1), and—

(a) another debit arises under section OB 34 for a refund of the amount of the deposit on a debit date after the debit date for the debit for loss of shareholder continuity; or

(ab) another debit arises under section OB 35 for a transfer to another person of the entitlement to the amount of the deposit on a debit date after the debit date for the debit for the loss of shareholder continuity; or

(b) the deposit is taken into account under section RP 19 (Transfers from tax pooling accounts) in determining the balance of the company's tax account with the Commissioner after the debit date for the debit for loss of shareholder continuity.

Table references

(3) The table references are as follows:

(a) the imputation debit in subsection (1) is referred to in table O2: imputation debits, row 14 (debit for loss of shareholder continuity):

(b) the imputation credit in subsection (1) is referred to in table O1: imputation credits, row 3 (deposit in tax pooling account):

(c) the imputation credit in subsection (2) is referred to in table O1: imputation credits, row 24 (elimination of double debit):

(d) the imputation debit in subsection (2)(a) is referred to in table O2: imputation debits, row 6 (refund from tax pooling account):

(e) the imputation debit in subsection (2)(ab) is referred to in table O2: imputation debits, row 7 (transfer of entitlement to another person in tax pooling account).

Credit date

(4) The credit date is the day—

(a) the deposit is refunded; or

(ab) the entitlement is transferred; or

(b) the credit arises in the company's tax account with the Commissioner.

Defined in this Act: amount, Commissioner, ICA company, imputation credit, imputation credit account, imputation debit, shareholder, tax account with the Commissioner

Compare: 2004 No 35 s ME 4(1A), (2A)

Section OB 26(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 196(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 26(2)(ab): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 196(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 26(3)(e): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 196(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 26(4)(ab): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 196(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 27 ICA non-resident withholding tax withheld

Credit

(1) An Australian ICA company has an imputation credit for an amount of tax withheld by the payer of non-resident passive income.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 25 (NRWT withheld).

Credit date

(3) The credit date is the day the amount of tax is withheld.

Defined in this Act: amount, amount of tax, Australian ICA company, imputation credit, non-resident passive income, NRWT

Compare: 2004 No 35 s ME 4(1B)(a), (2B)(a)

Section OB 27 list of defined terms **non-resident withholding tax**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 28 ICA payment of amount of tax for schedular payment

Credit

(1) An Australian ICA company has an imputation credit for an amount equal to the amount of tax for a schedular payment paid to the company as a non-resident contractor.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 26 (amount of tax for schedular payment).

Credit date

(3) The credit date is the day the amount of tax is withheld.

Defined in this Act: amount, amount of tax, Australian ICA company, imputation credit, non-resident contractor, pay, schedular payment

Compare: 2004 No 35 s ME 4(1B)(b), (2B)(b)

OB 29 ICA payment of schedular income tax

Credit

(1) An Australian ICA company has an imputation credit for a payment of income tax relating to the company's schedular income tax liability for income derived under section CR 3 (Income of non-resident general insurer) or CV 16 (Non-resident shippers).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 27 (payment of schedular income tax).

Credit date

(3) The credit date is the day the schedular income tax is paid.

Defined in this Act: Australian ICA company, company, imputation credit, income, pay, schedular income

Compare: 2004 No 35 s ME 4(1B)(c), (2B)(c)

Section OB 29(1): amended, on 2 November 2012, by section 130 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Imputation debits

OB 30 ICA payment of dividend

Debit

(1) An ICA company has an imputation debit for the amount of an imputation credit attached to a dividend paid by the company.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 2 (payment of dividend).

Debit date

(3) The debit date is the day the dividend is paid.

Arrangement for dividend from another company

(4) Section GB 37 (Arrangements for payment of dividend by other companies) may apply to treat an amount as a debit under this section.

Defined in this Act: amount, dividend, ICA company, imputation credit, imputation debit, pay

Compare: 2004 No 35 s ME 5(1)(a), (2)(a)

OB 31 ICA allocation of provisional tax

Debit

(1) An ICA company has an imputation debit for an amount of provisional tax allocated by the company under section RC 32 (Wholly-owned groups of companies) to an underpaid company.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 3 (allocation of provisional tax).

Debit date

(3) The debit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, Commissioner, company, ICA company, imputation debit, notify, provisional tax

Compare: 2004 No 35 s ME 5(1)(d), (2)(d)

OB 32 ICA refund of tax or transfer from account

Debit

(1) An ICA company has an imputation debit for the amount of a refund of income tax paid to the company or the amount of a transfer of excess income tax or excess provisional tax under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies). Subsection (2) overrides this subsection.

No debit

(2) A debit under subsection (1) does not include—

(a) a refund of income tax paid for a period when the company was not an ICA company; or

(ab) a refund of income tax paid by a life insurer to satisfy its schedular income tax liability for schedular policyholder base income; or

(b) a refund of income tax paid before a debit arises under section OB 41, but only to the extent to which the amount of the refund is less than or equal to the amount of the debit; or

(c) a refund under subpart LP (Tax credits for supplementary dividends) because the supplementary dividend generating the refund was paid before a debit arises under section OB 41, but only to the extent to which the amount of the refund is less than the amount of the debit.

Table references

(3) The table references are as follows:

(a) the imputation debit in subsection (1) is referred to in table O2: imputation debits, row 4 (refund of income tax), row 4B (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 4C (transfer from ICA under section 173L

or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), or row 4D (transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)):

(b) the imputation debit in subsection (2)(b) is referred to in table O2: imputation debits, row 14 (debit for loss of shareholder continuity):

(c) the imputation debit in subsection (2)(c) is referred to in table O2: imputation debits, row 14 (debit for loss of shareholder continuity).

Part-year ICA company

(4) The amount of the debit that arises from a refund of income tax if the company is an ICA company for only part of a tax year is an amount calculated using the formula—

$$(\text{ICA days} \div 365) \times \text{refund}.$$

Definition of items in formula

(5) In the formula,—

(a) **ICA days** is the number of days in which the company is an ICA company:

(b) **refund** is the amount of the refund.

Debit date

(6) The debit date for—

(a) a refund of income tax is the day the refund is made; or

(b) an amount of excess tax transferred in a tax year (the **transfer year**) to another period or tax type of the ICA company on a date under section 173L of the Tax Administration Act 1994, or to another ICA company on a date under section 173M of that Act or section RC 32(5)(b), is—

(i) despite section 173L(2)(a) to (bb) of the Tax Administration Act 1994, the date of the request for the transfer if that date is in the transfer year; or

(ii) despite section 173L(2)(a) to (bb) of the Tax Administration Act 1994, the date of the request for the transfer if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the ICA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act, and the ICA to which the transfer is made is in credit; or

(iii) the date referred to in the opening words of this paragraph, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

Relationship with section OB 37

(7) This section does not apply to an amount that gives rise to a debit under section OB 37.

Defined in this Act: amount, company, ICA company, imputation debit, income tax, life insurer, pay, schedular income tax liability, schedular policyholder base income, shareholder, supplementary dividend, tax year

Compare: 2004 No 35 s ME 5(1)(e), (2)(e)

Section OB 32 heading: replaced, on 30 March 2022, by section 138(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 32(1): amended, on 30 March 2022, by section 138(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 32(2)(ab): inserted, on 1 July 2010, by section 388(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 32(2)(b): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 97(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 32(3)(a): amended, on 30 March 2022, by section 138(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 32(4): amended, on 30 March 2022, by section 138(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 32(6): replaced, on 30 March 2022, by section 138(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OB 32(7) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 388(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 32(7): added (with effect on 1 April 2008), on 6 October 2009, by section 388(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 32 list of defined terms **life insurer**: inserted, on 1 July 2010, by section 388(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 32 list of defined terms **schedular income tax liability**: inserted, on 1 July 2010, by section 388(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 32 list of defined terms **schedular policyholder base income**: inserted, on 1 July 2010, by section 388(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 33 ICA amount applied to pay other taxes

Debit

(1) An ICA company has an imputation debit for—

(a) an amount of overpaid income tax applied to pay an amount due under the Inland Revenue Acts:

(b) an increased amount of tax as described in section RP 17B(3) (Tax pooling accounts and their use) applied to pay an amount due under the Inland Revenue Acts other than income tax.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 5 (amount applied to pay other taxes).

No debit

(3) A debit under subsection (1) does not include an amount of overpaid income tax—

(a) applied to satisfy a liability for income tax or provisional tax; or

(b) relating to income tax paid before an imputation debit arises under section OB 41 (table O2: imputation debits, row 14 (debit for loss of shareholder continuity)), but only to the extent to which the amount of overpaid income tax is no more than the amount of the debit for loss of shareholder continuity.

Debit date

(4) The debit date is the day the amount is applied.

Relationship with section OB 37

(5) This section does not apply to an amount that gives rise to a debit under section OB 37.

Defined in this Act: amount, ICA company, imputation debit, income tax, Inland Revenue Acts, pay, provisional tax, shareholder

Compare: 2004 No 35 s ME 5(1)(l), (2)(k)

Section OB 33(1): substituted, on 6 October 2009, by section 389(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 33(5) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 389(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 33(5): added (with effect on 1 April 2008), on 6 October 2009, by section 389(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 34 ICA refund from tax pooling account

When this section applies

(1) This section applies for an ICA company when—

(a) the company has an entitlement to an amount in a tax pooling account and has an imputation credit for the entitlement under—

(i) section OB 5 (table O1: imputation credits, row 3 (deposit in tax pooling account)); or

(ii) section OB 6 (table O1: imputation credits, row 4 (transfer from tax pooling account)); and

(b) the intermediary refunds the amount from the tax pooling account to the company.

Debit

(2) The company has an imputation debit for the amount of the refund.

Table reference

(3) The imputation debit in subsection (2) is referred to in table O2: imputation debits, row 6 (refund from tax pooling account).

Debit date for companies other than qualifying companies

(4) The debit date for a company that is not a qualifying company is the date found by applying the following paragraphs in order:

(a) the last day of the previous tax year to the extent of the amount of the debit that is no more than the credit balance in the imputation credit account on that date:

(b) the day the refund is made to the extent of the remaining amount of the debit that is no more than the credit balance in the imputation credit account on the day of refund:

(c) the last day of the previous tax year for the remainder of the debit.

Debit date for qualifying companies

(5) The debit date for a qualifying company is the day the refund is made.

Defined in this Act: amount, company, ICA company, imputation credit, imputation credit account, imputation debit, intermediary, pay, qualifying company, tax pooling account, tax year

Compare: 2004 No 35 s ME 5(1)(ea), (2)(ea), (eb)

Section OB 34(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 98(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 34(4) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 390(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 34(4): substituted (with effect on 1 April 2008), on 6 October 2009, by section 390(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 34(4)(b): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 98(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 34(5) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 390(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 34(5): added (with effect on 1 April 2008), on 6 October 2009, by section 390(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 34(5): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 98(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 34 list of defined terms **company**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 390(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 34 list of defined terms **imputation credit account**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 390(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 34 list of defined terms **qualifying company**: added (with effect on 1 April 2008), on 6 October 2009, by section 390(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 34 list of defined terms **tax pooling account**: inserted (with effect on 1 April 2008), on 7 September 2010, by section 98(4) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 34 list of defined terms **tax year**: added (with effect on 1 April 2008), on 6 October 2009, by section 390(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 35 ICA transfer within tax pooling account

When this section applies

(1) This section applies for an ICA company when—

(a) the company has an entitlement to an amount in a tax pooling account and has an imputation credit for the entitlement under—

(i) section OB 5 (table O1: imputation credits, row 3 (deposit in tax pooling account)); or

(ii) section OB 6 (table O1: imputation credits, row 4 (transfer from tax pooling account)); and

(b) the intermediary transfers the entitlement from the company to another person.

Debit

(2) The company has an imputation debit for a tax year for the amount of the transfer of the entitlement to funds in the tax pooling account.

Table reference

(3) The imputation debit in subsection (2) is referred to in table O2: imputation debits, row 7 (transfer within tax pooling account).

Debit date for companies other than qualifying companies

(4) The debit date for a company that is not a qualifying company is—

(a) the last day of the previous tax year to the extent of the amount of the debit that is no more than the credit balance in the account on that date; or

(b) the day the transfer is made to the extent of the remaining amount of the debit that is no more than the credit balance in the imputation credit account on the day of the transfer; or

(c) the last day of the previous tax year for the remainder of the debit.

Debit date for qualifying companies

(5) The debit date for a qualifying company is the day the transfer is made.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, imputation debit, intermediary, pay, qualifying company, tax pooling account, tax year, transfer

Compare: 2004 No 35 s ME 5(1)(eb), (2)(ea), (eb)

Section OB 35(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 99(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 35(4)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 391 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 35(5): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 99(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 35 list of defined terms **transfer**: inserted, on 1 April 2025, by section 115 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

OB 35B ICA debit for transfer from tax pooling account for policyholder base liability

Debit

(1) An ICA company has an imputation debit for the amount transferred from a tax pooling account to their tax account with the Commissioner, to the extent to which the company is a life insurer, and the amount satisfies its schedular income tax liability for schedular policyholder base income or its income tax liability for a life fund PIE that is a multi-rate PIE.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 7B (debit for transfer from tax pooling account for policyholder base liability).

Debit date

(3) The debit date is the last day of the tax year.

Defined in this Act: ICA company, imputation credit, imputation debit, life insurer, schedular income tax liability, schedular policyholder base income, tax year

Section OB 35B: inserted, on 1 July 2010, by section 392(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 36 ICA refund of FDP

[Repealed]

Section OB 36: repealed, on 1 April 2017, by section 197 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 37 ICA refund of tax credit

Debit

(1) An ICA company has an imputation debit for—

(a) the amount of a transfer under section LA 6(2)(d) (Remaining refundable credits: PAYE, RWT, and certain other items) to the extent to which the transfer does not lead to a refund of income tax:

(b) the amount of a refund to the company under section LA 6(2)(e).

(c) *[Repealed]*

Exclusion: FDPA companies

[Repealed]

(1B) *[Repealed]*

Exclusion: refund after debit under section OB 41

(1C) Despite subsection (1), an ICA company has an imputation debit for a refundable tax credit or a research and development tax credit arising in a tax year after a debit arises under section OB 41, reduced by the lesser of—

(a) the debit under section OB 41:

(b) the amount by which the tax credit exceeds the total credits to the company's imputation credit account, for amounts satisfying the company's income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14 (which relate to limits on refunds for ICA companies).

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 9 (refund of tax credit).

Debit date

(3) The debit date is—

(a) for a debit referred to in subsection (1)(a), the day the amount is transferred:

(b) for a debit referred to in subsection (1)(b), the day the amount is refunded.

(c) *[Repealed]*

Defined in this Act: amount, ICA company, imputation debit, pay, research and development tax credit

Compare: 2004 No 35 s ME 5(1)(h), (2)(e)

Section OB 37(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 393(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 37(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 393(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 37(1)(c): repealed (with effect on 1 April 2009), on 30 March 2017, by section 198(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 37(1B) heading: repealed, on 1 April 2017, pursuant to section 198(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 37(1B): repealed, on 1 April 2017, by section 198(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 37(1C) heading: inserted, on 1 April 2018, by section 169(1) (and see section 169(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OB 37(1C): inserted, on 1 April 2018, by section 169(1) (and see section 169(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OB 37(1C): amended (with effect on 1 April 2019), on 29 March 2025, by section 116(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section OB 37(1C)(b): amended (with effect on 1 April 2019), on 29 March 2025, by section 116(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section OB 37(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 393(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 37(3)(c): repealed (with effect on 1 April 2009), on 30 March 2017, by section 198(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 37 list of defined terms **FDPA company**: repealed, on 1 April 2017, by section 198(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 37 list of defined terms **research and development tax credit**: inserted (with effect on 1 April 2019), on 29 March 2025, by section 116(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

OB 38 ICA overpayment of FDP

[Repealed]

Section OB 38: repealed, on 1 April 2017, by section 199 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 39 ICA transfer for net foreign attributed income

[Repealed]

Section OB 39: repealed (with effect on 30 June 2009), on 6 October 2009, by section 395(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 40 ICA attribution for personal services

Debit

(1) An ICA company has an imputation debit for an amount of an attribution for personal services equal to the amount of an imputation credit under section OB 16.

Table references

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 13 (attribution for personal services). The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 14 (attribution for personal services).

Accounts adjusted

(3) A debit under subsection (1) is recorded in the imputation credit account only if the company has accounted for an attribution of income under section GB 29 (Attribution rule: calculation).

Debit date

(4) The debit date is the last day of the tax year that falls in the income year for which the company accounts in its financial statements for the attribution of income referred to in subsection (3).

Defined in this Act: amount, financial statements, ICA company, imputation credit, imputation credit account, imputation debit, income, income year, tax year

Compare: 2004 No 35 s ME 5(1)(ia), (2)(ha)

OB 41 ICA debit for loss of shareholder continuity

Debit

(1) An ICA company has an imputation debit for the amount equal to the amount of an imputation credit retained in the imputation credit account and unused at the time at which shareholder continuity is lost.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 14 (debit for loss of shareholder continuity).

When debit arises

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

Qualifying companies

(3B) This section does not apply to a qualifying company in circumstances other than those set out in section HA 18 (Treatment of dividends when qualifying company status ends), and that section overrides subsections (1) to (3).

Avoidance arrangements

(4) Section GB 34 (ICA arrangements for carrying amounts forward) may exclude a company from the application of this section.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, imputation debit, qualifying company, shareholder

Compare: 2004 No 35 ss HG 13(6), ME 5(1)(i), (2)(h)

Section OB 41(1): amended (with effect on 1 April 2008), on 7 December 2009, by section 87(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OB 41(3) heading: substituted (with effect on 1 April 2008), on 7 December 2009, by section 87(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OB 41(3): substituted (with effect on 1 April 2008), on 7 December 2009, by section 87(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OB 41(3B) heading: inserted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 117(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section OB 41(3B): inserted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 117(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section OB 41 list of defined terms **qualifying company**: inserted (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 117(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section OB 41 compare note: amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 117(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OB 42 ICA on-market cancellation

Debit

(1) When an ICA company acquires its shares in an on-market cancellation, it has an imputation debit for an amount calculated using the formula—

ASC per share excess × tax rate ÷ (1 − tax rate).

Definitions of items in formula

(2) In the formula,—

(a) **ASC per share excess** is the amount distributed on the on-market cancellation that is more than the amount of the available subscribed capital per share calculated under the ordering rule:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the tax year in which the acquisition occurs.

Table reference

(3) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 15 (on-market cancellation).

Negative result

(4) If the formula produces a negative result, the debit is treated as zero.

Debit date

(5) The debit date is the day the shares are acquired by the company in the on-market cancellation.

Defined in this Act: amount, available subscribed capital, ICA company, imputation debit, on-market cancellation, ordering rule, RWT, share

Compare: 2004 No 35 s ME 5(1)(c), (2)(c)

Section OB 42(1) formula: amended, on 1 April 2008, by section 498(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 42(2)(b): substituted, on 1 April 2008, by section 498(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

OB 43 ICA breach of imputation ratio

Debit

(1) An ICA company has an imputation debit for a breach of the benchmark dividend rules in section OB 61(5) for an amount calculated using the formula—

(net dividends × imputation ratio) − attached credits.

Definition of items in formula

(2) In the formula,—

(a) **net dividends** is the total amount of all dividends paid by the company during the tax year, excluding the amount of imputation credits attached to the dividends:

(b) **imputation ratio** is the maximum permitted ratio calculated under section OA 18(2) (Calculation of maximum permitted ratios) for an imputation credit or, if less, the greatest imputation ratio of dividends paid by the company for the tax year:

(c) **attached credits** is the total amount of all imputation credits attached to dividends paid by the company for the tax year.

Table reference

(3) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 16 (breach of imputation ratio).

Ratio change declaration

(4) A debit under subsection (1) does not arise if the company provides a ratio change declaration under section OB 61(6).

Debit date

(5) The debit date is the last day of the tax year.

Defined in this Act: amount, benchmark dividend, dividend, ICA company, imputation credit, imputation debit, imputation ratio, maximum permitted ratio, tax year

Compare: 2004 No 35 s ME 5(1)(f), (2)(f)

Section OB 43(2)(a): amended, on 1 April 2017, by section 200(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 43 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 200(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 44 ICA debit on leaving wholly-owned group

Debit

(1) An ICA company (**company A**) has an imputation debit for an amount equal to the amount of an imputation debit that another company (**company B**) chooses under section OB 13 as a debit to company A's imputation credit account when company B leaves a wholly-owned group of companies.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 17 (debit balance on leaving wholly-owned group).

Debit date

(3) The debit date is the date when the company B stops being part of the wholly-owned group.

Defined in this Act: amount, company, ICA company, imputation credit account, imputation debit, wholly-owned group of companies

Compare: 2004 No 35 ss ME 5(1)(fb), (2)(fb), ME 9B(2)(a)(i)

OB 45 ICA redemption debit

Debit

(1) An ICA company has an imputation debit for the amount of a redemption debit.

When redemption debit arises

(2) A redemption debit arises when—

(a) a company that is not an Australian ICA company is—

(i) the manager of a unit trust; or

(ii) the trustee or manager of a group investment fund; and

(b) the company derives a dividend on the redemption or cancellation of—

(i) a unit issued by the unit trust; or

(ii) an interest of an investor in the group investment fund; and

(c) the company has acquired the unit or interest in the ordinary course of its management activities for the unit trust or group investment fund; and

(d) the unit or interest had been acquired by the company on the same terms as those offered to the investors in the unit trust or group investment fund.

Calculating amount

(3) The debit is for the greater of the amounts described in subsections (4) and (6) calculated for the income year in which the company derived the dividend referred to in subsection (2)(b).

First amount

(4) The first amount is calculated using the formula—

credits attached − imputation debits.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **credits attached** is the total amount of all imputation credits attached to dividends derived in the circumstances set out in subsection (2) by the company for the income year:

(b) **imputation debits** is the total amount of all imputation debits arising for the income year under—

(i) section OB 41 in the company's imputation credit account; or

(ii) section OP 42 (Consolidated ICA debit for loss of shareholder continuity) in the imputation credit account of the consolidated imputation group of which the company is part.

Second amount

(6) The second amount is calculated using the formula—

(total dividends ÷ taxable income) × (tax liability − debits).

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **total dividends** is the total amount of all dividends derived in the circumstances set out in subsection (2), including imputation credits attached to the dividends:

(b) **taxable income** is the taxable income of the company for the income year in which the dividends are derived:

(c) **tax liability** is the company's income tax liability for the income year:

(d) **debits** is the imputation credits attached to the dividends that have been cancelled by an imputation debit arising during the income year under—

(i) section OB 41 in the company's imputation credit account; or

(ii) section OP 42 in the imputation credit account of the consolidated imputation group of which the company is part.

Table references

(8) The table references are as follows:

(a) the imputation debit in subsection (1) is referred to in table O2: imputation debits, row 18 (redemption debit):

(b) the imputation debit in subsection (5)(b)(i) is referred to in table O2: imputation debits, row 14 (debit for loss of shareholder continuity):

(c) the imputation debit in subsection (5)(b)(ii) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity):

(d) the imputation debit in subsection (7)(d)(i) is referred to in table O2: imputation debits, row 14 (debit for loss of shareholder continuity):

(e) the imputation debit in subsection (7)(d)(ii) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity).

Debit date

(9) The debit date is the date on which the company or the group's nominated company files the return of income for the income year in which the dividend is derived.

Defined in this Act: amount, Australian ICA company, company, consolidated imputation group, dividend, group investment fund, ICA company, imputation credit, imputation credit account, imputation debit, income, income tax, income tax liability, income year, investor, nominated company, return of income, shareholder, tax, taxable income, trustee, unit trust

Compare: 2004 No 35 s ME 41

Section OB 45(5)(a): amended, on 1 April 2017, by section 201(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 45(7)(a): amended, on 1 April 2017, by section 201(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 45 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 201(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 46 ICA transfer from member fund

Debit

(1) An ICA company has an imputation debit for an amount calculated using the formula—

expenditure transferred × tax rate.

Definition of items in formula

(2) In the formula,—

(a) **expenditure transferred** is the amount of expenditure transferred under sections DV 5 to DV 7 (which relate to expenditure related to investment funds) by the company, as a member fund, to a master fund:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Table reference

(3) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 19 (transfer from member fund).

Debit date

(4) The debit date is the last day of the tax year corresponding to the income year in which the expenditure is deducted.

Defined in this Act: amount, ICA company, imputation debit, master fund, tax year

Compare: 2004 No 35 s ME 5(1)(ja), (2)(ia)

Section OB 46(2)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 46 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 46B ICA transfer from group company to loss-using group company

Debit

(1) An ICA company that transfers an imputation credit under an election under section OB 83 to a company that uses a tax loss made available under section IC 5 (Company B using company A's tax loss) has an imputation debit for the amount of the imputation credit transferred.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 19B (transfer of credit to loss-using group company).

Debit date

(3) The debit date is the day on which the imputation credit is transferred.

Defined in this Act: company, ICA company, imputation credit, imputation debit, tax loss

Section OB 46B: inserted (with effect on 1 October 2016 and applying for the 2017–18 and later income years), on 30 March 2017, by section 202(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 47 Debit for policyholder base imputation credits

Debit

(1) An ICA company has an imputation debit for the amount of an imputation credit attached to a dividend derived by the company, to the extent to which it is—

(a) derived by it as a life insurer; and

(b) apportioned to their policyholder base; and

(c) not affected by a debit under section OB 41.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 20 (debit for policyholder base imputation credits).

Debit date

(3) The debit date is the last day of the tax year.

Defined in this Act: ICA company, imputation credit, imputation debit, life insurer, policyholder base, tax year

Section OB 47: substituted, on 1 July 2010, by section 396(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 47(1): replaced (with effect on 1 July 2010), on 27 February 2014, by section 121(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

OB 47B Tax paid by recipients of R&D loss tax credits

When this section applies

(1) This section applies for an ICA company and a tax year (the **current year**) when the company has an R&D loss tax credit under section MX 4 (R&D loss tax credits) for the current year, or an earlier tax year, that does not give rise to R&D repayment tax under section MX 7 (Reinstatement of R&D tax losses and R&D repayment tax) before or in the income year corresponding to the current year.

Debit

(2) The ICA company has an imputation debit for the current year equal to the lesser of the following:

(a) the imputation credit that the company has for the current year under section OB 4:

(b) the total amount of the company's R&D loss tax credits, for the period that begins with the earliest tax year to which the tax credits relate and ends with the current year, minus the total amount of imputation debits under this section for tax years that are in that period and end before the current year.

Table reference

(3) The imputation debit in subsection (2) is referred to in table O2: imputation debits, row 20B (recipients of R&D loss tax credits).

Debit date

(4) The debit date is the last day of the current year.

Defined in this Act: amount, ICA company, imputation credit, imputation debit, R&D loss tax credit, tax year

Section OB 47B: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 215(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OB 47B(1): amended, on 29 March 2018 (with effect on 1 April 2015), by section 170 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

OB 48 ICA credit balance when Maori authority credit account starts

Debit

(1) An ICA company has an imputation debit for a credit balance in the company's imputation credit account immediately before the company becomes a Maori authority.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 21 (credit balance when Maori authority credit account starts).

Debit date

(3) The debit date is the day before the company becomes a Maori authority.

Defined in this Act: ICA company, imputation credit account, imputation debit, Maori authority

Compare: 2004 No 35 s ME 5(1)(ka), (2)(ja)

OB 49 ICA replacement payment by company under share-lending arrangement

Debit

(1) An ICA company has an imputation debit for the amount of an imputation credit attached under section OB 64 to a replacement payment paid by the company under a share-lending arrangement.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 22 (replacement payment under share-lending arrangement).

Debit date

(3) The debit date is the day the replacement payment is paid.

Defined in this Act: amount, ICA company, imputation credit, imputation debit, pay, replacement payment, share-lending arrangement

Compare: 2004 No 35 s ME 5(1)(ab), (2)(ab)

OB 50 ICA returning share transfer

Debit

(1) An ICA company has an imputation debit for the amount of an imputation credit attached to a dividend paid to the company as a share user in a returning share transfer that is not a share-lending arrangement.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 23 (returning share transfer).

Debit date

(3) The debit date is the day the dividend is paid.

Defined in this Act: amount, dividend, ICA company, imputation credit, imputation debit, pay, returning share transfer, share-lending arrangement, share user

Compare: 2004 No 35 s ME 5(1)(ac), (2)(ac)

OB 51 ICA credit transfer by company

Debit

(1) An ICA company has an imputation debit for the amount of an imputation credit attached to a dividend that is paid to the company and shown in a credit transfer notice given by the company.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 24 (credit transfer notice).

Debit date

(3) The debit date is the day the dividend is paid.

Defined in this Act: amount, credit transfer notice, dividend, ICA company, imputation credit, imputation debit, pay

Compare: 2004 No 35 s ME 5(1)(ad), (2)(ac)

OB 52 ICA transfer to consolidated imputation group

When this section applies

(1) This section applies when the nominated company of a consolidated imputation group makes an election under section OP 22(2) (Consolidated ICA transfer from group company's ICA) for a group company.

Debit

(2) The group company has an imputation debit for the amount of the credit balance that is transferred to the imputation credit account of the consolidated imputation group.

Table reference

(3) The imputation debit in subsection (2) is referred to in table O2: imputation debits, row 25 (transfer to consolidated imputation group's ICA).

Debit date

(4) The debit date is the same as the credit date for the credit to the imputation credit account of the consolidated imputation group for the amount of the credit balance transferred.

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation credit account, imputation debit, nominated company

Section OB 52: replaced (with effect on 1 April 2008), on 30 March 2021, by section 124(1) (and see section 124(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

OB 53 ICA debit on resident's restricted amalgamation

Debit

(1) An ICA company has an imputation debit for the amount of a debit described in subsection (3) that arises on or after a resident's restricted amalgamation in the account of the amalgamated company under 1 of the sections listed in subsection (3).

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 26 (debit on resident's restricted amalgamation).

Sections

(3) The sections are—

(a) section OA 10 (When credits or debits due to amalgamating company but not recorded) for imputation debits in the imputation credit account of an amalgamating company:

(b) *[Repealed]*

(c) *[Repealed]*

(d) *[Repealed]*

(e) section OA 14 (Continuity of shareholding when group companies amalgamate) for imputation debits in the imputation credit account of a consolidated imputation group that ends its existence on the amalgamation.

(f) *[Repealed]*

(g) *[Repealed]*

Defined in this Act: amalgamated company, amalgamating company, amount, consolidated group, consolidated imputation group, ICA company, imputation credit account, imputation debit, resident's restricted amalgamation

Compare: 2004 No 35 ss ME 29, MG 17, MI 13

Section OB 53(3)(b): repealed, on 1 April 2017, by section 203(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 53(3)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 94(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 53(3)(d): repealed, on 30 March 2017, by section 203(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 53(3)(f): repealed, on 1 April 2017, by section 203(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 53(3)(g): repealed, on 30 March 2017, by section 203(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 53 list of defined terms **CTR account**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 94(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 53 list of defined terms **CTR debit**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 94(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OB 53 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 203(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 53 list of defined terms **FDP debit**: repealed, on 1 April 2017, by section 203(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 53 list of defined terms **policyholder credit account**: repealed, on 30 March 2017, by section 203(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 53 list of defined terms **policyholder debit**: repealed, on 30 March 2017, by section 203(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 54 ICA tax advantage arrangement

Debit

(1) An ICA company has an imputation debit for the amount of a debit for a tax advantage arrangement determined under section GB 36 (Reconstruction of imputation arrangements to obtain tax advantage).

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 27 (tax advantage arrangement).

Debit date

(3) The debit date is the last day of the tax year in which the debit for the tax advantage arrangement is determined.

Defined in this Act: amount, arrangement, ICA company, imputation debit, tax advantage, tax year

Compare: 2004 No 35 s ME 5(1)(j), (2)(i)

OB 55 ICA retrospective imputation credit

Debit

(1) An ICA company has an imputation debit for an imputation credit that is retrospectively attached to a non-cash dividend under section OB 62.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 28 (retrospective imputation credit).

Debit date

(3) The debit date is the day the dividend is paid.

Defined in this Act: ICA company, imputation credit, imputation debit, non-cash dividend, pay

Compare: 2004 No 35 s ME 6(4)(a)

OB 56 ICA final balance

Debit

(1) An ICA company has an imputation debit for a credit balance in the imputation credit account when the company stops being an ICA company.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 29 (final balance).

Debit date

(3) The debit date is the day the company stops being an ICA company.

Defined in this Act: ICA company, imputation credit account, imputation debit

Compare: 2004 No 35 s ME 5(1)(k), (2)(j)

OB 57 ICA refund of NRWT

Debit

(1) An Australian ICA company has an imputation debit for an amount of a refund of NRWT that gave rise to an imputation credit under section OB 27.

Table references

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 30 (refund of NRWT). The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 25 (NRWT withheld).

Debit date

(3) The debit date is the day the refund is made.

Defined in this Act: amount, amount of tax, Australian ICA company, imputation credit, imputation debit, NRWT

Compare: 2004 No 35 s ME 5(1A)(a), (2A)

OB 58 ICA refund of amount of tax for schedular payment

Debit

(1) An Australian ICA company has an imputation debit for the amount of a refund of an amount of tax for a schedular payment that gave rise to an imputation credit under section OB 28.

Table references

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 31 (refund of amount of tax for schedular payment). The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 26 (amount of tax for schedular payment).

Debit date

(3) The debit date is the day the refund is made.

Defined in this Act: amount, amount of tax, Australian ICA company, imputation credit, imputation debit, pay, schedular payment

Compare: 2004 No 35 s ME 5(1A)(b), (2A)

OB 59 ICA refund of schedular income tax

Debit

(1) An Australian ICA company has an imputation debit for the amount of a refund of schedular income tax that gave rise to an imputation credit under section OB 29.

Table references

(2) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 32 (refund of schedular income tax). The imputation credit in subsection (1) is referred to in table O1: imputation credits, row 27 (payment of schedular income tax).

Debit date

(3) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation debit, pay

Compare: 2004 No 35 s ME 5(1A)(c), (2A)

Imputation credits attached to dividends

OB 60 Imputation credits attached to dividends

Attaching imputation credits

(1) When an ICA company pays a dividend, it may attach an imputation credit to the dividend. Section OB 63 overrides this section.

Retrospective attachment

(2) The ICA company may determine that an imputation credit is retrospectively attached to a dividend in the circumstances described in section OB 62.

Imputation ratio for dividend

(3) A dividend with an imputation credit attached has an imputation ratio calculated using the formula—

credit attached ÷ net dividend paid.

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **credit attached** is the amount of the imputation credit attached to the dividend:

(b) **net dividend paid** is the amount of the dividend paid, excluding the amount of the imputation credit attached.

Maximum permitted ratio

(5) A dividend with an imputation credit attached must not have an imputation ratio that is more than the maximum permitted ratio calculated under section OA 18(2) (Calculation of maximum permitted ratios).

Conversion of AUD dividend

(6) A dividend paid in Australian currency by an Australian ICA company must be converted into New Zealand currency, calculated using the formula—

Australian dollar value × exchange rate.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **Australian dollar value** is the amount of the dividend in Australian dollars:

(b) **exchange rate** is the close of trading spot exchange rate for the Australian dollar on—

(i) the day the dividend is declared if that day is no more than 3 months before the dividend is paid; or

(ii) the day the dividend is paid if that day is more than 3 months after the dividend is declared.

Defined in this Act: amount, Australian ICA company, close of trading spot exchange rate, dividend, ICA company, imputation credit, imputation ratio, income year, maximum permitted ratio, pay, tax year

Compare: 2004 No 35 ss ME 1B, ME 6, ME 8(1), (2)

Section OB 60(4)(b): amended, on 1 April 2017, by section 204(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 60 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 204(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 61 ICA benchmark dividend rules

When this section applies

(1) This section applies when an ICA company pays a dividend on more than 1 occasion during a tax year. Subsection (2) overrides this subsection.

Exclusions

(2) This section does not apply to the following dividends:

(a) a dividend that is the subject of an election by a statutory producer board under sections OB 73 to OB 75:

(b) a dividend that is the subject of an election by a co-operative company under sections OB 78 to OB 80:

(bb) an amount treated as a dividend under section CB 32C (Dividend income for first year of look-through company):

(c) a dividend paid when the company is not an ICA company.

Benchmark dividend

(3) The first dividend of the tax year is the benchmark dividend.

Same imputation ratio

(4) The imputation ratio of a dividend paid after the benchmark dividend must be the same as the imputation ratio of the benchmark dividend. This subsection is modified by section OZ 9 (Benchmark dividends: ratio change).

Breach of imputation ratio

(5) A breach of subsection (4) gives rise to an amount of an imputation debit under section OB 43 (table O2: imputation debits, row 16 (breach of imputation ratio)) calculated using the formula in section OB 43(1).

Ratio change declaration

(6) An ICA company may notify the Commissioner that the dividend is not part of an arrangement to obtain a tax advantage by providing a ratio change declaration stating that the dividend is not part of an arrangement to which sections GB 35 and GB 36 (which relate to imputation arrangements to obtain tax advantage) apply. The company must provide the declaration before the

dividend is paid, or by a later date if the Commissioner allows. For the purposes of this subsection, the dividend must not be part of an arrangement to obtain a tax advantage. This subsection overrides subsection (5).

Consolidated imputation group

[Repealed]

(7) *[Repealed]*

Group debit

(8) Under section OP 2(2) (When credits and debits arise only in group accounts), a breach of an imputation ratio alternatively gives rise to an imputation debit under section OP 43 (Consolidated ICA breach of imputation ratio) (table O20: imputation debits of consolidated imputation groups, row 17 (breach of imputation ratio)) if the company is part of a consolidated imputation group.

Treatment of group dividends

(9) In the application of this section to a consolidated imputation group, a dividend paid between group companies is disregarded.

Defined in this Act: arrangement, benchmark dividend, Commissioner, company, consolidated imputation group, co-operative company, dividend, ICA company, imputation debit, imputation ratio, notify, pay, statutory producer board, tax advantage, tax year

Compare: 2004 No 35 ss ME 8(2), (3), ME 14(2)

Section OB 61(2)(bb): inserted, on 30 March 2017, by section 205 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 61(4): amended, on 1 October 2010, by section 12 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OB 61(7) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 397(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 61(7): repealed (with effect on 1 April 2008), on 6 October 2009, by section 397(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OB 62 Retrospective attachment of imputation credits

When this section applies

(1) This section applies in relation to a dividend—

(a) arising from a transfer pricing arrangement when an ICA company pays a non-cash dividend whose amount is later adjusted under section GC 7 or GC 8 (which relate to transfer pricing arrangements); or

(b) arising under subpart FL (Emigration of resident companies) when an emigrating company that was an ICA company immediately before the time of emigration is treated under section FL 2 or FL 3 (which relate to the treatment of emigrating companies and their shareholders) as paying a distribution to shareholders; or

(c) that an ICA company pays and that is described in section CD 1(3) (Dividend).

Imputation credits attached retrospectively

(2) The company may attach retrospectively an imputation credit to the dividend or distribution, as applicable.

Limit for ICA company

(3) The amount of all imputation credits attached retrospectively by a company referred to in subsection (1)(a) or (c) during a tax year must not be more than the lesser of—

(a) the credit balance of the company's imputation credit account at the end of the tax year in which the dividend is paid; or

(b) the credit balance of the company's imputation credit account at the end of each of the tax years in the period that runs from the tax year of payment of the dividend to the tax year in which the credit is attached retrospectively under subsection (1).

Limit for emigrating company

(4) The amount of all imputation credits attached retrospectively by a company referred to in subsection (1)(b) must be no more than the credit balance of the company's imputation credit account immediately before the time of emigration.

When subsection (6) applies

(5) Subsection (6) applies if—

(a) a company provides a company dividend statement and issues a shareholder dividend statement for a non-cash dividend at the time it retrospectively attaches an imputation credit; and

(b) the adjustment under section GC 7 or GC 8 results in a payment of income tax; and

(c) the attachment of the imputation credit would otherwise result in a liability for imputation penalty tax.

New credit date

(6) The credit date for the imputation credit arising for the payment of the income tax referred to in subsection (5)(b) is the day on which the non-cash dividend is paid, and the company is excused a breach of section 69 of the Tax Administration Act 1994 for not filing a correct annual ICA return through the retrospective attachment of an imputation credit.

Statements still required

(7) A company that does not meet the requirement of subsection (5)(a) remains liable to—

(a) provide a company dividend statement; and

(b) issue a shareholder dividend statement for the non-cash dividend and the retrospective attachment of an imputation credit.

When subsection (9) applies

(8) Subsection (9) applies when an amount of tax paid by an emigrating company is attributable to income derived before the time of emigration or to the application of subpart FL.

Amount of tax paid by emigrating company

(9) The amount of tax referred to in subsection (8) is treated for the purposes of this subpart as paid immediately before the time of emigration if—

(a) the company determines to attach an imputation credit to a dividend; and

(b) the imputation credit is not less than the amount of tax; and

(c) the company notifies the Commissioner when providing the company dividend statement.

Defined in this Act: amount, amount of tax, annual ICA return, arrangement, Commissioner, company dividend statement, dividend, emigrating company, ICA company, imputation credit, imputation credit account, imputation penalty tax, income, income tax, non-cash dividend, notify, pay, shareholder, shareholder dividend statement, tax year, time of emigration

Compare: 2004 No 35 s ME 6

Section OB 62(1): replaced (with effect on 30 August 2022), on 31 March 2023, by section 93(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section OB 62(3): amended (with effect on 30 August 2022), on 31 March 2023, by section 93(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

OB 63 Australian dividends

No credits attached

(1) Despite section OB 60(1), an ICA company must not attach an imputation credit to a dividend if—

(a) the Income Tax Assessment Act 1997 (Aust) applies to the payment of the dividend by the company; and

(b) the dividend is paid in relation to a share that is, or forms part of, a debt interest under that Act; and

(c) the payment of the dividend is included in the company's return of income to the Australian Federal Commissioner of Taxation.

Exclusion: groups of companies

(2) Subsection (1) does not apply in relation to a share issued before 21 July 2005 if, when the dividend is paid, the shareholder and the ICA company—

(a) are not part of the same group of companies:

(b) are part of the same wholly-owned group of companies and not resident in New Zealand.

Exclusion: reasons for acquisition of shares

(3) Subsection (1) does not apply in relation to a share issued before 21 July 2005 if—

(a) the shareholder and the ICA company are part of the same group of companies; and

(b) the shareholder acquired the share—

(i) as part of a sharebroking business:

(ii) as an investment held by the shareholder as part of an insurance business:

(iii) as security for a loan given as part of a business of lending money:

(iv) as a trustee for a beneficiary who is not a company that is part of the same group of companies as the shareholder:

(v) for a reason that does not include the fact that the shareholder and the ICA company were part of the same group of companies.

Defined in this Act: business, company, dividend, group of companies, ICA company, imputation credit, pay, resident in New Zealand, share, shareholder, trustee, wholly-owned group of companies

Compare: 2004 No 35 s ME 6(1B)–(1D)

OB 64 Replacement payments

Attaching credits

(1) On making a replacement payment, a share user under a share-lending arrangement may attach an imputation credit to the payment.

Amount of credit

(2) The amount of the imputation credit must be equal to or less than the amount of any imputation credit attached to a dividend relating to the replacement payment that is received by the share user before the replacement payment is made.

Defined in this Act: amount, dividend, imputation credit, pay, replacement payment, share-lending arrangement, share user

Compare: 2004 No 35 s ME 6B

Further income tax

OB 65 Further income tax for ICA closing debit balance

Liability

(1) An ICA company is liable to pay further income tax for a debit balance in the company's imputation credit account at the end of a tax year.

Exclusion

(2) An imputation debit arising under section OB 46 (table O2: imputation debits, row 19 (transfer from member fund)) is disregarded when determining under subsection (1) if the company has a debit balance at the end of a tax year.

Due date

(3) The company must pay the further income tax to the Commissioner no later than 20 June following the end of the tax year.

Defined in this Act: Commissioner, company, further income tax, ICA company, imputation credit account, imputation debit, pay, tax year

Compare: 2004 No 35 s ME 9(1), (1A), (2)

OB 66 Further income tax when company stops being ICA company

Liability

(1) An ICA company is liable to pay further income tax for a debit balance in the company's imputation credit account when the company stops being an ICA company.

Due date

(2) The company must pay the further income tax to the Commissioner—

(a) by the day the company stops being an ICA company; or

(b) for a company that is no longer an ICA company because it becomes a portfolio investment entity, by the end of the tax year in which it stops being an ICA company.

Paramount section

(3) A company that stops being an ICA company on the last day of a tax year is liable to pay further income tax under this section and not under section OB 65.

Defined in this Act: Commissioner, company, further income tax, ICA company, imputation credit account, pay, portfolio investment entity, tax year

Compare: 2004 No 35 s ME 9(3)

Section OB 66(2): substituted, on 1 April 2008, by section 499(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 66 list of defined terms **portfolio investment entity**: inserted, on 1 April 2008, by section 499(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

OB 67 Reduction of further income tax

Debit at previous year-end

(1) An ICA company's liability for further income tax under sections OB 65 and OB 66 may be reduced under subsection (2) if—

(a) a debit balance existed in the company's imputation credit account at the end of a tax year; and

(b) the credits that arise in the account in the following tax year totals less than the debit balance; and

(c) the company notifies the Commissioner.

Reduction applying for consecutive tax years

(2) In relation to 2 tax years that are consecutive, the liability for further income tax at the end of the second tax year is reduced to the amount calculated using the formula—

debit balance at end of second year − first year adjustment.

Definition of items in formula

(2B) In the formula in subsection (2),—

(a) **debit balance at end of second year** is the amount of the debit balance in the company's imputation credit account at the end of the second tax year:

(b) **first year adjustment** is the greater of zero and the amount by which the first year's debit balance in the company's imputation credit account exceeds the credits made to the account during the second tax year.

Qualifying companies

(3) The liability of an ICA company that is a qualifying company for further income tax under sections OB 65 and OB 66 may be reduced under subsection (4) if an imputation debit arises under section OB 32 (table O2: imputation debits, row 4 (refund of income tax)) in the company's imputation credit account before the end of the tax year for which the liability arises.

Amount of reduction

(4) The liability of the qualifying company for further income tax at the end of the tax year referred to in subsection (3) is reduced by an amount calculated using the formula—

refunds − credits.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **refunds** is the total amount of all refunds of income tax paid to the company before the debit balance creating the liability for further income tax referred to in subsection (3) arises:

(b) **credits** is the total amount of all credits to the company's imputation credit account for the period that runs from the tax year in which the first refund was received to the time the calculation is made.

Defined in this Act: amount, Commissioner, further income tax, ICA company, imputation credit account, imputation debit, imputation rules, income tax, notify, pay, qualifying company, tax year

Compare: 2004 No 35 s ME 9(7)–(9)

Section OB 67(2) heading: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), pursuant to section 113(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section OB 67(2): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 113(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section OB 67(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 206(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 67(2B) heading: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 113(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section OB 67(2B): inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 113(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section OB 67(2B)(b): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 206(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 67(5): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 113(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

OB 68 Income tax paid satisfying liability for further income tax

Election

(1) On meeting the requirements of subsection (2), an ICA company that is liable for further income tax may choose to satisfy the liability through a payment of income tax.

Requirements

(2) The company must pay the income tax—

(a) after the end of the tax year in which the relevant debit balance arises; and

(b) for an income year corresponding to the tax year in which the company is an ICA company.

Payment credited

(3) The payment of income tax satisfies the company's liability to pay further income tax.

When treated as paid

(4) The further income tax is treated as paid on the date on which the Commissioner receives the payment of income tax.

Defined in this Act: Commissioner, further income tax, ICA company, income tax, income year, pay, tax year

Compare: 2004 No 35 s ME 9(5A), (8), (9)

OB 69 Further income tax paid satisfying liability for income tax

Election

(1) An ICA company that pays further income tax may choose to treat the payment as satisfying a liability of the company to pay income tax or provisional tax.

ICA company status

(2) The liability for income tax or provisional tax referred to in subsection (1) must be for an income year corresponding to a tax year in which the company is an ICA company.

Alternative for consolidated imputation group

(3) A company that is part of a consolidated imputation group may choose that the payment under subsection (1) satisfies a group liability for income tax or provisional tax that arises at or after the time of payment.

When treated as paid

(4) The liability for income tax or provisional tax is treated as paid on the day on which the further income tax is paid.

Australian ICA company

(5) An Australian ICA company may choose to convert a payment of further income tax into a tax loss of an amount calculated under subsection (7). Subsection (6) overrides this subsection.

Requirement

(6) The election under subsection (5) may be made only if no possibility exists that the further income tax can be credited against a future income tax liability of the company.

Tax loss

(7) For the purposes of subsection (5), the amount of the tax loss for the payment of further income tax is calculated using the formula—

further income tax paid ÷ tax rate.

Definition of items in formula

(8) In the formula,—

(a) **further income tax paid** is the amount of further income tax paid that is not credited against an income tax liability:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) at the time the further income tax is paid.

Benefit of the loss

(9) For the purposes of subsection (5), the company may choose that the tax loss is attributed to itself or to another company that is part of the same wholly-owned group of companies.

When loss is attributed

(10) The tax loss referred to in subsection (5) is a loss for the income year corresponding to the tax year in which the company paid the further income tax.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, further income tax, ICA company, income tax, income tax liability, income year, pay, provisional tax, tax loss, tax year, wholly-owned group of companies

Compare: 2004 No 35 ss ME 9(5), (5B), ME 13(6)

Section OB 69(8)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 69 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 70 Application of other provisions

When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—

(a) apply to further income tax as if they addressed further income tax and not income tax; and

(b) apply, modified as necessary, to ensure their application to further income tax rather than income tax; and

(c) do not override the imputation rules or section 101 of the Tax Administration Act 1994.

Defined in this Act: further income tax, imputation rules, income tax

Compare: 2004 No 35 s ME 9(6)

Imputation additional tax

OB 71 Imputation additional tax on leaving group of companies

When this section applies

(1) This section applies in a tax year when—

(a) a company (**company A**) stops being part of a group of companies (the **former group**), because of a change in the ultimate owner of the company, and becomes part of a wholly-owned group of companies (the **new group**); and

(b) if the former group is a wholly-owned group of companies, the loss balance carried forward from the previous tax year for companies in the former group is more than $1,000,000; and

(c) if the former group is not a wholly-owned group of companies, company A has transferred imputation credits under section OB 83 to a company in the former group.

Sources of liability

(1B) Company A is liable for imputation additional tax under—

(a) subsection (2), if the company has a debit balance in the imputation credit account when the ultimate owner of the company changes:

(b) subsection (4), if the company has an amount of excess entitlement under subsection (5) when the ultimate owner of the company changes.

Liability arising from debit balance

(2) At the time company A stops being part of the former group, it may choose to reduce or eliminate the debit balance by paying imputation additional tax of an amount no greater than the debit balance but, in dealing with the liability, it may transfer some or all of the debit balance under subsection (3) or choose to use its excess entitlement under subsection (4), or a combination of both.

Debit balance

(3) Company A may choose to transfer under section OB 44 some or all of a debit balance in the company's imputation credit account to another company (**company B**) in the former group. An imputation additional tax liability remains for the amount of the debit balance that is not transferred.

Liability arising from excess entitlement

(4) Company A is liable for an amount of imputation additional tax equal to the amount of the excess entitlement described in subsection (5) reduced, to no less than zero, by the amount of any payment that company A—

(a) made as provisional tax or income tax; and

(b) chooses to treat as having been paid by company B.

Amount of excess entitlement

(5) Company A's excess entitlement at the time it stops being part of the former group is 1 of the following amounts:

(a) zero, if the credit balance of its imputation credit account at the time is equal to or more than—

(i) the amount in the tax pooling account provided by or for the benefit of company A that is more than its liability to pay income tax or provisional tax at the time; or

(ii) the entitlement company A would have to a refund under sections RM 2, RM 4, and RM 5 (which relate to refunds of excess tax) as if sections RM 13 to RM 17 (which relate to limits on refunds) did not apply; or

(b) the total of the amounts referred to in paragraph (a)(i) and (ii) if no credit balance exists at the time; or

(c) the excess of the total of the amounts referred to in paragraph (a)(i) and (ii) over the credit balance, if paragraph (b) does not apply.

Due date

(6) If company A chooses to pay imputation additional tax under subsections (2) and (4), it must pay the amount to the Commissioner no later than the 20th day of the month following the month in which company A stops being part of the former group.

Joint liability

(7) Company A and all companies in the former group are jointly liable for a payment of imputation additional tax under subsection (6). A payment of imputation additional tax does not satisfy any other liability of company A or the former group.

Payment by excess tax

(8) Company A, or another company in the former group, may choose to apply an excess tax payment to satisfy company A's liability.

Form of election

(9) An election under this section must follow the form of an election under section OB 13(5). However, if subsection (3) or (4) apply to transfer a debit or treat an amount of tax as having been paid, company A must also provide a notice of agreement from company B in relation to the amount of excess tax payment.

Defined in this Act: amount, Commissioner, company, excess tax payment, group of companies, imputation additional tax, imputation credit, imputation credit account, income tax, income tax liability, loss balance, notice, pay, provisional tax, tax loss, tax pooling account, tax year, ultimate owner, wholly-owned group of companies

Compare: 2004 No 35 s ME 9B

Section OB 71 heading: replaced (with effect on 1 October 2016), on 30 March 2017, by section 207(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71(1): replaced (with effect on 1 October 2016), on 30 March 2017, by section 207(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71(1B) heading: inserted (with effect on 1 April 2008), on 7 September 2010, by section 100(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 71(1B): inserted (with effect on 1 April 2008), on 7 September 2010, by section 100(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 71(2) heading: substituted (with effect on 1 April 2008), on 7 September 2010, by section 100(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 71(2): amended (with effect on 1 October 2016), on 30 March 2017, by section 207(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71(3): amended (with effect on 1 October 2016), on 30 March 2017, by section 207(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71(4) heading: substituted (with effect on 1 April 2008), on 7 September 2010, by section 100(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 71(4): substituted (with effect on 1 April 2008), on 7 September 2010, by section 100(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 71(4)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 398(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 71(5): amended (with effect on 1 October 2016), on 30 March 2017, by section 207(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72(5)(a)(ii): amended (with effect on 1 April 2013), on 17 July 2013, by section 80 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section OB 71(5)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 398(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 71(6): amended (with effect on 1 October 2016), on 30 March 2017, by section 207(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71(6): amended (with effect on 1 April 2008), on 7 September 2010, by section 100(4) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 71(7): amended (with effect on 1 October 2016), on 30 March 2017, by section 207(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71(8): amended (with effect on 1 October 2016), on 30 March 2017, by section 207(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71(9): amended (with effect on 1 April 2008), on 6 October 2009, by section 398(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OB 71 list of defined terms **group of companies**: inserted (with effect on 1 October 2016), on 30 March 2017, by section 207(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71 list of defined terms **imputation credit**: inserted (with effect on 1 October 2016), on 30 March 2017, by section 207(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71 list of defined terms **loss balance**: inserted (with effect on 1 October 2016), on 30 March 2017, by section 207(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 71 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

OB 72 Imputation additional tax on joining wholly-owned group

Liability

(1) An ICA company to which subsection (2) applies may be liable for imputation additional tax under—

(a) subsection (3) as the company's first liability under this section:

(b) subsection (5) as the company's second liability under this section.

Liable company

(2) The company is 1 to which all of the following apply:

(a) the company stops being part of a group of companies (the **former group**) and becomes part of a wholly-owned group of companies (the **new group**); and

(b) if the former group is a wholly-owned group of companies, the loss balance carried forward from the previous tax year for companies in the former group is more than $1,000,000; and

(c) if the former group is not a wholly-owned group of companies, company A has transferred imputation credits under section OB 83 to a company in the former group.

First liability

(3) The company is liable for imputation additional tax if, at a particular time,—

(a) a debit balance exists in the company's imputation credit account; and

(b) an imputation debit arose when the company was part of the former group; and

(c) the imputation additional tax liability of the company has not been paid under section OB 71 by the company or another company in the former group.

Amount of liability

(4) The amount of the imputation additional tax liability under subsection (3) is equal to the amount of the imputation debit at the time the company becomes part of the new group.

Second liability

(5) The company is liable for an amount of imputation additional tax, equal to the excess entitlement determined under subsection (6), if a group of people hold common voting interests in the new group that exceed by 67% or more the common voting interests in the former group that are held by the same people immediately before the company joins the new group.

Possible liability under section OB 72B

(5B) The company is liable for an amount of imputation additional tax given by section OB 72B(8) if the requirements of that provision are met.

Excess entitlement

(6) The company's excess entitlement at a particular time is 1 of the following amounts:

(a) zero, if the credit balance of the company's imputation credit account at the time is equal to or more than the amount (the **total refundable amount**) that is the total of the following:

(i) the amount in the tax pooling account provided by or for the benefit of the company that is more than the company's liability to pay income tax or provisional tax at the time:

(ii) the amount of the refund to which the company is entitled under sections RM 2, RM 4, and RM 5 (which relate to refunds of excess tax), other than an amount affected by a restriction under section OB 72B(5); or

(b) the total refundable amount, if there is no credit balance in the company's imputation credit account at the time; or

(c) the excess of the total refundable amount over the credit balance in the company's imputation credit account at the time, if paragraph (b) does not apply.

Due date

(7) The imputation additional tax must be paid to the Commissioner no later than the 20th day of the month following the month in which the company stops being part of the former group.

Joint liability

(8) The company and all companies in the new group are jointly liable for the imputation additional tax. A payment of imputation additional tax does not satisfy any other liability of the company or the new group.

Payment by excess tax

(9) For a liability under subsections (3) and (5), the company or another company in the new group may choose to satisfy the liability by applying an excess tax payment in discharging it.

Defined in this Act: amount, Commissioner, company, excess tax payment, group of companies, ICA company, imputation additional tax, imputation credit, imputation credit account, imputation debit, income tax liability, income year, loss balance, pay, provisional tax, tax loss, tax pooling account, tax year, wholly-owned group of companies

Compare: 2004 No 35 s ME 9C

Section OB 72(1)(a): amended (with effect on 1 March 2010), on 7 September 2010, by section 101(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72(2): replaced (with effect on 1 October 2016), on 30 March 2017, by section 208(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72(5): substituted (with effect on 1 March 2010), on 7 September 2010, by section 101(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72(5B) heading: inserted (with effect on 1 March 2010), on 7 September 2010, by section 101(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72(5B): inserted (with effect on 1 March 2010), on 7 September 2010, by section 101(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72(6)(a): substituted (with effect on 1 March 2010), on 7 September 2010, by section 101(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72(6)(a)(ii): amended (with effect on 1 April 2013), on 17 July 2013, by section 81 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section OB 72(6)(b): substituted (with effect on 1 March 2010), on 7 September 2010, by section 101(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72(6)(c): substituted (with effect on 1 March 2010), on 7 September 2010, by section 101(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72 list of defined terms **group of companies**: inserted (with effect on 1 October 2016), on 30 March 2017, by section 208(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72 list of defined terms **imputation credit**: inserted (with effect on 1 October 2016), on 30 March 2017, by section 208(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72 list of defined terms **loss balance**: inserted (with effect on 1 October 2016), on 30 March 2017, by section 208(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 72B Limit on using entitlement to refund after joining wholly-owned group

When this section applies

(1) This section applies when—

(a) an ICA company joins a wholly-owned group of companies (the **new group**) from another group of companies (the **former group**); and

(ab) if the former group is not a wholly-owned group of companies, the ICA company has transferred imputation credits under section OB 83 to a company in the former group; and

(b) the ICA company is not liable for imputation additional tax under section OB 72(5).

Restricted refund amount for company and new group

(2) Subsections (3) to (8) apply to an amount (the **restricted refund amount**) for the ICA company and the new group that is greater than zero and calculated using the formula—

refund amount − ICA credit balance.

Definition of items in formula

(3) In the formula,—

(a) **refund amount** is the total of the following amounts, determined immediately before the ICA company joins the new group:

(i) the amount in the tax pooling account provided by or for the benefit of the ICA company that is more than the company's liability to pay income tax or provisional tax at the time:

(ii) the amount of the refund to which the ICA company is entitled under sections RM 2, RM 4, and RM 5 (which relate to refunds of excess tax) other than an amount affected by a restriction under subsection (5) for the company and another group:

(b) **ICA credit balance** is the credit balance of the ICA company's imputation credit account immediately before the company joins the new group.

Payment to Commissioner

(4) If the restricted refund amount is greater than the amount referred to in subsection (3)(a)(ii), the ICA company must pay to the Commissioner an amount equal to the excess and the Commissioner must hold the amount with the balance of the restricted refund amount as if the excess were a refund to which the company were entitled under section RM 2 (Refunds for overpaid tax).

Use of restricted refund amount: former group wholly-owned

(5) If the former group is a wholly-owned group of companies, the Commissioner must hold the restricted refund amount for the ICA company and the new group subject to the restriction that the amount—

(a) may be refunded for an imputation credit only if the ICA company satisfies the Commissioner that the credit—

(i) arises from taxation paid by the ICA company or by a company that is in the same wholly-owned group as the ICA company and was in the former group immediately before the ICA company joined the new group:

(ii) is attached to a dividend received in relation to a shareholding by the ICA company or by a company that is in the same wholly-owned group as the ICA company and was in the former group immediately before the ICA company joined the new group and had the shareholding then; and

(b) may be used to satisfy a tax liability referred to in subsection (5C).

Use of restricted refund amount: former group not wholly-owned

(5B) If the former group is not a wholly-owned group of companies, the Commissioner must hold the restricted refund amount for the ICA company and the new group subject to the restriction that the amount—

(a) may be refunded for an imputation credit if—

(i) the credit was transferred to the ICA company by a company that was in the former group when the ICA company was in the former group:

(ii) the credit arises from taxation paid by the ICA company or by a company that is in the new group and was in the former group immediately before the ICA company joined the new group:

(iii) the credit is attached to a dividend received in relation to a shareholding by the ICA company or by a company that is in the new group and was in the former group immediately before the ICA company joined the new group; and

(b) may be used to satisfy a tax liability referred to in subsection (5C).

Tax liability in subsection (5) or (5B)

(5C) A tax liability referred to in subsection (5) or (5B) is a tax liability of—

(a) the ICA company:

(b) a company (the **member**) that is in the new group with the ICA company, if the ICA company satisfies the Commissioner that the member was in the former group immediately before the ICA company joined the new group.

Restriction additional to other requirements

(6) The restriction imposed by subsection (5) or (5B) on the use of a restricted refund amount is in addition to the requirements under other provisions of the Act for a refund or the satisfaction of a tax liability from an amount to which the ICA company is entitled under sections RM 2, RM 4, and RM 5.

Reducing restricted refund amount

(7) The restricted refund amount for the ICA company and a group is reduced by the amount of—

(a) a refund permitted under subsection (5)(a) or (5B)(a) relating to the restricted refund amount:

(b) a satisfaction of a tax liability permitted by subsection (5)(b) or (5B)(b) relating to the restricted refund amount:

(c) a payment of imputation additional tax under subsection (8) relating to the restricted refund amount:

(d) a payment of imputation additional tax under section OB 71(4) relating to the restricted refund amount.

Liability for imputation additional tax

(8) The ICA company is liable for an amount of imputation additional tax equal to the restricted refund amount for the company and a wholly-owned group of companies (the **old group**) determined immediately after a change in the holding of voting interests in the ICA company if, immediately after the change, a group of people hold common voting interests in the ICA company that exceed, by 67% or more, the common voting interests—

(a) in the group of companies to which the company belonged immediately before the company joined the old group; and

(b) that were held by the same people immediately before the company joined the old group.

Defined in this Act: Commissioner, common voting interest, company, dividend, ICA company, imputation additional tax, imputation credit, income tax, provisional tax, tax pooling account, wholly-owned group of companies

Section OB 72B: inserted (with effect on 1 March 2010), on 7 September 2010, by section 102 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OB 72B(1)(a): amended (with effect on 1 October 2016), on 30 March 2017, by section 209(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(1)(ab): inserted (with effect on 1 October 2016), on 30 March 2017, by section 209(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(3)(a)(ii): amended (with effect on 1 April 2013), on 17 July 2013, by section 82(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section OB 72B(5) heading: replaced (with effect on 1 October 2016), on 30 March 2017, by section 209(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(5): amended (with effect on 1 October 2016), on 30 March 2017, by section 209(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(5)(b): replaced (with effect on 1 October 2016), on 30 March 2017, by section 209(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(5B) heading: inserted (with effect on 1 October 2016), on 30 March 2017, by section 209(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(5B): inserted (with effect on 1 October 2016), on 30 March 2017, by section 209(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(5C) heading: inserted (with effect on 1 October 2016), on 30 March 2017, by section 209(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(5C): inserted (with effect on 1 October 2016), on 30 March 2017, by section 209(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(6): amended (with effect on 1 October 2016), on 30 March 2017, by section 209(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(6): amended (with effect on 1 April 2013), on 17 July 2013, by section 82(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section OB 72B(7)(a): amended (with effect on 1 October 2016), on 30 March 2017, by section 209(8)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(7)(b): amended (with effect on 1 October 2016), on 30 March 2017, by section 209(8)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OB 72B(8)(a): amended (with effect on 1 October 2016), on 30 March 2017, by section 209(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Distributions of statutory producer boards and co-operative companies

OB 73 Statutory producer boards attaching imputation credits to cash distributions

Election

(1) On meeting the requirements of subsection (2), a statutory producer board that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to a member of the producer board.

Requirements

(2) The producer board may make an election under subsection (1) if—

(a) the distribution is made to all persons who were members of the board at a time in the income year; and

(b) the board proposes to pay the distribution based on 1 of the factors set out in subsection (3); and

(c) the board would, in the absence of this section, have a deduction for some or all of the distribution, whether as an association rebate under subpart HE (Mutual associations) or under some other provision of this Act.

Methods

(3) The amount of the distribution must be based on 1 of the following methods of determination, as applicable, for an income year:

(a) all payments for a member's produce transactions during the income year as a proportion of total payments for all members' produce transactions during the income year; or

(b) all levies payable by a member for the income year as a proportion of total levies payable by members for the income year; or

(c) another method of determination approved by the Commissioner.

Total credits attached

(4) The total amount of imputation credit attached to the distribution is calculated using the formula—

$$\text{total net dividend} \times \text{tax rate} \div (1 - \text{tax rate}).$$

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the income year.

Member's credits

(6) The amount of a member's share of an imputation credit attached under subsection (4) is calculated using the formula—

(member's distribution ÷ total distribution) × total imputation credit attached.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **member's distribution** is the amount of the member's share of the distribution excluding the amount of imputation credit:

(b) **total distribution** is the amount of the total distribution paid excluding the amount of imputation credit:

(c) **total imputation credit attached** is total amount of imputation credit attached to the distribution calculated under subsection (4).

When producer board chooses not to have deduction

(8) If a producer board chooses to treat a distribution as a dividend, it is denied a deduction for the amount of the distribution under section DV 18 (Statutory producer boards and co-operative companies).

Relationship with section OZ 15

(9) Section OZ 15 (Attaching imputation credits and notional distributions: modifying amounts) may apply to modify subsection (4).

Defined in this Act: amount, association rebate, Commissioner, deduction, dividend, ICA company, imputation credit, income tax, income year, levy, member, pay, produce transactions, statutory producer board

Compare: 2004 No 35 ss ME 30, ME 31

Section OB 73(5)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 73(9) heading: added, on 1 April 2008, by section 500 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 73(9): added, on 1 April 2008, by section 500 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 73 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 74 Statutory producer boards attaching imputation credits to notional distributions

Election

(1) A statutory producer board that is an ICA company may choose, for an income year, to attach an imputation credit to a notional distribution, as a result of

which a member derives a dividend of an amount calculated under section OB 75(2). Subsections (2) and (8) override this subsection.

All members

(2) A statutory producer board may make an election under subsection (1) only if the distribution is made to all persons who were members of the producer board at a time in the income year.

Methods

(3) The producer board may determine that the amount of an imputation credit attached to a notional distribution is based on—

(a) produce transactions, and calculated under subsection (5) for each member; or

(b) members' levies, and calculated under subsection (7) for each member; or

(c) a combination of paragraphs (a) and (b); or

(d) some other method of determination approved by the Commissioner.

Produce transactions

(4) The amount of an imputation credit attached to a member's distribution that is based on produce transactions is calculated using the formula—

(member's payment ÷ total payments) × credit attached.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **member's payments** is the total amount of all payments to or by a member for the member's produce transactions during the income year:

(b) **total payments** is all payments to or by all members for produce transactions during the income year:

(c) **credit attached** is the amount of imputation credit attached to the distribution.

Members' levies

(6) An imputation credit attached to a member's distribution that is based on members' levies is calculated using the formula—

(member's levies ÷ total levies) × credit attached.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **member's levies** is the total amount of all levies payable by a member to the producer board for the income year:

(b) **total levies** is total amount of all levies payable by all members to the producer board for the income year:

(c) **credit attached** is the amount of imputation credit attached to the distribution.

Commissioner's determination

(8) The Commissioner may apply subsections (4) to (7) to determine the amount of the imputation credit to be treated as attached to a member's distribution if the Commissioner considers that the producer board's application of subsections (3) to (7) does not result in a fair and reasonable allocation of an amount of imputation credit to a member having regard to—

(a) the produce transactions of the producer board; and

(b) the levies payable to the producer board; and

(c) any other relevant factor.

Defined in this Act: amount, Commissioner, dividend, ICA company, imputation credit, income year, levy, member, pay, produce transactions, statutory producer board

Compare: 2004 No 35 s ME 32

OB 75 Statutory producer boards' notional distributions that are dividends

Dividend derived

(1) A notional distribution to which section OB 74 applies that has an imputation credit attached is a dividend under section CD 13 (Notional distributions of producer boards and co-operative companies) derived by a member.

Calculation of amount

(2) The amount of the dividend is calculated using the formula—

(credit attached ÷ tax rate) − credit attached.

Definitions of items in formula

(3) In the formula,—

(a) **credit attached** is the amount of imputation credit attached to the member's distribution:

(b) **tax rate** is the basic rate of income tax for companies set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the income year.

When derived

(4) The member derives the dividend on the date the statutory producer board chooses under section OB 74 to make a notional distribution.

Returns and information

(5) For the purposes of this section, the producer board must—

(a) include the details of the dividend with the return of income filed for the tax year corresponding to the income year in relation to which the distribution was made; and

(b) retain relevant information to enable the Commissioner to determine whether a later distribution is not a dividend under section CD 26(3) or CD 33(1) (which relate to capital distributions on liquidation or emigration and payments that correspond to notional distributions).

Relationship with section OZ 15

(6) Section OZ 15 (Attaching imputation credits and notional distributions: modifying amounts) may apply to modify subsection (2).

Defined in this Act: amount, Commissioner, company, dividend, imputation credit, income tax, income year, member, pay, return of income, statutory producer board, tax year

Compare: 2004 No 35 s ME 33

Section OB 75(3)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 75(6) heading: added, on 1 April 2008, by section 501 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 75(6): added, on 1 April 2008, by section 501 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 75 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 76 Statutory producer boards attaching FDP credits

[Repealed]

Section OB 76: repealed, on 1 April 2017, by section 210 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 77 When and how statutory producer board makes election

Timing of election

(1) A statutory producer board may make an election under section OB 73, OB 74, or OB 76 in relation to a distribution either—

(a) after the income year in relation to which the distribution is made; but

(b) no later than 6 months after the end of the income year in relation to which the distribution is made.

Notice

(2) A producer board must notify the Commissioner of an election referred to in subsection (1) no later than the time allowed for the statutory producer board to file a return of income for the tax year corresponding to the income year in relation to which the distribution is made.

Defined in this Act: Commissioner, dividend, income year, notice, notify, return of income, statutory producer board, tax year

Compare: 2004 No 35 s ME 30(3), (4)

Section OB 77 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section OB 77 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

OB 78 Co-operative companies attaching imputation credits to cash distributions

Election

(1) On meeting the requirements of subsection (2), a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to the company's shareholders.

Requirements

(2) A co-operative company may make an election under subsection (1) if—

(a) the distribution is made to all persons who were shareholders of the company at a time during the income year; and

(b) the distribution is based on the proportion for the income year in which the payments to or by a shareholder for their produce transactions are of total payments to or by all shareholders for all produce transactions; and

(c) the company would, in the absence of this section, have a deduction for some or all of the distribution, whether as an association rebate under subpart HE (Mutual associations) or some other provision of this Act; and

(d) no other election for a cash distribution is made for the income year.

Total credit attached

(3) The total amount of imputation credit attached to the distribution is calculated using the formula—

$$\text{total net dividend} \times \text{tax rate} \div (1 - \text{tax rate}).$$

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the income year.

Shareholder's credit

(5) The amount of a shareholder's share of the imputation credit attached as described in subsection (3) is calculated using the formula—

$$(\text{shareholder's distribution} \div \text{total distribution}) \times \text{total imputation credit attached}.$$

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **shareholder's distribution** is the amount that is the shareholder's share of the distribution, excluding the amount of imputation credit:

(b) **total distribution** is the amount of the total distribution paid, excluding the amount of imputation credit:

(c) **total imputation credit attached** is the total amount of imputation credit attached to the distribution calculated under subsection (3).

When co-operative company chooses not to have deduction

(7) If a co-operative company chooses to treat a distribution as a dividend, it is denied a deduction under section DV 18 (Statutory producer boards and co-operative companies). The company must notify the Commissioner of an election under this subsection under section OB 82(3) for the election to be effective.

Relationship with section OZ 15

(8) Section OZ 15 (Attaching imputation credits and notional distributions: modifying amounts) may apply to modify subsection (3).

Defined in this Act: amount, association rebate, Commissioner, co-operative company, deduction, dividend, ICA company, imputation credit, income tax, income year, notify, pay, produce transactions, shareholder

Compare: 2004 No 35 ss ME 35, ME 36

Section OB 78(4)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 78(8) heading: added, on 1 April 2008, by section 502 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 78(8): added, on 1 April 2008, by section 502 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 78 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OB 78 list of defined terms **Maori Authority**: repealed (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

OB 78B Co-operative companies attaching imputation credits to cash distributions to groups

Election

(1) On meeting the requirements of subsection (2), a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to the members of a group of the company's shareholders and be denied a deduction for the payment by section DV 18 (Statutory producer boards and co-operative companies).

Requirements

(2) A co-operative company may make an election under subsection (1) if—

(a) the company is registered under the Co-operative Companies Act 1996; and

(b) the distribution is made to all the persons who are members of a group of shareholders at a time during the income year; and

(c) the company's constitution permits a distribution to be made to the members of the group; and

(d) the amount of the distribution to a member of the group is based on the payments for the income year to or by the member for produce transactions as a proportion of the total amount of payments for the income year to or by the members of the group for all produce transactions; and

(e) the company would, in the absence of this section, have a deduction for some or all of the distribution under subpart HE and section DV 19 (which relate to mutual associations) or another provision of the Act; and

(f) no other election for a cash distribution is made in the income year; and

(g) the company notifies the Commissioner of the election as required by section OB 82(3).

Total credit attached

(3) The total amount of imputation credit attached to the distribution is calculated using the formula—

total net dividend × tax rate ÷ (1 − tax rate).

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the income year.

Shareholder's credit

(5) The amount of a shareholder's share of the imputation credit attached as described in subsection (3) is calculated using the formula—

shareholder's distribution ÷ total distribution × total imputation credit attached.

Definition of items in formula

(6) In the formula in subsection (5),—

(a) **shareholder's distribution** is the amount that is the shareholder's share of the distribution, excluding the amount of imputation credit:

(b) **total distribution** is the amount of the total distribution paid, excluding the amount of imputation credit:

(c) **total imputation credit attached** is the total amount of imputation credit attached to the distribution calculated under subsection (3).

Relationship with section OZ 15

(7) Section OZ 15 (Attaching imputation credits and notional distributions: modifying amounts) may apply to modify subsection (3).

Defined in this Act: amount, Commissioner, co-operative company, deduction, dividend, ICA company, imputation credit, income tax, income year, notify, pay, produce transactions, shareholder

Section OB 78B: inserted, on 26 June 2019, by section 71 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

OB 79 Co-operative companies attaching imputation credits to notional distributions

Election

(1) On meeting the requirements of subsection (2), a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a notional distribution, as a result of which a member derives a dividend of an amount calculated under section OB 80.

Requirements

(2) A co-operative company may make an election under subsection (1) if—

(a) the distribution is made to all persons who were shareholders of the company at a time during the income year; and

(b) no other election to pay a notional distribution is made for the income year.

Shareholder's credits

(3) The amount of a shareholder's share of an imputation credit attached to a notional distribution is calculated using the formula—

(produce payments ÷ total payments) × credit attached.

Definition of items in formula

(4) In the formula,—

(a) **produce payments** is the amount of all payments to or by the shareholder for the shareholder's produce transactions during the income year:

(b) **total payments** is the amount of all payments to or by shareholders for produce transactions during the income year:

(c) **credit attached** is the amount of imputation credit attached to the distribution.

Defined in this Act: amount, co-operative company, dividend, ICA company, imputation credit, income year, member, pay, produce transactions, shareholder

Compare: 2004 No 35 s ME 37

OB 80 Co-operative companies' notional distributions that are dividends

Dividends

(1) A notional distribution referred to in section OB 79 that has an imputation credit attached is a dividend under section CD 13 (Notional distributions of producer boards and co-operative companies) derived by a shareholder of the co-operative company.

Amount

(2) The amount of a shareholder's dividend is calculated using the formula—

(credit attached ÷ tax rate) − credit attached.

Definition of items in formula

(3) In the formula,—

(a) **credit attached** is the amount of imputation credit attached to the shareholder's distribution:

(b) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the income year.

When derived

(4) The shareholder derives the dividend on the date the co-operative company chooses under section OB 79 to make a notional distribution.

Relationship with section OZ 15

(5) Section OZ 15 (Attaching imputation credits and notional distributions: modifying amounts) may apply to modify subsection (2).

Defined in this Act: amount, co-operative company, dividend, imputation credit, income tax, income year, shareholder

Compare: 2004 No 35 s ME 38

Section OB 80(2) formula: substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 114(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section OB 80(3)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 80(5) heading: added, on 1 April 2008, by section 503 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 80(5): added, on 1 April 2008, by section 503 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OB 80 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

OB 81 Co-operative companies attaching FDP credits

[Repealed]

Section OB 81: repealed, on 1 April 2017, by section 211 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 82 When and how co-operative company makes election

One a year

(1) A co-operative company may make an election under section OB 78, OB 78B, or OB 79 in relation to a distribution for—

(a) only 1 cash distribution during the income year:

(b) only 1 notional distribution during the income year.

Timing

(2) A co-operative company may make an election referred to in subsection (1)—

(a) after the income year in relation to which the distribution is made; but

(b) no later than 6 months after the end of the income year in relation to which the distribution is made.

Notice

(3) A co-operative company must notify the Commissioner of an election referred to in subsection (1)(a) or (b) no later than the time allowed for the company to file a return of income for the tax year corresponding to the income year in relation to which the distribution is made.

Defined in this Act: Commissioner, co-operative company, income year, notice, notify, return of income, tax year

Compare: 2004 No 35 s ME 35

Section OB 82(1): amended, on 26 June 2019, by section 72(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section OB 82(3): amended, on 26 June 2019, by section 72(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section OB 82 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Election by group company for transfer of imputation credits with transfer of tax loss

Heading: inserted (with effect on 1 October 2016 and applying for the 2017–18 and later income years), on 30 March 2017, by section 213(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 83 Group companies transferring imputation credits with transfer of tax loss

Election

(1) When a company that is an ICA company (the **loss company**) makes a tax loss available under section IC 5 (Company B using company A's tax loss) to another ICA company (the **profit company**) for a tax year, the loss company may choose that the loss company or another company meeting the requirements of subsection (5) be able to transfer, when or after the tax loss is made available, imputation credits to the profit company.

No election if companies in wholly-owned group

(2) Subsection (1) does not apply if the loss company and profit company are members of the same wholly-owned group of companies.

Amount of imputation credits subject to election

(3) The amount of imputation credits for which the loss company makes the election in subsection (1) is calculated using the formula—

(loss offsets + subvention payments) × tax rate.

Definition of items in formula

(4) In the formula,—

(a) **loss offsets** is the amount of tax loss that is subject to the election under section IC 5(2)(a) made by the loss company in favour of the profit company:

(b) **subvention payments** is the amount of the payments referred to in section IC 5(2)(b) made by the profit company to the loss company in relation to the tax loss:

(c) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the tax year.

Transfers of imputation credits

(5) A company that is an ICA company may transfer imputation credits to the profit company under the election in subsection (1) if—

(a) the company is the loss company or has an ownership interest in the profit company of 66% or more; and

(b) the company is a member of a group of companies that includes the loss company and the profit company; and

(c) there is no wholly-owned group of companies that includes the company and the profit company or the loss company and the profit company; and

(d) the company, the loss company, and the profit company meet the requirements of section OA 8 (Shareholder continuity requirements for memorandum accounts) for the carrying forward of imputation credits during the period beginning from the end of the income year in which the tax loss arises and ending with the transfer of the imputation credits; and

(e) the transfer occurs in the period of 4 income years beginning from the end of the income year in which the tax loss arises; and

(f) notice of the election meeting the requirements of section OB 84 is given to the Commissioner.

Profit company must attach imputation credits to dividend

(6) When a company transfers imputation credits to the profit company under the election in subsection (1), the profit company must pay a dividend at the time of the transfer and must attach to the dividend the amount of imputation credits transferred to the profit company.

Maximum for total transferred imputation credits

(7) The total amount of imputation credits transferred under the election in subsection (1) may be less than or equal to the amount given by subsection (3) for the election.

Effect on election if tax loss reduced

(8) If a loss company makes an election under subsection (1) relating to a tax loss for a tax year that is made available to more than 1 profit company and the amount of tax loss made available to a profit company is reduced under section IC 11 (Reduction of amounts used by companies), the maximum amount of imputation credits able to be transferred to the profit company under the election is reduced by the same proportion as the amount of tax loss made available to the profit company is reduced under section IC 11.

Defined in this Act: Commissioner, company, dividend, group of companies, ICA company, imputation credit, income year, notice, notify, ownership interest, pay, tax loss, tax year, wholly-owned group of companies

Section OB 83: inserted (with effect on 1 October 2016 and applying for the 2017–18 and later income years), on 30 March 2017, by section 213(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OB 84 When and how group company transferring tax loss makes election

Timing

(1) A company (the **loss company**) that makes an election under section OB 83(1) relating to a tax loss made available by the company to a member of the same group of companies (the **profit company**) must make the election when the tax loss is made available and give the notice required by subsection (2).

Notice

(2) The company must notify the Commissioner of the election by electronic means in a way acceptable to the Commissioner and by the due date under section IC 9 (Date for payment and notice to the Commissioner) for notifying the Commissioner of the election under section IC 5 (Company B using company A's tax loss) to make the tax loss available.

Information to be included in notice

(3) A notice required by subsection (2) must include—

(a) the name and tax file number of the loss company:

(b) the name and tax file number of the profit company:

(c) the name and tax file number of the company meeting the requirements of section OB 83(5) that the loss company elects to be a transferor of imputation credits to the profit company:

(d) the amount of tax loss that is subject to the election under section IC 5(2)(a) made by the loss company in favour of the profit company:

(e) the amount of the payments referred to in section IC 5(2)(b) made by the profit company to the loss company in relation to the tax loss.

Defined in this Act: Commissioner, company, group of companies, imputation credit, notice, notify, pay, tax file number, tax loss

Section OB 84: inserted (with effect on 1 October 2016 and applying for the 2017–18 and later income years), on 30 March 2017, by section 213(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Tables of credits and debits in memorandum accounts

How to use these tables

Each row of a table describes—

(a) the credits or debits that may arise in a memorandum account during a tax year; and

(b) the credit date or debit date when the credit or debit arises.

A more detailed description of the credits or debits is contained in the section noted in the last column.

Table O1: imputation credits

Row	Imputation credit	Credit date	Further defined
1	*[Repealed]*		
2	Provisional tax or income tax paid	day of payment	section OB 4(4)(a)
2B	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 4(4)(c)(i)
2C	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 4(4)(c)(ii)
2D	Transfer to ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of transfer under section 173L, 173M, or RC 32(5)(b)	section OB 4(4)(c)(iii)
3	Deposit into tax pooling account	day of payment	section OB 5
4	Transfer from tax pooling account	day of credit	section OB 6
5	Payment of further income tax	day of payment	section OB 7
5B	Payment of qualifying company election tax	day of payment	section OB 7B
5BB	Payment of multinational top-up tax	day of payment	section OB 7BB
5C	*[Repealed]*		
6	Amount of tax withheld for resident passive income	day on which amount is withheld	section OB 8
7	Imputation credit attached to dividend derived	day on which dividend is paid	section OB 9
7B	Attributed PIE income with imputation credit	day of attribution	section OB 9B
7C	Research and development tax credits	day on which return of income for income year is filed	section OB 9C
8	*[Repealed]*		
9	*[Repealed]*		
10	*[Repealed]*		
11	Transfer of debt balance when company leaves wholly-owned group	day on which company leaves group	section OB 13
12	Additional income tax payable when company leaves wholly-owned group	day of payment	section OB 14
13	Additional income tax when company joins wholly-owned group	day of payment	section OB 15
14	Attribution for personal services if company is not qualifying company	31 March	section OB 16
15	*[Repealed]*		

Row	Imputation credit	Credit date	Further defined
16	Transfer from ASC account	day of transfer	section OB 18
17	Transfer to master fund by company	day of transfer	section OB 19
17B	Transfer of credit to loss-using group company	day of transfer	section OB 19B
18	Maori authority credit attached to distribution	day of distribution	section OB 20
19	Transfer of balance of Maori authority credit account	day of transfer	section OB 21
20	Replacement payment paid under share-lending arrangement	day of payment	section OB 22
21	Imputation credit shown in credit transfer notice	day on which notice is given	section OB 23
21B	Unused imputation credit payment by member before departure	day of credit to ICA of consolidated imputation group for unused imputation credit payment	section OB 23B
22	Imputation credit on resident's restricted amalgamation	credit date in account of amalgamating company	section OB 24
23	Reversal of debt for tax advantage arrangement	debit date of debit	section OB 25
24	Eliminating debit for loss of shareholder continuity cancelling tax pooling account deposit that is refunded or credited	day of refund or credit	section OB 26
25	Amount of tax withheld by Australian ICA company for non-resident passive income	day on which amount is withheld	section OB 27
26	Amount of tax withheld from schedular payment to Australian ICA company	day on which amount is withheld	section OB 28
27	Schedular income tax paid by Australian ICA company	day of payment	section OB 29

Table O1 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O1 row 2: replaced, on 30 March 2022, by section 139 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O1 row 2B: inserted, on 30 March 2022, by section 139 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O1 row 2C: inserted, on 30 March 2022, by section 139 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O1 row 2D: inserted, on 30 March 2022, by section 139 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O1 row 5B: inserted, on 1 April 2008, by section 497 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Table O1 row 5BB: inserted, on 1 January 2026, by section 109 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Table O1 row 5C: repealed (with effect on 1 April 2009), on 30 March 2017, by section 214(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O1 row 7B: substituted (with effect on 1 April 2009), on 6 October 2009, by section 399(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O1 row 7C: inserted, on 1 April 2019, by section 13 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Table O1 row 8: repealed, on 1 April 2017, by section 214(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O1 row 9: repealed (with effect on 30 June 2009), on 6 October 2009, by section 399(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O1 row 10: repealed, on 1 April 2017, by section 214(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O1 row 14: amended (with effect on 1 April 2008), on 6 October 2009, by section 399(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O1 row 15: repealed, on 1 July 2010, by section 399(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O1 row 17B: inserted (with effect on 1 October 2016 and applying for the 2017–18 and later income years), on 30 March 2017, by section 214(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O1 row 21B: inserted (with effect on 1 April 2021), on 31 March 2023, by section 94(1) (and see section 94(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Table O1 row 22: amended, on 1 April 2017, by section 214(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O1 row 22: amended, on 30 March 2017, by section 214(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O2: imputation debits

Row	Imputation debit	Debit date	Further defined
1	*[Repealed]*		
2	Imputation credit attached to dividend paid	day of payment	section OB 30
3	Allocation of provisional tax	day of notice of allocation	section OB 31
4	Refund of income tax	day of refund	section OB 32(6)(a)
4B	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 32(6)(b)(i)
4C	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OB 32(6)(b)(ii)
4D	Transfer from ICA under section 173L or 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of transfer under section 173L, 173M, or RC 32(5)(b)	section OB 32(6)(b)(iii)
5	Overpaid income tax applied to meet another tax liability	day of application	section OB 33
6	Refund from tax pooling account	day of refund	section OB 34
7	Transfer of entitlement to another person in tax pooling account	set out in section OB 35	section OB 35
7B	Debit for transfer from tax pooling account for policyholder base liability	31 March	section OB 35B
8	*[Repealed]*		

Row	Imputation debit	Debit date	Further defined
9	Transfer, refund, or use of tax credit	day of transfer, refund, or use	section OB 37
10	*[Repealed]*		
11	Overpaid income tax applied to satisfy pre-imputation income tax	day of application	section OZ 3
12	*[Repealed]*		
13	Attribution for personal services	31 March	section OB 40
14	Debit for loss of shareholder continuity	time of loss of continuity	section OB 41
15	Debit for on-market cancellation	day of acquisition	section OB 42
16	Debit for breach of imputation ratio	31 March	section OB 43
17	Transfer for debit balance when company leaves wholly-owned group	day on which company leaves group	section OB 44
18	Redemption debit for unit trust or group investment fund for income year	day on which return of income for income year is filed	section OB 45
19	Transfer from member fund to master fund	31 March	section OB 46
19B	Transfer of credit to loss-using group company	day of transfer	section OB 46B
20	Debit for policyholder base imputation credits	31 March	section OB 47
20B	Recipient of R&D loss tax credits	31 March	section OB 47B
21	Credit balance when Maori authority credit account starts	day of becoming Maori authority	section OB 48
22	Credit attached to replacement payment paid by company under share-lending arrangement	day of payment	section OB 49
23	Credit attached to dividend paid to company shown in returning share transfer	day of payment	section OB 50
24	Credit attached to dividend paid to company shown in credit transfer notice	day of payment	section OB 51
25	Amount of credit balance transferred to consolidated imputation group's ICA	credit date for group's imputation credit	section OB 52
26	Imputation debit or policyholder debit in account of amalgamating company	debit date in account of amalgamating company	section OB 53
27	Debit for tax advantage arrangement	last day of tax year in which arrangement began	section OB 54
28	Retrospective attachment of imputation credit to non-cash dividend	day of payment of dividend	section OB 55
29	Final balance when ICA company status ends	day of cessation	section OB 56
30	Refund of amount of tax for non-resident passive income to Australian ICA company	day of refund	section OB 57
31	Refund of amount of tax for schedular payment to Australian ICA company	day of refund	section OB 58

Row	Imputation debit	Debit date	Further defined
32	Refund of schedular income tax to Australian ICA company	day of refund	section OB 59

Table O2 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O2 row 4: replaced, on 30 March 2022, by section 140 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O2 row 4B: inserted, on 30 March 2022, by section 140 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O2 row 4C: inserted, on 30 March 2022, by section 140 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O2 row 4D: inserted, on 30 March 2022, by section 140 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O2 row 7B: inserted, on 1 July 2010, by section 400(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O2 row 8: repealed, on 1 April 2017, by section 215(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O2 row 9: substituted (with effect on 1 April 2008), on 6 October 2009, by section 400(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O2 row 10: repealed, on 1 April 2017, by section 215(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O2 row 11: amended, on 1 April 2017, by section 215(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O2 row 12: repealed (with effect on 30 June 2009), on 6 October 2009, by section 400(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O2 row 14: amended (with effect on 1 April 2008), on 7 December 2009, by section 88 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Table O2 row 19B: inserted (with effect on 1 October 2016 and applying for the 2017–18 and later income years), on 30 March 2017, by section 215(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O2 row 20: substituted, on 1 July 2010, by section 400(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O2 row 20B: inserted (with effect on 1 April 2015 and applying for income years beginning on or after that date), on 24 February 2016, by section 216(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Table O2 row 25: replaced (with effect on 1 April 2008), on 30 March 2021, by section 125(1) (and see section 125(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Table O2 row 26: amended, on 1 April 2017, by section 215(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart OC—Foreign dividend payment accounts (FDPA)

[Repealed]

Subpart OC: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

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Introductory provisions

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Heading: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 1 General rules for companies with FDP accounts

[Repealed]

Section OC 1: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 2 FDP accounts

[Repealed]

Section OC 2: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 2B General rule for life insurer's policyholder base

[Repealed]

Section OC 2B: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 3 Choosing to become FDPA company

[Repealed]

Section OC 3: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 4 When company chooses to stop being FDPA company

[Repealed]

Section OC 4: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 5 When company emigrates

[Repealed]

Section OC 5: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FDP credits

[Repealed]

Heading: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 6 FDPA payment of FDP

[Repealed]

Section OC 6: repealed (with effect on 30 June 2009), on 6 October 2009, by section 405(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 7 FDPA dividend derived with FDP credit

[Repealed]

Section OC 7: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 8 FDPA payment of FDP for transfer from CTR account

[Repealed]

Section OC 8: repealed (with effect on 30 June 2009), on 6 October 2009, by section 406(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 9 FDPA transfer for net foreign attributed income

[Repealed]

Section OC 9: repealed (with effect on 30 June 2009), on 6 October 2009, by section 407(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 10 FDPA payment of FDP for conduit debit balance

[Repealed]

Section OC 10: repealed (with effect on 30 June 2009), on 6 October 2009, by section 408(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 11 FDPA credit transfer to company

[Repealed]

Section OC 11: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 12 FDPA reversal of tax advantage arrangement

[Repealed]

Section OC 12: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FDP debits

[Repealed]

Heading: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 13 FDPA payment of dividend

[Repealed]

Section OC 13: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 14 FDPA refund of FDP

[Repealed]

Section OC 14: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 15 FDPA overpayment of FDP

[Repealed]

Section OC 15: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 16 FDPA refund of tax credit

[Repealed]

Section OC 16: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 17 FDPA credit transfer by company

[Repealed]

Section OC 17: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 18 FDPA transfer to imputation credit account

[Repealed]

Section OC 18: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 19 FDPA transfer to CTR account

[Repealed]

Section OC 19: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 97(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OC 20 Debit for policyholder base FDP credits

[Repealed]

Section OC 20: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 21 FDPA transfer to group account

[Repealed]

Section OC 21: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 22 FDPA breach of FDP ratio

[Repealed]

Section OC 22: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 23 FDPA breach of FDP ratio by PCA company

[Repealed]

Section OC 23: repealed, on 1 July 2010, by section 411(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 24 FDPA debit for loss of shareholder continuity

[Repealed]

Section OC 24: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 25 FDPA tax advantage arrangement

[Repealed]

Section OC 25: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 26 FDPA final balance

[Repealed]

Section OC 26: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FDP credits attached to dividends

[Repealed]

Heading: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 27 FDP credits attached to dividends

[Repealed]

Section OC 27: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 28 FDPA benchmark dividend rules

[Repealed]

Section OC 28: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 29 FDP credits and imputation credits attached to dividends

[Repealed]

Section OC 29: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Further income tax

[Repealed]

Heading: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 30 Payment of further income tax for closing debit balance

[Repealed]

Section OC 30: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 31 Payment of further income tax when company no longer New Zealand resident

[Repealed]

Section OC 31: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 32 Reduction of further income tax

[Repealed]

Section OC 32: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 33 Income tax paid satisfying liability for further income tax

[Repealed]

Section OC 33: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OC 34 Further income tax paid satisfying liability for income tax

[Repealed]

Section OC 34: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Some definitions

[Repealed]

Heading: repealed, on 1 July 2010, by section 418(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 35 Meaning of FDP reference period

[Repealed]

Section OC 35: repealed, on 1 July 2010, by section 418(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 36 Meaning of maximum deficit debit

[Repealed]

Section OC 36: repealed, on 1 July 2010, by section 418(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 37 Meaning of policyholder FDP ratio

[Repealed]

Section OC 37: repealed, on 1 July 2010, by section 418(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 38 Meaning of reduced deficit debit

[Repealed]

Section OC 38: repealed, on 1 July 2010, by section 418(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OC 39 Meaning of shareholder FDP ratio

[Repealed]

Section OC 39: repealed, on 1 July 2010, by section 418(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O3: FDP credits

[Repealed]

Table O3: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O4: FDP debits

[Repealed]

Table O4: repealed, on 1 April 2017, by section 216 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Subpart OD—Conduit tax relief accounts (CTRA)

[Repealed]

Subpart OD: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

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[Repealed]

Table O6: conduit tax relief debits

[Repealed]

Introductory provisions

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 1 General rules for companies with CTR accounts

[Repealed]

Section OD 1: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 2 CTR accounts

[Repealed]

Section OD 2: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 3 Choosing to become CTR company

[Repealed]

Section OD 3: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 4 When company stops being CTR company

[Repealed]

Section OD 4: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CTR credits

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 5 CTRA tax credit for conduit tax relief

[Repealed]

Section OD 5: repealed (with effect on 30 June 2009), on 6 October 2009, by section 424(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OD 6 CTRA transfer from FDP account

[Repealed]

Section OD 6: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 7 CTRA dividend derived with CTR credit

[Repealed]

Section OD 7: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 8 CTRA reduction of FDP

[Repealed]

Section OD 8: repealed (with effect on 30 June 2009), on 6 October 2009, by section 425(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OD 9 CTRA reversal of tax advantage arrangement

[Repealed]

Section OD 9: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CTR debits

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 10 CTRA payment of dividend

[Repealed]

Section OD 10: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 11 CTRA transfer to FDP account

[Repealed]

Section OD 11: repealed (with effect on 30 June 2009), on 6 October 2009, by section 426(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OD 12 CTRA transfer to group account

[Repealed]

Section OD 12: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 13 CTRA adjustment for conduit tax relief

[Repealed]

Section OD 13: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 14 CTRA break in shareholding chain for group company

[Repealed]

Section OD 14: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 15 CTRA break in shareholding chain for company

[Repealed]

Section OD 15: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 16 CTRA increase in resident shareholding

[Repealed]

Section OD 16: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 17 CTRA breach of CTR ratio

[Repealed]

Section OD 17: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 18 CTRA tax advantage arrangement

[Repealed]

Section OD 18: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 19 CTRA final balance

[Repealed]

Section OD 19: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CTR credits attached to dividends

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 20 CTR credits attached to dividends

[Repealed]

Section OD 20: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 21 CTRA benchmark dividend rules

[Repealed]

Section OD 21: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 22 CTR credits and imputation credits attached to dividends

[Repealed]

Section OD 22: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Payment of FDP and refunds

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OD 23 FDP payable for CTR debits

[Repealed]

Section OD 23: repealed (with effect on 30 June 2009), on 6 October 2009, by section 428(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OD 24 FDP payable on resident's restricted amalgamation

[Repealed]

Section OD 24: repealed (with effect on 30 June 2009), on 6 October 2009, by section 429(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OD 25 Refunds on transfers to CTR account

[Repealed]

Section OD 25: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Table O5: conduit tax relief credits

[Repealed]

Table O5: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Table O6: conduit tax relief debits

[Repealed]

Table O6: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 99(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Subpart OE—Branch equivalent tax accounts (BETA)

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Introductory provision

OE 1 General rules for persons with branch equivalent tax accounts

BETA company

(1) *[Repealed]*

BETA person

(2) A person resident in New Zealand who is not a company may choose to be a BETA person with a branch equivalent tax account.

General rules: BETA company

(3) *[Repealed]*

General rules: BETA person

(4) Sections OA 2 and OA 3 (which relate to the treatment of memorandum accounts) apply to a BETA person and their branch equivalent tax account as if references in those sections to a tax year were references to an income year.

Defined in this Act: BETA person, branch equivalent tax account, company, income year, memorandum account, resident in New Zealand, tax year

Compare: 2004 No 35 ss MF 1(1), MF 11(1)

Section OE 1 heading: amended, on 1 July 2012 (applying for income years beginning on or after that date), by section 100(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OE 1(1): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 100(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OE 1(3): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 100(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OE 1(4): amended, on 1 July 2012 (applying for income years beginning on or after that date), by section 100(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OE 1 list of defined terms **BETA company**: repealed, on 1 July 2012, by section 100(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Companies with branch equivalent tax accounts

[Repealed]

Heading: repealed, on 1 July 2012, by section 101(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Introductory provisions

[Repealed]

Heading: repealed, on 1 July 2012, by section 101(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 2 Branch equivalent tax accounts of companies

[Repealed]

Section OE 2: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 101(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 3 Choosing to become BETA company

[Repealed]

Section OE 3: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 101(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 4 When company stops being BETA company

[Repealed]

Section OE 4: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 101(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 5 Treatment of attributed CFC income and FIF income in this subpart

For the purposes of applying this subpart to a person, other than a company, with an attributing interest in a foreign investment fund (FIF),—

(a) FIF income derived from the person's interest is treated as attributed CFC income if the FIF income is calculated—

(i) under the attributable FIF income method:

(ii) under a method to which section EX 50(6) or EX 58 (which relate to the calculation of FIF income) applies; and

(b) the FIF is treated as a CFC; and

(c) the interest in the FIF is treated as an income interest.

Defined in this Act: attributable FIF income method, attributing interest, CFC, company, FIF, FIF income, foreign investment fund, income interest

Section OE 5: replaced, on 1 July 2012 (applying for income years beginning on or after that date), by section 103(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Branch equivalent tax credits

[Repealed]

Heading: repealed, on 1 July 2012, by section 105(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 6 BETA payment of income tax on foreign income

[Repealed]

Section OE 6: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 105(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 7 BETA payment of income tax

[Repealed]

Section OE 7: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 107(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OE 7(6): amended (with effect on 1 April 2008), on 2 November 2012, by section 134(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section OE 7(7)(b): amended (with effect on 1 April 2008), on 2 November 2012, by section 134(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section OE 7(8): amended (with effect on 1 April 2008), on 2 November 2012, by section 134(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

OE 8 BETA unused amount of debit balance

[Repealed]

Section OE 8: repealed (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 116(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

OE 9 BETA refund of FDP

[Repealed]

Section OE 9: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 109(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 10 BETA credit for loss of shareholder continuity

[Repealed]

Section OE 10: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 109(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 11 BETA final balance

[Repealed]

Section OE 11: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 109(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Treatment of debits from conduit relief

[Repealed]

Heading: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 109(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OE 11B Company with debit balance, including debits from conduit relief, in some income years

[Repealed]

Section OE 11B: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 109(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Branch equivalent tax debits

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 433(1) the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OE 12 BETA payment of FDP

[Repealed]

Section OE 12: repealed (with effect on 30 June 2009), on 6 October 2009, by section 433(1) the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OE 13 BETA reduction in FDP

[Repealed]

Section OE 13: repealed (with effect on 30 June 2009), on 6 October 2009, by section 433(1) the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OE 14 BETA refund of income tax

[Repealed]

Section OE 14: repealed (with effect on 30 June 2009), on 6 October 2009, by section 434(1) the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OE 15 BETA debit for loss of shareholder continuity

[Repealed]

Section OE 15: repealed (with effect on 30 June 2009), on 6 October 2009, by section 434(1) the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OE 16 BETA final balance

[Repealed]

Section OE 16: repealed (with effect on 30 June 2009), on 6 October 2009, by section 434(1) the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Debit if credit balance at beginning of first affected income year

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 7 September 2010, by section 104 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

OE 16B Company with credit balance at beginning of first affected income year

[Repealed]

Section OE 16B: repealed (with effect on 30 June 2009), on 7 September 2010, by section 104 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Persons with branch equivalent tax accounts

Introductory provisions

OE 17 Person choosing to become BETA person

Election

(1) A person who is eligible under section OE 1(2) and who chooses to become a BETA person may make the election for an income year—

(a) at any time during the income year; or

(b) no later than the day on which the person is required to file a return of income for the income year; or

(c) by a later date if the Commissioner allows.

Notice

(2) The person must notify the Commissioner of the election under subsection (1)—

(a) no later than 21 days after the election; or

(b) by a later date if the Commissioner allows.

Effect of election

(3) A BETA person must maintain a branch equivalent tax account from the first day of the income year in which they make the election.

Defined in this Act: BETA person, branch equivalent tax account, Commissioner, income year, notify, return of income

Compare: 2004 No 35 s MF 11(1), (2)

OE 18 When person stops being BETA person

Election

(1) A BETA person may choose to stop the branch equivalent tax account.

When election made

(2) A person may make an election under subsection (1) only in an income year that is later than the income year in which the person chose under section OE 1(2) to become a BETA person.

When person's status ends

(3) The person ends their status as a BETA person from the first day of the income year after the income year in which the election referred to in subsection (1) is made but only if they file an annual branch equivalent tax account return for the year of election in the time allowed by section 78(3) of the Tax Administration Act 1994.

Defined in this Act: annual branch equivalent tax account return, BETA person, branch equivalent tax account, income year, notice

Compare: 2004 No 35 s MF 13(1), (2)

Section OE 18 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Branch equivalent tax credits

OE 19 BETA person's payment of income tax on foreign income

Credit

(1) A BETA person has a branch equivalent tax credit for an income year for an amount calculated using the formula—

(tax liability × CFC or taxable income ÷ taxable income) − foreign tax credits.

Definition of items in formula

(2) In the formula,—

(a) **tax liability** is the person's income tax liability for the income year:

(b) **CFC or taxable income** is the lesser of the person's—

(i) attributed CFC income derived during the income year; or

(ii) taxable income for the income year:

(c) **taxable income** is the person's taxable income for the income year:

(d) **foreign tax credits** is the foreign tax credits allowed for the income year under sections LK 1 to LK 7 (which relate to tax credits relating to attributed CFC income).

Table reference

(3) The branch equivalent tax credit in subsection (1) is referred to in table O9: person's branch equivalent tax credits, row 2 (payment of income tax on foreign income).

Credit date

(4) The credit date is the day the person files the return of income for the tax year corresponding to the income year.

Defined in this Act: amount, attributed CFC income, BETA person, branch equivalent tax account, branch equivalent tax credit, income tax, income tax liability, income year, return of income, tax credit, tax year, taxable income

Compare: 2004 No 35 ss MF 13(1), (2), MF 14

Section OE 19 list of defined terms **foreign tax**: repealed, on 30 March 2017, by section 218(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OE 19 list of defined terms **tax credit**: inserted, on 30 March 2017, by section 218(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Branch equivalent tax debits

OE 20 BETA person's payment of income tax

Election

(1) On meeting the requirements of subsection (4), a BETA person may choose to use some or all of a credit balance in their branch equivalent tax account to satisfy an income tax liability of the person for an income year.

Debit

(2) The amount used to satisfy the income tax liability is a branch equivalent tax debit in the person's branch equivalent tax account.

Table reference

(3) The branch equivalent tax debit in subsection (2) is referred to in table O10: person's branch equivalent tax debits, row 2 (payment of income tax).

Requirements

(4) The person may make an election under subsection (1) if—

(a) they derive a dividend from an income interest in a CFC during the income year; and

(b) a credit balance exists in their branch equivalent tax account; and

(c) they have paid the income tax giving rise to a credit included in the credit balance.

Manner of election

(5) The person makes the election by recording the amount as a debit in the branch equivalent tax account.

Income tax paid

(6) Once the election is made, the income tax liability is satisfied to the extent to which the liability is no more than the income tax payable on the amount of the dividend derived.

Debit date

(7) The debit date is the day of election.

Defined in this Act: amount, BETA person, branch equivalent tax account, branch equivalent tax debit, CFC, dividend, income interest, income tax, income tax liability, income year, pay

Compare: 2004 No 35 ss MF 13(3)(a), MF 14

OE 21 BETA person's refund of income tax

Debit

(1) A BETA person has a branch equivalent tax debit for an income year for the amount of a refund of income tax attributable to income tax paid for the income year on attributed CFC income derived during the income year.

Table reference

(2) The branch equivalent tax debit in subsection (1) is referred to in table O10: person's branch equivalent tax debits, row 3 (refund of income tax).

Debit date

(3) The debit date is the day the refund is made.

Defined in this Act: amount, attributed CFC income, BETA person, branch equivalent tax debit, income tax, income year, pay

Compare: 2004 No 35 s MF 13(3)(b)

OE 22 BETA person's final balance

Debit

(1) A BETA person has a branch equivalent tax debit for a credit balance in the branch equivalent tax account when the person stops being resident in New Zealand.

Table reference

(2) The branch equivalent tax debit in subsection (1) is referred to in table O10: person's branch equivalent tax debits, row 4 (final balance).

Debit date

(3) The debit date is the day the person stops being resident in New Zealand.

Defined in this Act: BETA person, branch equivalent tax account, branch equivalent tax debit, resident in New Zealand

Compare: 2004 No 35 s MF 13(3)(c)

Table O7: branch equivalent tax credits

[Repealed]

Table O7: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 110(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Table O8: branch equivalent tax debits

[Repealed]

Table O8: repealed (with effect on 30 June 2009), on 6 October 2009, by section 437(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O9: person's branch equivalent tax credits

Row	Branch equivalent tax credit	Credit date	Further defined
1	*[Repealed]*		
2	Income tax paid on foreign income derived in income year	day on which return of income for income year is filed	section OE 19

Table O9 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O10: person's branch equivalent tax debits

Row	Branch equivalent tax debit	Debit date	Further defined
1	*[Repealed]*		
2	Credit balance applied to satisfy income tax liability	day of election	section OE 20
3	Refund of income tax for attributed CFC income	day of refund	section OE 21
4	Credit balance when New Zealand residence ends	day of cessation	section OE 22

Table O10 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart OF—Available subscribed capital accounts (ASCA)

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Introductory provisions

OF 1 General rules for companies with ASC accounts

ASC account company

(1) A public unit trust or a group investment fund that derives category A income may choose to become an available subscribed capital (ASC) account company. This section does not apply to a multi-rate PIE.

ASC account

(2) An ASC account company must maintain an ASC account for a tax year. The account is a record of ASC credits and ASC debits that arise in the account during the tax year.

Credits

(3) Credits to the account include redemption proceeds that are less than the ASC company's available subscribed capital calculated under the slice rule.

Debits

(4) Debits to the account include a transfer of a credit balance to the company's imputation credit account.

Defined in this Act: ASC account, ASC account company, ASC credit, ASC debit, available subscribed capital, category A income, group investment fund, imputation credit account, multi-rate PIE, public unit trust, slice rule, tax year

Compare: 2004 No 35 ss MJ 1(1), MJ 5(1), MJ 6(1)

Section OF 1(1): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 438(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OF 1 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 438(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OF 1 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 438(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OF 2 ASC accounts

The general rules on memorandum accounts set out in sections OA 2 and OA 3 (which relate to the treatment of memorandum accounts) apply to the ASC account of an ASC account company.

Defined in this Act: ASC account, ASC account company, memorandum account

Compare: 2004 No 35 s MJ 3(1)

OF 3 Choosing to become ASC account company

Election

(1) A company may choose to become an ASC account company if—

(a) it is a public unit trust or a group investment fund that derives category A income; and

(b) it has issued shares on terms that their redemption will be subject to section CD 22(4) (Returns of capital: off-market share cancellations).

Notifying Commissioner

(2) A company that makes an election under subsection (1) must notify the Commissioner of the election no later than the day on which the company is required to file a return of income for the tax year that corresponds to the income year in which the election is made.

Effect of election

(3) An ASC account company must maintain the ASC account referred to in section OF 1(2) from the day the company chooses to become an ASC account company.

Defined in this Act: ASC account company, category A income, Commissioner, company, group investment fund, income year, notify, public unit trust, return of income, share, tax year

Compare: 2004 No 35 s MJ 1(1)

ASC credits

OF 4 ASCA redemption credit

Credit

(1) An ASC account company has an ASC credit when the company redeems a share in the company for an amount calculated using the formula—

ASC amount − redemption proceeds.

Definition of items in formula

(2) In the formula,—

(a) **ASC amount** is the amount of the available subscribed capital for the redemption calculated under section CD 22(4) (Returns of capital: off-market share cancellations):

(b) **redemption proceeds** is the amount of the proceeds from the redemption calculated under sections CD 4 to CD 6 (which relate to the nature of a dividend).

Positive result

(3) If the result of the formula in subsection (1) is negative, the amount is treated as zero.

Table reference

(4) The ASC credit in subsection (1) is referred to in table O11: ASC credits, row 2 (redemption credit).

Credit date

(5) The credit date is the day the company redeems the share.

Defined in this Act: amount, ASC account, ASC account company, ASC credit, available subscribed capital, share

Compare: 2004 No 35 s MJ 5

ASC debits

OF 5 ASCA transfer to imputation credit account

Election

(1) An ASC account company may choose that some or all of the credit balance in the company's ASC account is transferred to the company's imputation credit account.

Debit and credit

(2) The amount of the credit balance transferred is—

(a) an ASC debit for the full amount of the credit balance transferred; and

(b) an imputation credit under section OB 18 (ICA transfer from ASC account) for the amount calculated under subsection (4).

Table references

(3) The ASC debit in subsection (2)(a) is referred to in table O12: ASC debits, row 2 (transfer to imputation credit account). The imputation credit in subsection (2)(b) is referred to in table O1: imputation credits, row 16 (transfer from ASC account).

Amount

(4) The amount of the credit to the imputation credit account is calculated using the formula—

credit balance × maximum imputation ratio.

Definition of items in formula

(5) In the formula,—

(a) **credit balance** is some or all of the credit balance in the company's ASC account that the ASC account company chooses to use:

(b) **maximum imputation ratio** is the maximum permitted ratio calculated under section OA 18(2) (Calculation of maximum permitted ratios).

Timing of election

(6) An election under subsection (1) may be made at any time when the company is an imputation credit account (ICA) company.

Manner of election

(7) A company makes an election under subsection (1) by recording the credit balance transferred as—

(a) a debit in the company's ASC account; and

(b) a credit in the company's imputation credit account.

Debit date

(8) The debit date is—

(a) the day of election; or

(b) the day before the company stops being an ICA company if the election is made on the occasion of cessation.

Defined in this Act: amount, ASC account, ASC account company, ASC debit, ICA company, imputation credit, imputation credit account, imputation ratio

Compare: 2004 No 35 ss ME 4(1)(da), MJ 6

Table O11: ASC credits

Row	ASC credit	Credit date	Further defined
1	*[Repealed]*		
2	Amount by which ASC is more than proceeds on redemption of shares	day on which shares are redeemed	section OF 4

Table O11 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O12: ASC debits

Row	ASC debit	Debit date	Further defined
1	*[Repealed]*		
2	Transfer of credit balance to imputation credit account	set out in section OF 5	section OF 5

Table O12 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart OJ—Policyholder credit accounts (PCA)

[Repealed]

Subpart OJ: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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[Repealed]

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[Repealed]

Table O15: person's policyholder credits

[Repealed]

Table O16: person's policyholder debits

[Repealed]

Introductory provision

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 1 General rules for companies and other persons with policyholder credit accounts

[Repealed]

Section OJ 1: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Companies with policyholder credit accounts

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Introductory provision

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 2 Policyholder credit accounts of companies

[Repealed]

Section OJ 2: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Policyholder credits of PCA company

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 3 PCA transfer from imputation credit account

[Repealed]

Section OJ 3: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 4 PCA transfer from FDP account

[Repealed]

Section OJ 4: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 5 PCA transfer of life insurance business

[Repealed]

Section OJ 5: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 6 PCA credit for maximum deficit in FDP account

[Repealed]

Section OJ 6: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 7 PCA credit for reduced deficit in FDP account

[Repealed]

Section OJ 7: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Policyholder debits of PCA company

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 8 PCA payment of tax relating to policyholder base

[Repealed]

Section OJ 8: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 9 PCA transfer to imputation credit account

[Repealed]

Section OJ 9: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 10 PCA transfer to group account

[Repealed]

Section OJ 10: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 11 PCA company's transfer of life insurance business

[Repealed]

Section OJ 11: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Persons with policyholder credit accounts

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Introductory provisions

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 12 Choosing to become PCA person

[Repealed]

Section OJ 12: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 13 Choosing to stop being PCA person

[Repealed]

Section OJ 13: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Policyholder credits of PCA person

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 14 PCA person's equivalent credit

[Repealed]

Section OJ 14: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 15 PCA person's credit for transfer of life insurance business

[Repealed]

Section OJ 15: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Policyholder debits of PCA person

[Repealed]

Heading: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 16 PCA person's payment of tax relating to policyholder base

[Repealed]

Section OJ 16: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 17 PCA person's equivalent debit

[Repealed]

Section OJ 17: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OJ 18 PCA person's debit for transfer of life insurance business

[Repealed]

Section OJ 18: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O13: policyholder credits

[Repealed]

Table O13: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O14: policyholder debits

[Repealed]

Table O14: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O15: person's policyholder credits

[Repealed]

Table O15: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O16: person's policyholder debits

[Repealed]

Table O16: repealed, on 1 July 2010, by section 439(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart OK—Maori authority credit accounts (MACA)

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Table O17: Maori authority credits

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Introductory provision

OK 1 General rules for Maori authorities with Maori authority credit accounts

Accounts

(1) A Maori authority must maintain a Maori authority credit account for a tax year. The account is a record of Maori authority credits and Maori authority debits that arise in the account during the tax year. Subsection (2) overrides this subsection.

Exclusion

(2) Subsection (1) does not apply for a period in which—

(a) the constitution or rules of the Maori authority prohibit a distribution of any kind to a member; or

(b) the Maori authority derives only exempt income, disregarding exempt income under section CW 10 (Dividend within New Zealand wholly-owned group).

Credits

(3) Credits include an amount of income tax paid during a tax year and an imputation credit attached to a dividend derived by the Maori authority.

Debits

(4) Debits may include a refund of income tax and a Maori authority credit attached to a taxable Maori authority distribution paid by the Maori authority.

General rules

(5) The general rules on memorandum accounts set out in sections OA 2 and OA 3 (which relate to the treatment of memorandum accounts) apply to Maori authority credit accounts.

Defined in this Act: amount, dividend, exempt income, imputation credit, income tax, Maori authority, Maori authority credit, Maori authority credit account, Maori authority debit, member, memorandum account, pay, tax year, taxable Maori authority distribution

Compare: 2004 No 35 ss MK 1, MK 3

Section OK 1(3): replaced, on 1 April 2017, by section 219(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OK 1 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 219(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OK 1 list of defined terms **FDPA company**: repealed, on 1 April 2017, by section 219(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Maori authority credits

OK 2 MACA payment of tax or transfer to account

Credit

(1) A Maori authority has a Maori authority credit for a payment of income tax or provisional tax, or for an amount of excess tax transferred under section 173L of the Tax Administration Act 1994. Subsection (3) overrides this subsection.

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 2 (provisional tax and income tax paid), row 2B (transfer under section 173L of the Tax Administration Act 1994), row 2C (transfer under section 173L of the Tax Administration Act 1994), and row 2D (transfer under section 173L of the Tax Administration Act 1994).

No credit

(3) No credit under subsection (1) arises for—

(a) income tax paid for a tax year before the 2004–05 tax year; or

(b) income tax paid for income derived when the Maori authority was not a Maori authority; or

(c) income tax paid by a credit under section LE 1 (Tax credits for imputation credits); or

(cb) income tax paid by crediting a research and development tax credit against income tax liability; or

(cb) *[Repealed]*

(d) further income tax applied under section OK 23 to pay income tax or provisional tax.

Credit date

(4) The credit date is—

(a) for a payment of income tax or provisional tax, the day on which the tax is paid; or

(b) for an amount of excess tax transferred in a tax year (the **transfer year**) from another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994,—

(i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the transfer year; or

(ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the transfer year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or

(iii) the date of the transfer under section 173L of that Act, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

Defined in this Act: further income tax, income, income tax, Maori authority, Maori authority credit, pay, research and development tax credit, provisional tax, tax year

Compare: 2004 No 35 s MK 4(1)(a), (2)(a)

Section OK 2 heading: replaced, on 30 March 2022, by section 141(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 2(1): amended, on 30 March 2022, by section 141(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 2(2): amended, on 30 March 2022, by section 141(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 2(3)(cb): inserted, on 1 April 2019, by section 14(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section OK 2(3)(cb): repealed (with effect on 1 April 2009), on 30 March 2017, by section 220 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OK 2(4): replaced, on 30 March 2022, by section 141(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 2 list of defined terms **research and development tax credit**: inserted, on 1 April 2019, by section 14(2) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

OK 3 MACA transfer of excess tax from other Maori authorities

Credit

(1) A Maori authority has a Maori authority credit for a transfer of excess tax from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies).

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 3 (transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 3B (transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), and row 3C (transfer from another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)).

Credit date

(3) *[Repealed]*

(4) The credit date for a transfer of excess tax in a tax year (the **transfer year**) from another Maori authority under section 173M of the Tax Administration Act 1994 is—

(a) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if—

(i) the date of that request is in the transfer year; or

(ii) the date of that request is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or

(b) the date of the transfer under section 173M of that Act or section RC 32(5)(b), if the requirements of paragraph (a) are not met.

Defined in this Act: Maori authority, Maori authority credit, pay

Compare: 2004 No 35 s MK 4(1)(b), (2)(a)

Section OK 3 heading: replaced, on 30 March 2022, by section 142(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 3(1): replaced, on 30 March 2022, by section 142(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 3(2): amended, on 30 March 2022, by section 142(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 3(3): repealed, on 30 March 2022, by section 142(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 3(4): inserted, on 30 March 2022, by section 142(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

OK 4 MACA payment of further income tax

Credit

(1) A Maori authority has a Maori authority credit for a payment of further income tax under section OK 21 or OK 22.

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 4 (payment of further income tax).

Credit date

(3) The credit date is the day the further income tax is paid.

Defined in this Act: further income tax, Maori authority, Maori authority credit, pay

Compare: 2004 No 35 s MK 4(1)(c), (2)(a)

OK 4B MACA expenditure on research and development

[Repealed]

Section OK 4B: repealed (with effect on 1 April 2009), on 30 March 2017, by section 221 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OK 5 MACA distribution with Maori authority credit

Credit

(1) A Maori authority has a Maori authority credit for the amount of a Maori authority credit attached to a distribution derived by the Maori authority.

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 5 (distribution with Maori authority credit).

Credit date

(3) The credit date is the day the distribution is made.

Defined in this Act: amount, distribution, Maori authority, Maori authority credit

Compare: 2004 No 35 s MK 4(1)(d), (2)(b)

OK 6 MACA dividend derived with imputation credit

Credit

(1) A Maori authority has a Maori authority credit for the amount of an imputation credit attached to a dividend derived by the Maori authority.

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 6 (dividend derived with imputation credit).

Credit date

(3) The credit date is the day the dividend is paid.

Defined in this Act: amount, dividend, imputation credit, Maori authority, Maori authority credit, pay

Compare: 2004 No 35 s MK 4(1)(e), (2)(c)

OK 6B MACA attributed PIE income with imputation credit

Credit

(1) A Maori authority that is an investor in a multi-rate PIE has a Maori authority credit for the amount of an imputation credit attributed to it under section HM 54 (Use of tax credits other than foreign tax credits by investors).

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 6B (attributed PIE income with imputation credit).

Credit date

(3) The credit date is the day the amount is attributed.

Defined in this Act: amount, attributed PIE income, imputation credit, multi-rate PIE

Section OK 6B: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 117(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

OK 6C MACA research and development tax credit

Credit

(1) A Maori authority has a Maori authority credit for the amount of research and development tax credit it is entitled to.

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 6C (Research and development tax credits).

Credit date

(3) The credit date is the date the Maori authority files its return of income for the income year.

Defined in this Act: amount, ICA company, imputation credit, research and development tax credit

Section OK 6C: inserted, on 1 April 2019, by section 15 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

OK 7 MACA dividend derived with FDP credit

[Repealed]

Section OK 7: repealed, on 1 April 2017, by section 222 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OK 8 MACA resident withholding tax withheld

Credit

(1) A Maori authority has a Maori authority credit for the amount of tax for resident passive income treated under section RA 9(1)(b) (Treatment of amounts withheld as received) as derived by the Maori authority.

Table reference

(2) The Maori authority credit in subsection (1) is referred to in table O17: Maori authority credits, row 8 (RWT).

Credit date

(3) The credit date is the day the amount of tax is withheld.

Defined in this Act: amount of tax, Maori authority, Maori authority credit, resident passive income, RWT

Compare: 2004 No 35 s MK 4(1)(h), (2)(e)

OK 9 MACA reversal of tax advantage arrangement

When this section applies

(1) This section applies when it is established that a Maori authority credit in a Maori authority's credit account was incorrectly determined to be the subject of an arrangement to obtain a tax advantage.

Credit

(2) The Maori authority has a Maori authority credit for an amount that equals the amount of a debit in the Maori authority credit account under section OK 17.

Table references

(3) The Maori authority credit in subsection (2) is referred to in table O17: Maori authority credits, row 9 (reversal of tax advantage arrangement). The Maori authority debit in subsection (2) is referred to in table O18: Maori authority debits, row 9 (tax advantage arrangement).

Credit date

(4) The credit date is the same as the debit date for the debit under section OK 17.

Defined in this Act: amount, Maori authority, Maori authority credit, Maori authority credit account, Maori authority debit, tax advantage

Compare: 2004 No 35 s MK 4(1)(g), (2)(d)

Maori authority debits

OK 10 MACA distribution

Debit

(1) A Maori authority has a Maori authority debit for the amount of a Maori authority credit attached to a distribution made by the Maori authority.

Table reference

(2) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 2 (distribution).

Debit date

(3) The debit date is the day the distribution is made.

Defined in this Act: amount, distribution, Maori authority, Maori authority credit, Maori authority debit

Compare: 2004 No 35 s MK 5(1)(a), (2)(a)

OK 11 MACA transfer of excess tax to other Maori authorities

Debit

(1) A Maori authority has a Maori authority debit for a transfer of excess tax to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) (Wholly-owned groups of companies).

Table reference

(2) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 3 (transfer to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)), row 3B (transfer to another Maori authority under section 173M of the Tax Administration Act 1994) or section RC 32(5)(b), and row 3C (transfer to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)).

Debit date

(3) The debit date for a transfer of excess tax in a tax year (the **transfer year**) to another Maori authority under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b) is—

(a) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer if that date is in the transfer year; or

(b) despite section 173L(2)(a) to (bb) of that Act, the day on which the request for the transfer is made, if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act or section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or

(c) the day of the transfer under section 173M of that Act or section RC 32(5)(b), if the requirements of neither paragraph (a) nor paragraph (b) are met.

Defined in this Act: amount, Commissioner, company, Maori authority, Maori authority debit, notify, provisional tax

Compare: 2004 No 35 s MK 5(1)(b), (2)(b)

Section OK 11 heading: replaced, on 30 March 2022, by section 143(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 11(1): replaced, on 30 March 2022, by section 143(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 11(2): amended, on 30 March 2022, by section 143(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 11(3): replaced, on 30 March 2022, by section 143(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

OK 12 MACA refund of income tax or transfer of excess tax to period or tax type

Debit

(1) A Maori authority has a Maori authority debit for the amount of a refund of income tax paid to the Maori authority or for a transfer of excess tax to another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994.

No debit

(2) The amount of a debit under subsection (1) does not include—

(a) a refund of income tax paid for a tax year before the 2004–05 tax year; or

(b) a refund of income tax paid to the Maori authority that is no more than the debit under section OK 15; or

(c) a refund of income tax paid for a period when the Maori authority credit account was not maintained.

Table references

(3) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 4 (refund of income tax), row 4B (transfer from MACA under section 173L of the Tax Administration Act 1994), row 4C (transfer from MACA under section 173L of the Tax Administration Act 1994), and row 4D (transfer from MACA under section 173L of the Tax Administration Act 1994). The Maori authority debit in subsection (2)(b) is referred to in table O18: Maori authority debits, row 7 (debit for loss of shareholder continuity).

Part-year Maori authorities

(4) If a Maori authority maintains a Maori authority credit account for only part of a tax year, the amount of the debit is calculated using the formula—

(account days ÷ 365) × refund.

Definition of items in formula

(5) In the formula,—

(a) **account days** is the number of days in the tax year for which the Maori authority maintains the Maori authority credit account:

(b) **refund** is the amount of the refund.

Debit date

(6) The debit date for—

(a) a refund of income tax is the day the refund is made; or

(b) an amount of excess tax transferred in a tax year (the **transfer year**) to another period or tax type of the Maori authority under section 173L of the Tax Administration Act 1994, is—

(i) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the transfer year; or

(ii) despite section 173L(2)(a) to (bb) of that Act, the date of the request for the transfer, if that date is in the tax year following the transfer year and, at the end of the transfer year, the credit in the MACA from which the amount is transferred equals or exceeds the amount of all transfers from that account requested in the tax year under section 173L or 173M of that Act and section RC 32(5)(b), and the MACA to which the transfer is made is in credit; or

(iii) the date of the transfer under section 173L of that Act, if the requirements of neither subparagraph (i) nor subparagraph (ii) are met.

Relationship with section OK 14B

(7) This section does not apply to an amount that gives rise to a debit under section OK 14B.

Defined in this Act: amount, income tax, Maori authority, Maori authority credit account, Maori authority debit, pay, tax year

Compare: 2004 No 35 s MK 5(1)(c), (g), (2)(c)

Section OK 12 heading: replaced, on 30 March 2022, by section 144(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 12(1): replaced, on 30 March 2022, by section 144(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 12(3): amended, on 30 March 2022, by section 144(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 12(6): replaced, on 30 March 2022, by section 144(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OK 12(7) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 441(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OK 12(7): added (with effect on 1 April 2008), on 6 October 2009, by section 441(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OK 13 MACA payment of other taxes

Debit

(1) A Maori authority has a Maori authority debit for an amount of overpaid income tax applied to pay an amount due under the Inland Revenue Acts. Subsection (2) overrides this subsection.

No debit

(2) The amount of a debit under subsection (1) does not include an amount of overpaid income tax—

(a) applied to satisfy a liability for income tax or provisional tax; or

(b) paid for a tax year before the 2004–05 tax year; or

(c) that relates to income tax paid before a Maori authority debit arises under section OK 15 when the amount is no more than the amount of the debit for loss of shareholder continuity.

Table references

(3) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 5 (payment of other taxes). The Maori authority debit in subsection (2)(c) is referred to in table O18: Maori authority debits, row 7 (debit for loss of shareholder continuity).

Debit date

(4) The debit date is the day the amount is applied.

Relationship with section OK 14B

(5) This section does not apply to an amount that gives rise to a debit under section OK 14B.

Defined in this Act: amount, income tax, income tax liability, income year, Inland Revenue Acts, Maori authority, Maori authority debit, pay, provisional tax, shareholder, tax year

Compare: 2004 No 35 s MK 5(1)(j), (2)(i)

Section OK 13(5) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 442(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OK 13(5): added (with effect on 1 April 2008), on 6 October 2009, by section 442(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OK 14 MACA refund of FDP

[Repealed]

Section OK 14: repealed, on 1 April 2017, by section 223 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OK 14B MACA refund of tax credit

Debit

(1) A Maori authority has a Maori authority debit for—

(a) the amount of a transfer under section LA 6(2)(d) (Remaining refundable credits: PAYE, RWT, and certain other items) to the extent to which the transfer does not lead to a refund of income tax:

(b) the amount of a refund to the authority under section LA 6(2)(e).

(c) *[Repealed]*

Exclusion

[Repealed]

(2) *[Repealed]*

Table reference

(3) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 6B (refund of tax credit).

Debit date

(4) The debit date is—

(a) for a debit referred to in subsection (1)(a), the day the amount is transferred:

(b) for a debit referred to in subsection (1)(b), the day the amount is refunded.

(c) *[Repealed]*

Defined in this Act: amount, Inland Revenue Acts, Maori authority, Maori authority debit, pay

Section OK 14B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 443(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OK 14B(1)(c): repealed (with effect on 1 April 2009), on 30 March 2017, by section 224(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OK 14B(2) heading: repealed, on 1 April 2017, pursuant to section 224(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OK 14B(2): repealed, on 1 April 2017, by section 224(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OK 14B(4)(c): repealed (with effect on 1 April 2009), on 30 March 2017, by section 224(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OK 14B list of defined terms **FDPA company**: repealed, on 1 April 2017, by section 224(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OK 15 MACA debit for loss of shareholder continuity

Debit

(1) A Maori authority has a Maori authority debit for the amount of a Maori authority credit retained in the Maori authority credit account and unused at the time at which shareholder continuity is lost.

Table reference

(2) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 7 (debit for loss of shareholder continuity).

When debit arises

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

Defined in this Act: amount, company, Maori authority, Maori authority credit, Maori authority credit account, Maori authority debit, shareholder

Compare: 2004 No 35 s MK 5(1)(f), (2)(f)

Section OK 15(1): amended (with effect on 1 April 2008), on 7 December 2009, by section 93(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OK 15(3) heading: amended (with effect on 1 April 2008), on 7 December 2009, by section 93(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OK 15(3): amended (with effect on 1 April 2008), on 7 December 2009, by section 93(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

OK 16 MACA breach of Maori authority credit ratio

Debit

(1) A Maori authority has a Maori authority debit for a breach in a tax year of the Maori authority credit ratio under section OK 20(3) for an amount calculated using the formula—

(net distributions × Maori authority credit ratio) − credits attached.

Definition of items in formula

(2) In the formula,—

(a) **net distributions** is the total amount of all taxable Maori authority distributions made by the Maori authority during the tax year, excluding the amount of Maori authority credits attached to the distributions:

(b) **Maori authority credit ratio** is the maximum permitted ratio calculated under section OA 18(2) (Calculation of maximum permitted ratios) or, if less, the greatest Maori authority credit ratio of all taxable Maori authority distributions made by the Maori authority during the tax year:

(c) **credits attached** is the total amount of all Maori authority credits attached to distributions paid by the Maori authority during the tax year.

Ratio change declaration

(3) A debit under subsection (1) does not arise if the Maori authority provides a ratio change declaration under section OK 20(5).

Table reference

(4) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 8 (breach of Maori authority credit ratio).

Debit date

(5) The debit date is the last day of the tax year.

Defined in this Act: amount, distribution, Maori authority, Maori authority credit, Maori authority credit account, Maori authority credit ratio, Maori authority debit, tax year, taxable Maori authority distribution

Compare: 2004 No 35 ss MK 5(1)(d), (2)(d), MK 7(5)

OK 17 MACA tax advantage arrangement

Debit

(1) A Maori authority has a Maori authority debit for the amount of a further debit for a tax advantage arrangement referred to in section GB 43(2) and (3) (Reconstruction of Maori authority credit arrangements to obtain tax advantage).

Table reference

(2) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 9 (tax advantage arrangement).

Debit date

(3) The debit date is the last day of the tax year in which the tax advantage arrangement began.

Defined in this Act: amount, arrangement, Maori authority, Maori authority credit account, Maori authority debit, tax advantage, tax year

Compare: 2004 No 35 s MK 5(1)(h), (2)(g)

OK 18 MACA final balance

Debit

(1) A Maori authority has a Maori authority debit for a credit balance in the Maori authority credit account when the Maori authority stops being a Maori authority.

Table reference

(2) The Maori authority debit in subsection (1) is referred to in table O18: Maori authority debits, row 10 (final balance).

Debit date

(3) The debit date is day the Maori authority stops being a Maori authority.

Defined in this Act: Maori authority, Maori authority credit account, Maori authority debit

Compare: 2004 No 35 s MK 5(1)(i), (2)(h)

Maori authority credits attached to distributions

OK 19 Maori authority credits attached to distributions

Attaching Maori authority credits

(1) When a Maori authority makes a taxable Maori authority distribution, it may attach a Maori authority credit to the distribution.

Maori authority credit ratio

(2) A distribution referred to in subsection (1) must have a Maori authority credit ratio calculated using the formula—

credit attached ÷ net distribution.

Definition of items in formula

(3) In the formula,—

(a) **credit attached** is the amount of Maori authority credit attached to the distribution:

(b) **net distribution** is the amount of distribution made, excluding the amount of Maori authority credit.

Maximum permitted ratio

(4) A Maori authority credit attached to a distribution must not be more than the maximum permitted ratio calculated under section OA 18(2) (Calculation of maximum permitted ratios).

Co-operative companies

(5) A Maori authority that is also a co-operative company may attach a Maori authority credit to a notional distribution. The provisions of section OB 79 (Co-operative companies attaching imputation credits to notional distributions) apply to the notional distribution as if references in that section to—

(a) an imputation credit were a reference to a Maori authority credit; and

(b) an imputation credit account were a reference to a Maori authority credit account.

Retrospective attachment

(6) A Maori authority may retrospectively attach a Maori authority credit to a taxable Maori authority distribution arising from an adjustment, under section GC 7 or GC 8 (which relate to transfer pricing arrangements), of the amount of a distribution that would have been a non-cash dividend if made by a company.

Application of other provisions

(7) The provisions of section OB 62 (Retrospective attachment of imputation credits) apply to a distribution referred to in subsection (6) as if a reference in that section to—

(aa) an ICA company were a reference to the Maori authority; and

(a) an imputation credit were a reference to a Maori authority credit; and

(b) an imputation credit account were a reference to a Maori authority credit account.

Defined in this Act: amount, co-operative company, ICA company, imputation credit, imputation credit account, Maori authority, Maori authority credit, Maori authority credit account, Maori authority credit ratio, maximum permitted ratio, non-cash dividend, taxable Maori authority distribution

Compare: 2004 No 35 ss MK 6, MK 7(1)

Section OK 19(6): amended (with effect on 1 April 2008), on 23 March 2020, by section 168(1) (and see section 168(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section OK 19(7): amended (with effect on 1 April 2008), on 23 March 2020, by section 168(2) (and see section 168(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section OK 19(7)(aa): inserted (with effect on 1 April 2008), on 23 March 2020, by section 168(3) (and see section 168(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section OK 19 list of defined terms **ICA company**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 168(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section OK 19 list of defined terms **non-cash dividend**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 168(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

OK 20 MACA benchmark distribution rules

When this section applies

(1) This section applies when a Maori authority pays a taxable Maori authority distribution on more than 1 occasion during a tax year.

Benchmark distribution

(2) The first distribution of the tax year is the benchmark distribution.

Same Maori authority credit ratio

(3) The Maori authority credit ratio of a distribution made after the benchmark distribution must be the same as the Maori authority credit ratio of the benchmark distribution.

Debit for breach of Maori authority credit ratio

(4) A breach of subsection (3) gives rise to a Maori authority debit under section OK 16 (table O18: Maori authority debits, row 8 (breach of Maori authority credit ratio)) for an amount calculated using the formula in section OK 16(1).

Ratio change declaration

(5) A Maori authority may notify the Commissioner that the distribution is not part of an arrangement to obtain a tax advantage by providing a ratio change declaration stating that the distribution is not part of an arrangement to which sections GB 35 and GB 36 (which relate to imputation arrangements to obtain a tax advantage) apply. The Maori authority must provide the declaration before the distribution is made, or by a later date if the Commissioner allows. For the purposes of this subsection, the distribution must not be part of an

arrangement to obtain a tax advantage. This subsection overrides subsection (4).

Defined in this Act: amount, arrangement, benchmark distribution, Commissioner, Maori authority, Maori authority credit ratio, Maori authority debit, notify, pay, tax advantage, tax year, taxable Maori authority distribution

Compare: 2004 No 35 s MK 7(2)–(4)

Further income tax

OK 21 Further income tax for closing debit balance

Liability

(1) A Maori authority is liable to pay further income tax for the amount of a debit balance in its Maori authority credit account at the end of a tax year.

Due date

(2) The Maori authority must pay the further income tax to the Commissioner no later than 20 June following the end of the tax year.

Application of other provisions

(3) When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—

(a) apply to further income tax as if they addressed further income tax and not income tax; and

(b) apply, modified as necessary, to ensure their application to the further income tax rather than income tax; and

(c) do not override the imputation rules and section 101 of the Tax Administration Act 1994.

Defined in this Act: amount, Commissioner, further income tax, imputation rules, income tax, Maori authority, Maori authority credit account, pay, tax year

Compare: 2004 No 35 s MK 8(1), (2), (6)

OK 22 Further income tax paid when Maori authority no longer Maori authority

Liability

(1) A Maori authority is liable to pay further income tax for a debit balance in its Maori authority credit account immediately before the Maori authority stops being a Maori authority.

Due date

(2) The Maori authority must pay the further income tax to the Commissioner by the day on which the Maori authority stops being a Maori authority.

Paramount section

(3) A Maori authority that stops being a Maori authority on the last day of a tax year is liable for further income tax under this section and not under section OK 21.

Application of other provisions

(4) When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—

(a) apply to further income tax as if they addressed further income tax and not income tax; and

(b) apply, modified as necessary, to ensure their application to the further income tax rather than income tax; and

(c) do not override the imputation rules and section 101 of the Tax Administration Act 1994.

Defined in this Act: Commissioner, further income tax, imputation rules, income tax, Maori authority, Maori authority credit account, pay, tax year

Compare: 2004 No 35 s MK 8(3), (4), (6)

OK 23 Further income tax paid satisfying liability for income tax

Election

(1) A Maori authority that is liable for income tax or provisional tax may choose to satisfy the liability through a payment of further income tax.

Requirements

(2) The liability referred to in subsection (1) must be for an income year corresponding to a tax year in which the Maori authority maintains a Maori authority credit account.

When treated as paid

(3) The income tax or provisional tax is treated as paid on the day the further income tax is paid to the Commissioner.

Defined in this Act: Commissioner, further income tax, income tax, income year, Maori authority, Maori authority credit account, pay, provisional tax, tax year

Compare: 2004 No 35 s MK 8(5)

OK 24 Income tax paid satisfying liability for further income tax

Election

(1) A Maori authority that is liable for further income tax may choose to satisfy the liability through a payment of income tax.

Requirements

(2) The liability referred to in subsection (1) must be for an income year corresponding to a tax year in which the Maori authority maintains a Maori authority credit account.

When treated as paid

(3) The further income tax is treated as paid on the day the income tax is paid to the Commissioner.

Defined in this Act: Commissioner, further income tax, income tax, income year, Maori authority, Maori authority credit account, pay, tax year

Compare: 2004 No 35 s MK 8(5B)

Table O17: Maori authority credits

Row	Maori authority credit	Credit date	Further defined
1	*[Repealed]*		
2	Provisional tax and income tax paid	day of payment	section OK 2(4)(a)
2B	Transfer to MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 2(4)(b)(i)
2C	Transfer to MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 2(4)(b)(ii)
2D	Transfer to MACA under section 173L of the Tax Administration Act 1994	date under section 173L of transfer	section OK 2(4)(b)(iii)
3	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 3(4)(a)(i)
3B	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 3(4)(a)(ii)
3C	Transfer to MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date under section 173M or RC 32(5)(b) of transfer	section OK 3(4)(b)
4	Further income tax paid	day of payment	section OK 4
4B	*[Repealed]*		
5	Maori authority credit attached to distribution derived	day on which distribution is paid	section OK 5
6	Imputation credit attached to dividend derived	day on which dividend is paid	section OK 6
6B	Attributed PIE income with imputation credit	day of attribution	section OK 6B
6C	Research and development tax credits	day on which return of income for income year is filed	section OK 6C
7	*[Repealed]*		
8	RWT withheld	day on which amount withheld	section OK 8
9	Reversal of debit for tax advantage arrangement	debit date for debit	section OK 9

Table O17 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O17 row 2: replaced, on 30 March 2022, by section 145(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O17 row 2B: inserted, on 30 March 2022, by section 145(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O17 row 2C: inserted, on 30 March 2022, by section 145(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O17 row 2D: inserted, on 30 March 2022, by section 145(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O17 row 3: replaced, on 30 March 2022, by section 145(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O17 row 3B: inserted, on 30 March 2022, by section 145(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O17 row 3C: inserted, on 30 March 2022, by section 145(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O17 row 4B: repealed (with effect on 1 April 2009), on 30 March 2017, by section 225(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O17 row 6B: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 118(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Table O17 row 6C: inserted, on 1 April 2019, by section 16 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Table O17 row 7: repealed, on 1 April 2017, by section 225(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O18: Maori authority debits

Row	Maori authority debit	Debit date	Further defined
1	*[Repealed]*		
2	Maori authority credit attached to distribution paid	day of distribution	section OK 10
3	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 11(3)(a)
3B	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date of request for transfer	section OK 11(3)(b)
3C	Transfer from MACA under section 173M of the Tax Administration Act 1994 or section RC 32(5)(b)	date under section 173M or RC 32(5)(b) of transfer	section OK 11(3)(c)
4	Refund of income tax	day of refund	section OK 12(6)(a)
4B	Transfer from MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 12(6)(b)(i)
4C	Transfer from MACA under section 173L of the Tax Administration Act 1994	date of request for transfer	section OK 12(6)(b)(ii)
4D	Transfer from MACA under section 173L of the Tax Administration Act 1994	date under section 173L of transfer	section OK 12(6)(b)(iii)
5	Overpaid income tax applied to satisfy another taxation liability	day of application	section OK 13
6	*[Repealed]*		
6B	Transfer, refund, or use of tax credit	day of transfer, refund, or use	section OK 14B
7	Debit for loss of shareholder continuity for Maori authority that is company	time of loss of continuity	section OK 15
8	Debit for breach of Maori authority credit ratio	31 March	section OK 16
9	Debit for tax advantage arrangement	last day of tax year in which arrangement began	section OK 17
10	Credit balance when Maori authority credit account stops	day of cessation	section OK 18

Table O18 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O18 row 3: replaced, on 30 March 2022, by section 146(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O18 row 3B: inserted, on 30 March 2022, by section 146(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O18 row 3C: inserted, on 30 March 2022, by section 146(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O18 row 4: replaced, on 30 March 2022, by section 146(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O18 row 4B: inserted, on 30 March 2022, by section 146(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O18 row 4C: inserted, on 30 March 2022, by section 146(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O18 row 4D: inserted, on 30 March 2022, by section 146(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Table O18 row 6: repealed, on 1 April 2017, by section 226 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O18 row 6B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 444(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O18 row 7: amended (with effect on 1 April 2008), on 7 December 2009, by section 94 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Subpart OP—Memorandum accounts of consolidated groups

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[Repealed]

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[Repealed]

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FDP credits of consolidated FDP groups

[Repealed]

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[Repealed]

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[Repealed]

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[Repealed]

Consolidated groups and CTR credits

[Repealed]

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[Repealed]

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CTR credits of consolidated groups

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[Repealed]

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[Repealed]

Introductory provisions

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Branch equivalent tax credits of consolidated BETA groups

[Repealed]

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[Repealed]

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Table O27: policyholder credits of consolidated groups

[Repealed]

Table O28: policyholder debits of consolidated groups

[Repealed]

Introductory provisions

OP 1 Memorandum accounts of consolidated groups

Single company

(1) For the purposes of this Part, a consolidated group is treated as if it were a single company, and subpart FM (Consolidated groups of companies) applies to the consolidated group.

Consolidated group accounts

(2) A consolidated group may be—

(a) required to maintain a memorandum account for a tax year; or

(b) entitled to maintain a memorandum account for a tax year.

Separate accounts

(3) A consolidated group's memorandum account is separate from the memorandum account of each company in the consolidated group.

General rules

(4) The general rules on memorandum accounts set out in sections OA 2 and OA 3 (which relate to the treatment of memorandum accounts) apply to a memorandum account of a consolidated group.

Tables

(5) The credits and debits that arise in a memorandum account are listed in tables set out at the end of this subpart. The tables—

(a) state the credits and the debits; and

(b) state the credit dates and debit dates when the credits and debits arise; and

(c) refer to the section that fully defines them, and provides the credit dates and debit dates for each credit and debit.

Defined in this Act: company, consolidated group, memorandum account, tax year

Compare: 2004 No 35 ss ME 10, ME 25, MF 7(2), MG 13, MI 14

OP 2 When credits and debits arise only in group accounts

Credits only in group account

(1) A credit may arise only in the memorandum account of a consolidated group and not in the memorandum account of a group company, unless another provision expressly states otherwise.

Debits only in group account

(2) A debit may arise only in the memorandum account of a consolidated group and not in the memorandum account of a group company, unless another provision expressly states otherwise.

Particular credits and debits

(3) The credit referred to in subsection (1) and the debit referred to in subsection (2) are listed in provisions in this subpart.

Company's obligation overridden

(4) This section applies despite—

(a) the obligation that a group company may have under this Part to record a credit or debit; and

(b) the fact that the credit and debit referred to in this section may otherwise be eligible to give rise to a credit or debit in the group company's account.

Defined in this Act: company, consolidated group, memorandum account

Compare: 2004 No 35 ss ME 13, ME 27, MF 9, MG 16, MI 19

Consolidated groups and imputation credit accounts

Introductory provisions

OP 3 Changes in consolidated imputation groups

New group company

(1) A consolidated group that is a consolidated imputation group continues to have the same imputation credit account if the group starts an imputation group with a company that is not part of another consolidated group.

Combining consolidated imputation groups

(2) The companies that are part of 2 or more consolidated imputation groups that choose to combine to form 1 imputation group must record in the imputation credit account of the new group—

(a) all credits and debits in the imputation credit accounts of the 2 groups immediately before the election takes effect; and

(b) all credits and debits that arise for a group company that is part of the new group on and after the election takes effect.

Imputation group becoming consolidated group

(3) An imputation group continues to use its imputation credit account if the companies that are part of the imputation group choose to convert their status to that of a consolidated group that is a consolidated imputation group.

Opening balances

(4) The opening balance for a tax year for the imputation credit account of the consolidated imputation group is determined as follows:

(a) for an imputation group to which subsection (2) applies, the opening balance is equal to the amount that is the sum of the opening balances of each imputation group that is part of the consolidated imputation group:

(b) for an imputation group to which subsection (3) applies, the opening balance is the amount that is the sum of the opening balances of the imputation groups that chose to convert their status.

Defined in this Act: amount, company, consolidated group, consolidated imputation group, imputation credit account, imputation group, tax year

Compare: 2004 No 35 s ME 10(1A), (1B), (1D)

Section OP 3(4): replaced, on 29 March 2018 (with effect on 1 April 2008), by section 171(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OP 3 list of defined terms **amount**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 171(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OP 3 list of defined terms **tax year**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 171(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

OP 4 Resident imputation subgroups

Subgroup of trans-Tasman imputation group

(1) The resident imputation subgroup of a trans-Tasman imputation group must record in its imputation credit account the credits and debits described in subsection (2).

Eligible credits and debits

(2) The credits and debits referred to in subsection (1) are those that arise in the imputation credit account of the subgroup's trans-Tasman imputation group in relation to a company that—

(a) will be part of the subgroup if the credit or debit arises before the subgroup is formed; or

(b) is part of the subgroup if the credit or debit arises when or after the subgroup is formed.

Opening balances

(3) The opening balance of the imputation credit account is an amount equal to the sum of the opening balances of each company that is part of the resident imputation subgroup.

Defined in this Act: amount, company, imputation credit account, imputation group, resident imputation subgroup, trans-Tasman imputation group

Compare: 2004 No 35 s ME 10(1C)

Section OP 4(3) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 172(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OP 4(3): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 172(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OP 4 list of defined terms **amount**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 172(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

OP 5 When credits and debits arise only in consolidated imputation group accounts

Credits only in group account

(1) A credit listed in subsection (2) arises only in the imputation credit account of a consolidated imputation group and not in the imputation credit account of a group company.

Particular credits

(2) The credit referred to in subsection (1) is a credit under the following sections and described in the following rows of table O19: imputation credits of consolidated imputation groups:

(a) section OP 7, row 2 (payment of tax):

(b) section OP 8, row 3 (deposit in tax pooling account):

(bb) section OP 11C, row 6C (Research and development tax credits):

(c) section OP 12, row 7 (dividend derived with imputation credit).

(d) *[Repealed]*

(e) *[Repealed]*

Debits only in the group account

(3) A debit listed in subsection (4) arises only in the imputation credit account of a consolidated imputation group and not in the imputation credit account of a group company.

Particular debits

(4) The debit referred to in subsection (3) is a debit under the following sections and described in the following rows of table O20: imputation debits of consolidated imputation groups:

(a) section OP 28, row 2 (payment of dividend):

(b) section OP 30, row 4 (refund of income tax):

(c) section OP 32, row 6 (refund from tax pooling account):

(d) section OP 33, row 7 (transfer within tax pooling account):

(db) section OP 33B, row 7B (debit for transfer from tax pooling account for policyholder base liability):

(e) *[Repealed]*

(f) section OP 35, row 9 (refund of tax credit):

(g) section OP 37, row 11 (group company's debit):

(h) section OP 39, row 13 (replacement payment under share-lending arrangement):

(i) section OP 40, row 14 (returning share transfer):

(j) section OP 41, row 15 (credit transfer):

(k) section OP 43, row 17 (breach of imputation ratio):

(l) section OP 44, row 18 (debit for policyholder base imputation credits).

Defined in this Act: company, consolidated imputation group, imputation credit, imputation credit account, imputation debit

Compare: 2004 No 35 s ME 12(1)

Section OP 5(2)(bb): replaced, on 1 April 2019, by section 17 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section OP 5(2)(c): amended, on 1 April 2017, by section 227(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 5(2)(d): repealed, on 1 April 2017, by section 227(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 5(2)(e): repealed (with effect on 1 April 2009), on 6 October 2009, by section 445(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 5(4)(d): amended (with effect on 1 April 2008), on 7 September 2010, by section 105 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OP 5(4)(db): inserted, on 1 July 2010, by section 445(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 5(4)(e): repealed, on 1 April 2017, by section 227(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 5(4)(k): amended, on 1 July 2010, by section 445(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 5(4)(l): added, on 1 July 2010, by section 445(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 6 Provisions applying to consolidated imputation groups

Single company, tax liabilities

(1) The provisions listed in subsection (2) apply, modified as necessary, to a consolidated imputation group and to the imputation credit account of the group as if—

(a) the group were a single company; and

(b) a reference to a company's liability for further income tax, late payment penalty, or imputation penalty tax were a reference to a joint and several liability owed by group companies when the tax or penalty becomes payable.

Other provisions

(2) The provisions are—

(a) section OB 61 (ICA benchmark dividend rules); and

(ab) sections OB 65 and OB 66 (which relate to further income tax); and

(ac) sections OB 71 and OB 72 (which relate to imputation additional tax); and

(b) sections 97, 101, 139B, 140B, 140D, and 180 of the Tax Administration Act 1994.

Consolidation provisions

(3) Sections FM 4 and FM 5 (which relate to the liabilities of group companies) override subsection (1)(b).

Tax advantage arrangements and determinations

(4) Sections GB 35 and GB 36 (which relate to tax advantage arrangements), LE 1(5) (Tax credits for imputation credits), OA 2(5) (Memorandum accounts), and sections 90AF and 104B of the Tax Administration Act 1994 apply, modified as necessary, in a case that involves accounts of a consolidated imputation group as if—

(a) the group were a single company; and

(b) references to the provisions of this Act or the Tax Administration Act 1994 were references to the equivalent provisions applicable to the equivalent accounts.

Refunds for overpaid amounts

(5) Sections RM 13 to RM 17, RM 32, and RZ 6 (which relate to limits on refunds) apply, modified as necessary, in relation to income tax paid by a consolidated imputation group as if—

(a) the group were a single company; and

(b) a reference to that company when it stops being an ICA company were a reference to the consolidated group when it stops being a consolidated imputation group; and

(c) references to the provisions of this Act or the Tax Administration Act 1994 were references to the equivalent provisions applicable to the equivalent accounts.

Limits on refunds

(6) Despite subsection (5), sections RM 13 to RM 17, RM 32, and RZ 6 do not apply to limit a refund payable to a company that is part of a consolidated imputation group in relation to income tax paid individually by the company to the extent to which those sections would not have limited the refund if it had been a refund payable to the group in relation to income tax paid by the group. However, if an amount is refunded and would not have been payable but for this subsection, section RM 15(1) (Changes in credit balances) applies as if the refund were made in relation to income tax paid by the group.

Applying for refunds

(7) If a company that is part of an imputation group is entitled to a refund under section RM 2, RM 4, or RM 5 (which relate to refunds for overpaid income tax), the company must apply for a refund by notifying the Commissioner. Sections RM 13 to RM 17, RM 32, and RZ 6 apply to the entitlement as if—

(a) the imputation credit account of the group were the imputation credit account of the company:

(b) a credit in the imputation credit account for the purposes of those sections were reduced by the amount of a refund to a company that is part of the group.

Defined in this Act: apply, Commissioner, company, consolidated group, consolidated imputation group, further income tax, ICA company, imputation additional tax, imputation credit account, imputation group, imputation penalty tax, income tax, notify, pay, tax

Compare: 2004 No 35 s ME 14(3)

Section OP 6(2)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 446(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(2)(ab): inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(2)(ac): inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(4) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(4): added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(5) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(5): added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(6) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(6): added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(7) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(7): added (with effect on 1 April 2008), on 6 October 2009, by section 446(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6(7): amended (with effect on 1 April 2013), on 17 July 2013, by section 83 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section OP 6 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section OP 6 list of defined terms **Commissioner**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6 list of defined terms **consolidated group**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6 list of defined terms **ICA company**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6 list of defined terms **imputation additional tax**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6 list of defined terms **imputation group**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6 list of defined terms **income tax**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6 list of defined terms **notify**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 6 list of defined terms **tax**: added (with effect on 1 April 2008), on 6 October 2009, by section 446(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Imputation credits of consolidated imputation groups

OP 7 Consolidated ICA payment of tax

Credit

(1) A consolidated imputation group has an imputation credit for a payment of income tax. Subsection (3) overrides this subsection.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 2 (payment of tax).

No credit

(3) A consolidated imputation group does not have an imputation credit for an amount of—

(a) income tax paid as a trustee, unless paid on category A income; or

(b) a transfer from a tax pooling account to a tax account with the Commissioner; or

(c) income tax paid on income derived by a company that is not an imputation credit account (ICA) company; or

(d) income tax paid by a life insurer to satisfy its schedular income tax liability for schedular policyholder base income; or

(e) income tax paid under section LE 1 (Tax credits for imputation credits) by crediting an imputation credit; or

(f) *[Repealed]*

(fb) *[Repealed]*

(g) income tax paid by crediting an amount under subpart LP (Tax credits for supplementary dividends); or

(gb) income tax paid by crediting a research and development tax credit against income tax liability; or

(h) further income tax applied under section OB 65 or OB 66 (which relate to further income tax) to pay income tax or provisional tax; or

(i) income tax paid by crediting further income tax under section OB 69(3) (Further income tax paid satisfying liability for income tax).

Credit date

(4) The credit date is the day the tax is paid.

Defined in this Act: amount, category A income, Commissioner, company, consolidated imputation group, further income tax, ICA company, imputation credit, imputation credit account, income, income tax, life insurer, pay, provisional tax, research and development tax credit, schedular income tax liability, schedular policyholder base income, tax account with the Commissioner, tax pooling account, tax year, trustee

Compare: 2004 No 35 s ME 11(1)(a), (2)(a)

Section OP 7(3)(d): substituted, on 1 July 2010, by section 447(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 7(3)(f): repealed, on 1 April 2017, by section 228(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 7(3)(fb): repealed (with effect on 1 April 2009), on 30 March 2017, by section 228(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 7(3)(gb): inserted, on 1 April 2019, by section 18(1) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section OP 7 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 228(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 7 list of defined terms **policyholder base income tax liability**: repealed, on 1 July 2010, by section 447(3)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 7 list of defined terms **research and development tax credit**: inserted, on 1 April 2019, by section 18(2) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section OP 7 list of defined terms **schedular income tax liability**: inserted, on 1 July 2010, by section 447(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 7 list of defined terms **schedular policyholder base income**: inserted, on 1 July 2010, by section 447(3)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 8 Consolidated ICA deposit in tax pooling account

Credit

(1) A consolidated imputation group has an imputation credit for an amount provided by it and paid by an intermediary into a tax pooling account.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 3 (deposit in tax pooling account).

Credit date

(3) The credit date is the day the amount is deposited.

Defined in this Act: amount, consolidated imputation group, imputation credit, intermediary, pay, tax pooling account

Compare: 2004 No 35 s ME 11(1)(aa), (2)(aa)

OP 9 Consolidated ICA transfer from tax pooling account

Credit

(1) A consolidated imputation group has an imputation credit for an amount representing an entitlement to funds held in a tax pooling account if the intermediary transfers the entitlement from another person to the group.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 4 (transfer from tax pooling account).

Credit date

(3) The credit date is,—

(a) for an entitlement to funds that are transferred by the intermediary from the tax pooling account to the group's tax account with the Commissioner, the credit date under section RP 19 (Transfers from tax pooling accounts) for the amount transferred; or

(ab) for an entitlement to funds that are transferred by the intermediary from the tax pooling account to the Commissioner to satisfy a liability of the group that is an increased amount of tax under section RP 17B (Tax pooling accounts and their use) other than income tax, the date of the transfer; or

(b) for an entitlement to funds that are refunded by the intermediary from the tax pooling account to the group, the date of the refund; or

(c) for an entitlement that is transferred by the intermediary from the group to another person, the date of the transfer.

Defined in this Act: amount, Commissioner, consolidated imputation group, imputation credit, intermediary, tax account with the Commissioner, tax pooling account, transfer

Compare: 2004 No 35 s ME 11(1)(ab), (2)(ab)

Section OP 9(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 106(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OP 9(3): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 106(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OP 9(3)(ab): inserted (with effect on 6 October 2009), on 30 March 2017, by section 229 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 9 list of defined terms **transfer**: inserted, on 1 April 2025, by section 117 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

OP 10 Consolidated ICA allocation from company with overpaid provisional tax

Credit

(1) A consolidated imputation group has an imputation credit for an amount allocated under section RC 32 (Wholly-owned groups of companies) by a company that has overpaid its provisional tax.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 5 (allocation from excess company).

Credit date

(3) The credit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, imputation credit, notify

Compare: 2004 No 35 s ME 11(1)(b), (2)(b)

OP 11 Consolidated ICA payment of further income tax

Credit

(1) A consolidated imputation group has an imputation credit for an amount of further income tax paid under section OB 65 or OB 66 (which relate to further income tax).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 6 (payment of further income tax).

Credit date

(3) The credit date is the day the further income tax is paid.

Defined in this Act: amount, consolidated imputation group, further income tax, imputation credit, pay

Compare: 2004 No 35 s ME 11(1)(c), (2)(a)

OP 11BA Consolidated ICA payment of multinational top-up tax

Credit

(1) A consolidated imputation group has an imputation credit for an amount of multinational top-up tax paid under section HP 1 (Liability for multinational top-up tax) to the extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 6BA (multinational top-up tax paid for group tax liability).

Credit date

(3) The credit date is the day the multinational top-up tax is paid.

Defined in this Act: amount, consolidated imputation group, global anti-base erosion model rules, imputation credit, multinational top-up tax, pay

Section OP 11BA: inserted, on 1 January 2026, by section 110 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

OP 11B Consolidated ICA expenditure on research and development

[Repealed]

Section OP 11B: repealed (with effect on 1 April 2009), on 30 March 2017, by section 230 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 11C Consolidated ICA credit for research and development tax credit

Credit

(1) A consolidated imputation group has an imputation credit for the amount of research and development tax credit that a group company is entitled to.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 6C (Research and development tax credits).

Credit date

(3) The credit date is the date the group company files its return of income for the income year.

Defined in this Act: amount, company, consolidated imputation group, imputation credit, research and development tax credit

Section OP 11C: inserted, on 1 April 2019, by section 19 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

OP 12 Consolidated ICA dividend derived with imputation credit

Credit

(1) A consolidated imputation group has an imputation credit for the amount of an imputation credit attached to a dividend derived by a group company that is not a local authority.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 7 (dividend derived with imputation credit).

Credit date

(3) The credit date is the day the dividend is paid.

Defined in this Act: amount, company, consolidated imputation group, dividend, imputation credit, local authority, pay

Compare: 2004 No 35 s ME 11(1)(d), (2)(c)

Section OP 12(1): amended, on 1 April 2022, by section 147(1) (and see section 147(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OP 12 list of defined terms **local authority**: inserted, on 1 April 2022, by section 147(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

OP 13 Consolidated ICA dividend derived with FDP credit

[Repealed]

Section OP 13: repealed, on 1 April 2017, by section 231 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 14 Consolidated ICA payment of FDP

[Repealed]

Section OP 14: repealed (with effect on 30 June 2009), on 6 October 2009, by section 448(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 15 Consolidated ICA replacement payment to company under share-lending arrangement

Credit

(1) A consolidated imputation group has an imputation credit for the amount of an imputation credit attached under section OB 64 (Replacement payments) or treated as attached under section RE 25 (When amount of tax treated as imputation credit) to a replacement payment paid under a share-lending arrangement to a company that is part of the consolidated imputation group at the date of payment.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 10 (replacement payment under share-lending arrangement).

Credit date

(3) The credit date is the day the replacement payment is paid.

Defined in this Act: amount, company, consolidated imputation group, imputation credit, pay, replacement payment, share-lending arrangement

Compare: 2004 No 35 s ME 11(1)(eb), (ec), (2)(cb)

OP 16 Consolidated ICA credit transfer to company

Credit

(1) A consolidated imputation group has an imputation credit for the amount of an imputation credit shown in a credit transfer notice given to a company that is part of the consolidated imputation group when the notice is given.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 11 (credit transfer).

Credit date

(3) The credit date is the day the notice is given.

Defined in this Act: amount, company, consolidated imputation group, credit transfer notice, imputation credit

Compare: 2004 No 35 s ME 11(1)(ed), (2)(cc)

OP 16B Consolidated ICA credit transfer to departing consolidated imputation group for unused tax payment

Credit

(1) A consolidated imputation group (the **departing group**) that ceases to be a part of a consolidated imputation group (the **parent group**) may choose to have an imputation credit for the amount of an imputation debit that the parent group has under section OP 41C because, immediately before the departing group ceases to be part of the parent group, the imputation credit account of the parent group contains an imputation credit arising under section OP 7 or OP 8 from a payment (the **unused imputation credit payment**) that is made by the departing group when the departing group is part of the parent group and is held, unused, by the Commissioner or a tax pooling intermediary when the departing group ceases to be part of the parent group.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 11B (unused imputation credit payment by departing consolidated group before departure).

When credit arises

(3) The credit date is the day of the credit to the imputation credit account of the parent group for the unused imputation credit payment.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, ICA company, imputation credit, imputation credit account, imputation debit, income tax, pay, provisional tax, tax pooling intermediary

Section OP 16B: inserted (with effect on 1 April 2021), on 31 March 2023, by section 95(1) (and see section 95(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

OP 17 Consolidated ICA resident withholding tax withheld

Credit

(1) A consolidated imputation group has an imputation credit for resident withholding tax (RWT) that is treated under section RA 9(1)(b) (Treatment of amounts withheld as received) as derived by a group company other than as policyholder base income.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 12 (RWT withheld).

Credit date

(3) The credit date is the day the interest or dividend relating to the resident passive income is paid.

Defined in this Act: company, consolidated imputation group, dividend, imputation credit, interest, pay, policyholder base income, resident passive income, RWT

Compare: 2004 No 35 s ME 11(1)(j), (2)(c)

Section OP 17(1): amended, on 1 July 2010, by section 449(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 17 list of defined terms **policyholder base income**: inserted, on 1 July 2010, by section 449(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 18 Consolidated ICA transfer from group company's FDP account

[Repealed]

Section OP 18: repealed, on 1 April 2017, by section 232 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 19 Consolidated ICA transfer from group's FDP account

[Repealed]

Section OP 19: repealed, on 1 April 2017, by section 233 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 20 Consolidated ICA transfer from group company's policyholder credit account

[Repealed]

Section OP 20: repealed, on 1 July 2010, by section 450(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 21 Consolidated ICA transfer from group's policyholder credit account

[Repealed]

Section OP 21: repealed, on 1 July 2010, by section 451(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 22 Consolidated ICA transfer from group company's ICA

When this section applies

(1) This section applies when—

(a) the imputation credit account of a consolidated imputation group has an imputation debit described in a row of table O20: imputation debits of consolidated imputation groups; and

(b) the imputation credit account of a group company has a credit balance; and

(c) the credit balance referred to in paragraph (b) existed before the debit referred to in paragraph (a) arose in the imputation credit account of the group.

Election

(2) The nominated company of the consolidated imputation group may choose to transfer some or all of the credit balance in the imputation credit account of the group company to the imputation credit account of the group.

Restrictions

(3) The following restrictions apply to a transfer under subsection (2):

(a) the consolidated imputation group and the group company must meet the requirements of section OA 8 (Shareholder continuity requirements for memorandum accounts) for the carrying forward of imputation credits until the end of the day on which the debit referred to in subsection (1)(a) arises in the imputation credit account of the group:

(b) credits in the imputation credit accounts of the group and all group companies must be used to reduce the debit referred to in subsection (1)(a) in the order in which the credits arose:

(c) the total amount of the credit balances in the imputation credit accounts of companies in the group referred to in subsection (1)(a) that may be transferred to the imputation credit account of the group is limited to the amount of the imputation debit referred to in that paragraph.

How elections made

(4) The nominated company makes an election under subsection (2) by recording the amount of the credit balance that it chooses to transfer as—

(a) a debit in the group company's imputation credit account; and

(b) a credit in the group's imputation credit account.

Credit

(5) When the nominated company makes an election under subsection (2) for a group company, the consolidated imputation group has an imputation credit for the amount of the credit balance transferred.

Table reference

(6) The imputation credit in subsection (5) is referred to in table O19: imputation credits of consolidated imputation groups, row 17 (transfer from group company's ICA).

Credit date

(7) The credit date is the same as the debit date for the debit referred to in subsection (1)(a).

Defined in this Act: amount, company, consolidated imputation group, imputation credit, imputation credit account, imputation debit, nominated company

Section OP 22: replaced (with effect on 1 April 2008), on 30 March 2021, by section 126(1) (and see section 126(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

OP 23 Consolidated ICA elimination of double debit

When this section applies

(1) This section applies when an imputation debit in a consolidated imputation group's imputation credit account under section OP 42 has the effect of cancelling an imputation credit under section OP 8.

Credit

(2) The consolidated imputation group has an imputation credit for an amount that equals the amount of the debit referred to in subsection (1), and—

(a) another debit arises under section OP 32 for a refund of the deposit on a debit date that is after the debit date for the debit for loss of shareholder continuity; or

(ab) another debit arises under section OP 33 for a transfer to another person of the entitlement to the amount of the deposit on a debit date after the debit date for the debit for the loss of shareholder continuity; or

(b) the deposit is taken into account under sections RP 19 and RP 20 (which relate to transfers from tax pooling accounts) in determining the balance of the company's tax account with the Commissioner after the debit date for the debit for loss of shareholder continuity.

Table references

(3) The table references are as follows:

(a) the imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity):

(b) the imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 3 (deposit in tax pooling account):

(c) the imputation credit in subsection (2) is referred to in table O19: imputation credits of consolidated imputation groups, row 18 (elimination of double debit):

(d) the imputation debit in subsection (2)(a) is referred to in table O20: imputation debits of consolidated imputation groups, row 6 (refund from tax pooling account):

(e) the imputation debit in subsection (2)(ab) is referred to in table O20: imputation debits of consolidated imputation group, row 7 (transfer to another taxpayer of funds in tax pooling account).

Credit date

(4) The credit date is the day—

(a) the deposit is refunded; or

(ab) the entitlement is transferred; or

(b) a credit arises in the company's tax account with the Commissioner.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, deposit, imputation credit, imputation credit account, imputation debit, shareholder, tax account with the Commissioner

Compare: 2004 No 35 s ME 11(1A), (2A)

Section OP 23(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 234(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 23(2)(a): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 234(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 23(2)(ab): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 234(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 23(3)(e): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 234(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 23(4)(ab): inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 234(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 24 Consolidated ICA reversal of tax advantage arrangement

When this section applies

(1) This section applies when it is established that an imputation credit in a consolidated imputation group's imputation credit account was incorrectly determined to be the subject of an arrangement to obtain a tax advantage.

Credit

(2) The consolidated imputation group has an imputation credit for an amount equal to the amount of a debit in the group's account under section OP 46.

Table references

(3) The imputation credit in subsection (2) is referred to in table O19: imputation credits of consolidated imputation groups, row 19 (reversal of tax advantage arrangement). The imputation debit in subsection (2) is referred to in table O20: imputation debits of consolidated imputation groups, row 20 (tax advantage arrangement).

Credit date

(4) The credit date is the same as the debit date for the debit.

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation debit, tax advantage

Compare: 2004 No 35 s ME 11(1)(i), (2)(e)

OP 25 Consolidated ICA non-resident withholding tax withheld

Credit

(1) A consolidated imputation group that includes an Australian ICA company has an imputation credit for an amount of non-resident passive income derived by the company from which non-resident withholding tax (NRWT) is withheld.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 20 (NRWT paid).

Credit date

(3) The credit date is the day the amount of tax is withheld.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, non-resident passive income, NRWT, pay

Compare: 2004 No 35 s ME 11(1B)(a), (2B)(a)

OP 26 Consolidated ICA payment of amount of tax for schedular payment

Credit

(1) A consolidated imputation group that includes an Australian ICA company has an imputation credit for the amount of tax for a schedular payment paid to the company as a non-resident contractor.

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 21 (amount of tax for schedular payment).

Credit date

(3) The credit date is the day the amount of tax is withheld.

Defined in this Act: amount of tax, Australian ICA company, consolidated imputation group, imputation credit, non-resident contractor, schedular payment

Compare: 2004 No 35 s ME 11(1B)(b), (2B)(b)

OP 27 Consolidated ICA payment of schedular income tax liability

Credit

(1) A consolidated imputation group that includes an Australian ICA company has an imputation credit for the amount of a payment by the company of schedular income tax liability for income derived under section CR 3 (Income of non-resident general insurer) or CV 16 (Non-resident shippers).

Table reference

(2) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 22 (payment of schedular income tax liability).

Credit date

(3) The credit date is the day the schedular income tax liability is paid.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation credit account, income, pay, schedular income tax liability

Compare: 2004 No 35 s ME 11(1B)(c), (2B)(c)

Section OP 27 heading: amended (with effect on 1 April 2008), on 24 February 2016, by section 217(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 27(1): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 217(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 27(1): amended, on 2 November 2012, by section 135 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section OP 27(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 217(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 27(3): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 217(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 27 list of defined terms **schedular income tax**: repealed (with effect on 1 April 2008), on 24 February 2016, by section 217(5)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 27 list of defined terms **schedular income tax liability**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 217(5)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Imputation debits of consolidated imputation groups

OP 28 Consolidated ICA payment of dividend

Debit

(1) A consolidated imputation group has an imputation debit for an amount that equals the amount of an imputation credit attached to a dividend paid by a group company.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 2 (payment of dividend).

Debit date

(3) The debit date is the day the dividend is paid.

Arrangement for dividend from another country

(4) Section GB 38 (When sections GB 35 to GB 37 apply to consolidated groups) may apply to treat an amount as a debit under this section.

Defined in this Act: amount, company, consolidated imputation group, dividend, imputation credit, imputation debit, pay

Compare: 2004 No 35 s ME 12(1)(a), (2)(a)

OP 29 Consolidated ICA allocation of provisional tax

Debit

(1) A consolidated imputation group has an imputation debit for an amount of provisional tax allocated by the group under section RC 32 (Wholly-owned groups of companies) to an underpaid company.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 3 (allocation of provisional tax).

Debit date

(3) The debit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, imputation debit, notify, provisional tax

Compare: 2004 No 35 s ME 12(1)(c), (2)(c)

OP 30 Consolidated ICA refund of income tax

Debit

(1) A consolidated imputation group has an imputation debit for the amount of a refund of income tax or provisional tax paid to the group. Subsection (2) overrides this subsection.

No debit

(2) The debit in subsection (1) does not include—

(a) a refund of income tax paid by a life insurer to satisfy its schedular income tax liability for schedular policyholder base income; or

(b) a refund of income tax paid before a debit arises under section OP 42 to the extent to which the amount of the refund is less than the amount of the debit; or

(c) a refund of income tax or provisional tax paid to a local authority.

Table references

(3) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 4 (refund of income tax). The imputation debit in subsection (2)(b) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity).

Debit date

(4) The debit date is the day the refund is made.

Relationship with section OP 35

(5) This section does not apply to an amount that gives rise to a debit under section OP 35.

Defined in this Act: amount, consolidated imputation group, imputation debit, income tax, life insurer, local authority, pay, provisional tax, schedular income tax liability, schedular policyholder base income

Compare: 2004 No 35 s ME 12(1)(d), (2)(d)

Section OP 30(2) heading: substituted, on 1 July 2010, by section 452(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 30(2): substituted, on 1 July 2010, by section 452(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 30(2)(b): amended, on 1 April 2022, by section 148(1)(a) (and see section 148(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OP 30(2)(c): inserted, on 1 April 2022, by section 148(1)(b) (and see section 148(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OP 30(3): amended, on 1 July 2010, by section 452(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 30(5) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 452(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 30(5): added (with effect on 1 April 2008), on 6 October 2009, by section 452(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 30 list of defined terms **life insurer**: inserted, on 1 July 2010, by section 452(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 30 list of defined terms **local authority**: inserted, on 1 April 2022, by section 148(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OP 30 list of defined terms **schedular income tax liability**: added, on 1 July 2010, by section 452(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 30 list of defined terms **schedular policyholder base income**: added, on 1 July 2010, by section 452(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 31 Consolidated ICA amount applied to pay other taxes

Debit

(1) A consolidated imputation group has an imputation debit for—

(a) an amount of overpaid income tax applied to pay an amount due under the Inland Revenue Acts:

(b) an increased amount of tax as described in section RP 17B(3) (Tax pooling accounts and their use) applied to pay an amount due under the Inland Revenue Acts other than income tax.

No debit

(2) The debit referred to in subsection (1) does not include overpaid income tax to the extent to which it is—

(a) applied to satisfy an income tax liability; or

(b) for an amount paid before an imputation debit arises under section OP 42, no more than the debit for loss of shareholder continuity.

Table references

(3) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 5 (amount applied to pay other taxes). The imputation debit in subsection (2) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity).

Debit date

(4) The debit date is the day the amount is applied.

Relationship with section OP 35

(5) This section does not apply to an amount that gives rise to a debit under section OP 35.

Defined in this Act: amount, company, consolidated imputation group, imputation debit, income tax, income tax liability, Inland Revenue Acts, pay, shareholder

Compare: 2004 No 35 s ME 12(1)(l), (2)(k)

Section OP 31(1): replaced, on 30 March 2022, by section 149(1) (and see section 149(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section OP 31(5) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 453(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 31(5): added (with effect on 1 April 2008), on 6 October 2009, by section 453(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 32 Consolidated ICA refund from tax pooling account

When this section applies

(1) This section applies for a consolidated imputation group when—

(a) the group has an entitlement to an amount in a tax pooling account and has an imputation credit for the entitlement under sections OP 8 and OP 9; and

(b) the intermediary refunds the amount from the tax pooling account to the group.

Debit

(2) The consolidated imputation group has an imputation debit for the tax year for the amount of the refund.

Table references

(3) The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 3 (deposit in tax pooling account) or row 4 (transfer from tax pooling account). The imputation debit in subsection (2) is referred to in table O20: imputation debits of consolidated imputation groups, row 6 (refund from tax pooling account).

Debit date

(4) The debit date for the debit is—

(a) the last day of the previous tax year to the extent of the amount of the debit that is no more than the credit balance in the imputation credit account on that date:

(b) the day the refund is made to the extent of the remaining amount of the debit that is no more than the credit balance in the imputation credit account on the day of refund:

(c) the last day of the previous tax year for the remainder of the imputation debit.

Defined in this Act: amount, consolidated imputation group, deposit, imputation credit, imputation credit account, imputation debit, intermediary, pay, tax pooling account, tax year

Compare: 2004 No 35 s ME 12(1)(da), (2)(da)

Section OP 32(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 107(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

OP 33 Consolidated ICA transfer within tax pooling account

When this section applies

(1) This section applies for a consolidated imputation group when—

(a) the group has an entitlement to an amount in a tax pooling account and has an imputation credit for the entitlement under sections OP 8 and OP 9; and

(b) the intermediary transfers the entitlement from the group to another person.

Debit

(2) The consolidated imputation group has an imputation debit for the amount of the transfer.

Table reference

(3) The imputation debit in subsection (2) is referred to in table O20: imputation debits of consolidated imputation groups, row 7 (transfer to tax pooling account).

Debit date

(4) The debit date for the debit is—

(a) the last day of the previous tax year to the extent of the amount of the debit that is no more than the credit balance in the imputation credit account on that date:

(b) the day the transfer is made to the extent of the remaining amount of the debit that is no more than the credit balance in the imputation credit account on the day of transfer:

(c) the last day of the previous tax year for the remainder of the imputation debit.

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation credit account, imputation debit, tax pooling account, tax year, transfer

Compare: 2004 No 35 s ME 12(1)(db), (2)(da)

Section OP 33 heading: substituted (with effect on 1 April 2008), on 7 September 2010, by section 108(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OP 33(1): substituted (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 108(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OP 33(4)(b): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 108(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OP 33 list of defined terms **transfer**: inserted, on 1 April 2025, by section 118 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

OP 33B Consolidated ICA debit for transfer from tax pooling account for policyholder base liability

Debit

(1) A consolidated imputation group has an imputation debit for the amount transferred from a tax pooling account to their tax account with the Commissioner, to the extent to which the amount satisfies its schedular income tax liability for schedular policyholder base income or its income tax liability for a life fund PIE that is a multi-rate PIE.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 7B (debit for transfer from tax pooling account for policyholder base liability).

Debit date

(3) The debit date is the last day of the tax year.

Defined in this Act: ICA company, imputation credit, imputation debit, life insurer, schedular income tax liability, schedular policyholder base income, tax year

Section OP 33B: inserted, on 1 July 2010, by section 454(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 34 Consolidated ICA refund of FDP

[Repealed]

Section OP 34: repealed, on 1 April 2017, by section 235 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 35 Consolidated ICA refund of tax credit

Debit

(1) A consolidated imputation group has an imputation debit for—

(a) the amount of a transfer under section LA 6(2)(d) (Remaining refundable credits: PAYE, RWT, and certain other items) to the extent to which the transfer does not lead to a refund of income tax:

(b) the amount of a refund under section LA 6(2)(e).

(c) *[Repealed]*

Exclusion

[Repealed]

(1B) *[Repealed]*

Exclusion: refund after debit under section OP 42

(1C) Despite subsection (1), a consolidated imputation group has an imputation debit for a refundable tax credit arising for a group company in a tax year after a debit arises under section OP 42, reduced by the lesser of—

(a) the debit under section OP 42:

(b) the amount by which the refundable tax credit exceeds the total credits to the group's imputation credit account, for amounts satisfying the group's income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14 (which relate to limits on refunds for ICA companies).

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 9 (refund of tax credit).

Debit date

(3) The debit date is—

(a) for a debit referred to in subsection (1)(a), the day the amount is transferred:

(b) for a debit referred to in subsection (1)(b), the day the amount is refunded.

(c) *[Repealed]*

Defined in this Act: amount, company, consolidated group, consolidated imputation group, dividend, imputation debit, pay, tax credit

Compare: 2004 No 35 s ME 12(1)(f), (2)(d)

Section OP 35(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 455(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 35(1)(c): repealed (with effect on 1 April 2009), on 30 March 2017, by section 236(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 35(1B) heading: repealed, on 1 April 2017, pursuant to section 236(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 35(1B): repealed, on 1 April 2017, by section 236(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 35(1C) heading: inserted, on 1 April 2018, by section 175(1) (and see section 175(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OP 35(1C): inserted, on 1 April 2018, by section 175(1) (and see section 175(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section OP 35(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 455(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 35(3)(c): repealed (with effect on 1 April 2009), on 30 March 2017, by section 236(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 35 list of defined terms **FDP**: repealed, on 1 April 2017, by section 236(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 35 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 236(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 35 list of defined terms **pay**: added (with effect on 1 April 2008), on 6 October 2009, by section 455(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 35 list of defined terms **tax credit**: added (with effect on 1 April 2008), on 6 October 2009, by section 455(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 36 Consolidated ICA overpayment of FDP

[Repealed]

Section OP 36: repealed, on 1 April 2017, by section 237 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 37 Consolidated ICA group company's debit

Debit

(1) A consolidated imputation group has an imputation debit for an amount to the extent to which the amount would, in the absence of subsection (3), give rise to—

(a) an imputation debit described in a row of table O2: imputation debits, in the imputation credit account of a group company; and

(b) an imputation debit that would create or increase a debit balance in the group company's imputation credit account.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 11 (group company's debit).

No debit for group company

(3) The amount referred to in subsection (1) does not give rise to an imputation debit in the group company's account although otherwise eligible to be one.

Debit date

(4) The debit date is the day that the amount would have been debited to the imputation credit account of the group company in the absence of subsection (3).

Defined in this Act: amount, company, consolidated imputation group, imputation credit account, imputation debit

Compare: 2004 No 35 s ME 12(1)(k), (2)(j)

OP 38 Consolidated ICA transfer for net foreign attributed income

[Repealed]

Section OP 38: repealed (with effect on 30 June 2009), on 6 October 2009, by section 456(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 39 Consolidated ICA replacement payment by company under share-lending arrangement

Debit

(1) A consolidated imputation group has an imputation debit for the amount of an imputation credit attached under section OB 64 (Replacement payments) to a replacement payment paid under a share-lending arrangement by a company that is part of the consolidated imputation group at the time of payment.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 13 (replacement payment under share-lending arrangement).

Debit date

(3) The debit date is the day the replacement payment is paid.

Defined in this Act: amount, company, consolidated imputation group, imputation credit, imputation debit, pay, replacement payment, share-lending arrangement

Compare: 2004 No 35 s ME 12(1)(ab), (2)(ab)

OP 40 Consolidated ICA returning share transfer

Debit

(1) A consolidated imputation group has an imputation debit for the amount of an imputation credit attached to a dividend paid to a company if—

(a) at the time of payment, the company is part of the consolidated imputation group; and

(b) the dividend is paid to the company as a share user, or a person associated with a share user, in a returning share transfer that is not a share-lending arrangement.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 14 (returning share transfer).

Debit date

(3) The debit date is the day the dividend is paid.

Defined in this Act: amount, associated person, company, consolidated imputation group, dividend, imputation credit, imputation debit, pay, returning share transfer, share-lending arrangement, share user

Compare: 2004 No 35 s ME 12(1)(ac), (2)(ac)

OP 41 Consolidated ICA credit transfer by company

Debit

(1) A consolidated imputation group has an imputation debit for the amount of an imputation credit attached to a dividend paid to a company if—

(a) at the time of payment, the company is a part of the consolidated imputation group; and

(b) the amount is shown in a credit transfer notice given by the company.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 15 (credit transfer).

Debit date

(3) The debit date is the day the dividend is paid.

Defined in this Act: amount, company, consolidated imputation group, credit transfer notice, dividend, imputation credit, imputation debit, pay

Compare: 2004 No 35 s ME 12(1)(ad), (2)(ac)

OP 41B Consolidated ICA debit for unused tax payment of departing member

Debit

(1) A consolidated imputation group (the **group**) may choose to have an imputation debit for the amount of an imputation credit (the **credit**) in the group's imputation credit account if—

(a) the credit arises under section OP 7 or OP 8 from a payment (the **unused imputation credit payment**) by a member of the consolidated imputation group (the **company**); and

(b) the company ceases to be a member of the group after making the unused imputation credit payment; and

(c) when the company ceases to be a member of the group, the unused imputation credit payment is held by the Commissioner or a tax pooling intermediary without having been applied to satisfy a tax liability, other than a liability of the company for provisional tax.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 15B (member of consolidated imputation group leaving after making unused imputation credit payment).

Debit date

(3) The debit date is the date of the credit to the consolidated imputation group's imputation credit account for the unused imputation credit payment.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, imputation credit, imputation credit account, imputation debit, income tax, pay, provisional tax, tax pooling intermediary

Section OP 41B: inserted (with effect on 1 April 2021), on 31 March 2023, by section 96(1) (and see section 96(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

OP 41C Consolidated ICA debit for unused tax payment of departing part of group

Debit

(1) A consolidated imputation group (the **main group**) may choose to have an imputation debit for the amount of an imputation credit (the **credit**) in the main group's imputation credit account if—

(a) the credit arises under section OP 7 or OP 8 from a payment (the **unused imputation credit payment**) by a consolidated group (the **part group**) that is part of the main group; and

(b) the part group ceases to be a part of the main group after making the unused imputation credit payment; and

(c) when the part group ceases to be a part of the main group, the unused imputation credit payment is held by the Commissioner or a tax pooling

intermediary without having been applied to satisfy a tax liability, other than a liability of the part group for provisional tax.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 15C (part of consolidated imputation group leaving after making unused imputation credit payment).

Debit date

(3) The debit date is the date of the credit to the consolidated imputation group's imputation credit account for the unused imputation credit payment.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, imputation credit, imputation credit account, imputation debit, income tax, pay, provisional tax, tax pooling intermediary

Section OP 41C: inserted (with effect on 1 April 2021), on 31 March 2023, by section 96(1) (and see section 96(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

OP 42 Consolidated ICA debit for loss of shareholder continuity

Debit

(1) A consolidated imputation group has an imputation debit for the amount of an imputation credit retained in the group's imputation credit account and unused at the time at which shareholder continuity is lost.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity).

When debit arises

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

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation credit account, imputation debit, shareholder

Compare: 2004 No 35 ss ME 12(1)(h), (2)(g), ME 13(2)

Section OP 42(1): amended (with effect on 1 April 2008), on 7 December 2009, by section 95(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OP 42(3) heading: substituted (with effect on 1 April 2008), on 7 December 2009, by section 95(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section OP 42(3): substituted (with effect on 1 April 2008), on 7 December 2009, by section 95(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

OP 43 Consolidated ICA breach of imputation ratio

Debit

(1) A consolidated imputation group has an imputation debit for a tax year for the amount of a debit under section OB 43 (ICA breach of imputation ratio) that would arise in the imputation credit account of a group company in the absence of section OP 5(3).

Table references

(2) The group's imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 17 (breach of imputation ratio). The group company's imputation debit in subsection (1) is referred to in table O2: imputation debits, row 16 (breach of imputation ratio).

Debit date

(3) The debit date is the last day of the tax year.

Defined in this Act: amount, company, consolidated imputation group, imputation credit account, imputation debit, tax year

Compare: 2004 No 35 s ME 12(1)(e), (2)(e)

OP 44 Consolidated ICA debit for policyholder base imputation credits

Debit

(1) A consolidated imputation group has an imputation debit for the amount of an imputation credit attached to a dividend derived by a group company, to the extent to which it is—

(a) derived by a group company that is a life insurer; and

(b) apportioned to that life insurer's policyholder base; and

(c) not affected by a debit under section OP 42.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 18 (debit for policyholder base imputation credits).

Debit date

(3) The debit date is the last day of the tax year.

Defined in this Act: consolidated imputation group, imputation credit, imputation debit, life insurer, policyholder base, tax year

Section OP 44: substituted, on 1 July 2010, by section 458(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OP 44(1): replaced (with effect on 1 July 2010), on 27 February 2014, by section 122(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

OP 45 Consolidated ICA redemption debit

Debit

(1) A consolidated imputation group has an imputation debit for the amount of a redemption debit.

When redemption debit arises

(2) A redemption debit arises when—

(a) a group company that is not an Australian ICA company is—

(i) the manager of a unit trust; or

(ii) the trustee or manager of a group investment fund; and

(b) the group company derives a dividend from the redemption or cancellation of—

(i) a unit issued by the unit trust; or

(ii) an interest of an investor in the group investment fund; and

(c) the company has acquired the unit or interest in the ordinary course of its management activities for the unit trust or group investment fund; and

(d) the unit or interest had been acquired by the company on the same terms as those offered to the investors in the unit trust or group investment fund.

Calculating amount

(3) The debit is for the greater of the amounts described in subsections (4) and (6) calculated for the income year referred to in subsection (8) in which the group company derives the dividend referred to in subsection (2)(b).

First amount

(4) The first amount is calculated using the formula—

credits attached − imputation debits.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **credits attached** is the total amount of all imputation credits attached to dividends derived by the group company in the income year in the circumstances set out in subsection (2):

(b) **imputation debits** is the amount of imputation debits in the income year under section OP 42 in the group's imputation credit account.

Second amount

(6) The second amount is calculated using the formula—

(total dividends ÷ taxable income) × (tax liability − continuity debits).

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **total dividends** is the total amount of all dividends derived in the circumstances set out in subsection (2), including imputation credits attached to the dividends:

(b) **taxable income** is the taxable income of the group company for the tax year corresponding to the income year in which the dividends are derived:

(c) **tax liability** is the group company's income tax liability for the tax year corresponding to the income year in which the dividends are derived:

(d) **continuity debits** is the amount of imputation credits attached to the dividends that have been cancelled by an imputation debit under section OP 42.

Table references

(8) The table references are as follows:

(a) the imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 19 (redemption debit):

(b) the imputation debit in subsection (5)(b) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity):

(c) the imputation debit in subsection (7)(d) is referred to in table O20: imputation debits of consolidated imputation groups, row 16 (debit for loss of shareholder continuity).

Debit date

(9) The debit date is the day the company or the group's nominated company files the return of income for the tax year corresponding to the income year in which the dividend is derived.

Defined in this Act: amount, Australian ICA company, company, consolidated imputation group, dividend, group investment fund, imputation credit, imputation credit account, imputation debit, income tax liability, income year, investor, nominated company, return of income, tax year, taxable income, trustee, unit trust

Compare: 2004 No 35 s ME 41

Section OP 45(5)(a): amended, on 1 April 2017, by section 238(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 45(7)(a): amended, on 1 April 2017, by section 238(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OP 45 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 238(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 46 Consolidated ICA tax advantage arrangement

Debit

(1) A consolidated imputation group has an imputation debit for the amount of a debit for a tax advantage arrangement determined under sections GB 35 and GB 36 (which relate to imputation arrangements to obtain a tax advantage).

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 20 (tax advantage arrangement).

Debit date

(3) The debit date is the last day of the tax year in which the arrangement began.

Defined in this Act: amount, arrangement, consolidated imputation group, imputation debit, tax advantage, tax year

Compare: 2004 No 35 s ME 12(1)(i), (2)(h)

OP 47 Consolidated ICA final balance

Debit

(1) A consolidated imputation group has an imputation debit for a credit balance in the imputation credit account when the group stops being a consolidated imputation group.

Table reference

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 21 (final balance).

Debit date

(3) The debit date is the day before the group stops being a consolidated imputation group.

Defined in this Act: consolidated imputation group, imputation credit account, imputation debit

Compare: 2004 No 35 s ME 12(1)(j), (2)(h)

OP 48 Consolidated ICA refund of NRWT

Debit

(1) A consolidated imputation group that includes an Australian ICA company has an imputation debit for the amount of a refund of NRWT that gave rise to an imputation credit under section OP 25.

Table references

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 22 (refund of NRWT). The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 20 (NRWT withheld).

Debit date

(3) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation debit, NRWT

Compare: 2004 No 35 s ME 12(1A)(a), (2A)

OP 49 Consolidated ICA refund of amount of tax for schedular payment

Debit

(1) A consolidated imputation group that includes an Australian ICA company has an imputation debit for the amount of a refund of an amount of tax for a schedular payment that gave rise to an imputation credit under section OP 26.

Table references

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 23 (refund of amount of tax for schedular payment). The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 21 (amount of tax for schedular payment).

Debit date

(3) The debit date is the day the refund is made.

Defined in this Act: amount, amount of tax, Australian ICA company, consolidated imputation group, imputation credit, imputation debit, schedular payment

Compare: 2004 No 35 s ME 12(1A)(b), (2A)

OP 50 Consolidated ICA refund relating to schedular income tax liability

Debit

(1) A consolidated imputation group that includes an Australian ICA company has an imputation debit for the amount of a refund of a payment relating to a schedular income tax liability that gave rise to an imputation credit under section OP 27.

Table references

(2) The imputation debit in subsection (1) is referred to in table O20: imputation debits of consolidated imputation groups, row 24 (refund relating to schedular income tax liability). The imputation credit in subsection (1) is referred to in table O19: imputation credits of consolidated imputation groups, row 22 (payment of schedular income tax liability).

Debit date

(3) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation debit, income tax, pay, schedular income tax liability

Compare: 2004 No 35 s ME 12(1A)(c), (2A)

Section OP 50 heading: amended (with effect on 1 April 2008), on 24 February 2016, by section 218(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 50(1): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 218(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 50(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 218(3)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 50(2): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 218(3)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 50 list of defined terms **schedular income tax**: repealed (with effect on 1 April 2008), on 24 February 2016, by section 218(4)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section OP 50 list of defined terms **schedular income tax liability**: inserted (with effect on 1 April 2008), on 24 February 2016, by section 218(4)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Table O19: imputation credits of consolidated imputation groups

Row	Imputation credit	Credit date	Further defined
1	*[Repealed]*		
2	Income tax paid for group tax liability	day of payment	section OP 7
3	Group funds paid into tax pooling account	day of payment	section OP 8
4	Transfer from tax pooling account	day of credit or refund	section OP 9
5	Allocation from excess company	day of notice of allocation	section OP 10
6	Further income tax paid	day of payment	section OP 11
6BA	Multinational top-up tax paid for group tax liability	day of payment	section OP 11BA
6B	*[Repealed]*		
6C	Research and development tax credits	day on which return of income for income year is filed	section OP 11C
7	Imputation credit attached to dividend derived	day on which dividend is paid	section OP 12
8	*[Repealed]*		
9	*[Repealed]*		
10	Replacement payment paid under share-lending arrangement	day of payment	section OP 15
11	Imputation credit attached to dividend and shown in credit transfer notice	day on which notice is given	section OP 16
11B	Unused imputation credit payment by departing consolidated group before departure	day of credit to imputation credit account of parent group for unused imputation credit payment	section OP 16B
12	RWT withheld	day on which interest is paid	section OP 17
13	*[Repealed]*		
14	*[Repealed]*		
15	*[Repealed]*		
16	*[Repealed]*		
17	Amount of credit balance transferred from group company's ICA	set out in section OP 22	section OP 22
18	Debit for loss of shareholder continuity that cancels credit for tax pooling account deposit that is refunded	day of refund	section OP 23
19	Reversal of debit for tax advantage arrangement	debit date for debit	section OP 24
20	NRWT on non-resident passive income derived by group company that is Australian ICA company	day on which amount is withheld	section OP 25
21	Amount of tax for schedular payment to group company that is also Australian ICA company	day on which amount is withheld	section OP 26
22	Schedular income tax liability paid by group company that is Australian ICA company	day of payment	section OP 27

Table O19 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O19 row 6BA: inserted, on 1 January 2026, by section 111 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Table O19 row 6B: repealed (with effect on 1 April 2009), on 30 March 2017, by section 239(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O19 row 6C: inserted, on 1 April 2019, by section 20 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Table O19 row 8: repealed, on 1 April 2017, by section 239(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O19 row 9: repealed (with effect on 30 June 2009), on 6 October 2009, by section 459(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O19 row 11B: inserted (with effect on 1 April 2021), on 31 March 2023, by section 97(1) (and see section 97(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Table O19 row 13: repealed, on 1 April 2017, by section 239(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O19 row 14: repealed, on 1 April 2017, by section 239(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O19 row 15: repealed, on 1 July 2010, by section 459(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O19 row 16: repealed, on 1 July 2010, by section 459(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O19 row 17: amended (with effect on 1 April 2008), on 30 March 2021, by section 127(1) (and see section 127(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Table O19 row 20: amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 176(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O19 row 22: amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 219(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Table O20: imputation debits of consolidated imputation groups

Row	Imputation debit	Debit date	Further defined
1	*[Repealed]*		
2	Imputation credit attached to dividend paid by group company	day of payment	section OP 28
3	Provisional tax allocated by group to underpaid company	day of notice of allocation	section OP 29
4	Refund of income tax or provisional tax to group	day of refund	section OP 30
5	Income tax overpaid that is applied to satisfy amount of tax, other than income tax, due by group company	day of application	section OP 31
6	Refund from tax pooling account	set out in section OP 32	section OP 32
7	Transfer to another taxpayer of funds in tax pooling account	set out in section OP 33	section OP 33
7B	Debit for transfer from tax pooling account for policyholder base liability	31 March	section OP 33B
8	*[Repealed]*		
9	Transfer, refund, or use of tax credit	day of transfer, refund, or use	section OP 35
10	*[Repealed]*		
11	Debit that would increase debit balance for group company	set out in section OP 37	section OP 37
12	*[Repealed]*		
13	Credit attached to replacement payment under share-lending arrangement	day of payment	section OP 39
14	Credit attached to dividend shown in returning share transfer	day of payment	section OP 40
15	Credit attached to dividend and shown in credit transfer notice	day of payment	section OP 41
15B	Member of consolidated imputation group leaving after making unused imputation credit payment	day of credit to ICA of consolidated imputation group for unused imputation credit payment	section OP 41B
15C	Part of consolidated imputation group leaving after making unused imputation credit payment	day of credit to ICA of consolidated imputation group for unused imputation credit payment	section OP 41C
16	Debit for loss of shareholder continuity	time of loss of continuity	section OP 42
17	Debit for breach of imputation ratio	31 March	section OP 43
18	Debit for policyholder base imputation credits	31 March	section OP 44
19	Redemption debit for unit trust or group investment fund for income year	day on which return of income for income year is filed	section OP 45

Row	Imputation debit	Debit date	Further defined
20	Debit for tax advantage arrangement	last day of tax year in which arrangement began	section OP 46
21	Credit balance of group's imputation credit account when group stops being consolidated imputation group	day of cessation	section OP 47
22	Refund of NRWT to group company that is Australian ICA company	day of refund	section OP 48
23	Refund of amount of tax for schedular payment to group company that is Australian ICA company	day of refund	section OP 49
24	Refund relating to schedular income tax liability of group company that is Australian ICA company	day of refund	section OP 50

Table O20 row 1: repealed, on 29 March 2018 (with effect on 1 April 2008), by section 177 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Table O20 row 7B: inserted, on 1 July 2010, by section 460(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O20 row 8: repealed, on 1 April 2017, by section 240(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O20 row 9: substituted (with effect on 1 April 2008), on 6 October 2009, by section 460(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O20 row 10: repealed, on 1 April 2017, by section 240(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O20 row 12: repealed (with effect on 30 June 2009), on 6 October 2009, by section 460(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O20 row 15B: inserted (with effect on 1 April 2021), on 31 March 2023, by section 98(1) (and see section 98(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Table O20 row 15C: inserted (with effect on 1 April 2021), on 31 March 2023, by section 98(1) (and see section 98(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Table O20 row 16: amended (with effect on 1 April 2008), on 7 December 2009, by section 96 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Table O20 row 18: substituted, on 1 July 2010, by section 460(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O20 row 24: amended, on 24 February 2016 (applying for the 2008–09 and later income years), by section 220(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Consolidated groups and FDP accounts

[Repealed]

Heading: repealed, on 1 April 2017, by section 241(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Introductory provisions

[Repealed]

Heading: repealed, on 1 April 2017, by section 241(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 51 FDP accounts of consolidated FDP groups

[Repealed]

Section OP 51: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 52 Choosing to stop being consolidated FDP group

[Repealed]

Section OP 52: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 53 When group company emigrates

[Repealed]

Section OP 53: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 54 When credits and debits arise only in consolidated FDP group accounts

[Repealed]

Section OP 54: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 55 Provisions applying to consolidated FDP groups

[Repealed]

Section OP 55: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FDP credits of consolidated FDP groups

[Repealed]

Heading: repealed, on 1 April 2017, by section 241(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 56 Consolidated FDPA payment of FDP

[Repealed]

Section OP 56: repealed (with effect on 1 April 2009), on 6 October 2009, by section 462(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 57 Consolidated FDPA payment of further FDP

[Repealed]

Section OP 57: repealed (with effect on 1 April 2009), on 6 October 2009, by section 463(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 58 Consolidated FDPA dividend derived with FDP credit

[Repealed]

Section OP 58: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 59 Consolidated FDPA group company's credit

[Repealed]

Section OP 59: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 60 Consolidated FDPA credit transfer to company

[Repealed]

Section OP 60: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 61 Consolidated FDPA transfer from group's CTR account

[Repealed]

Section OP 61: repealed (with effect on 1 April 2009), on 6 October 2009, by section 464(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 62 Consolidated FDPA transfer for net foreign attributed income

[Repealed]

Section OP 62: repealed (with effect on 1 April 2009), on 6 October 2009, by section 465(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 63 Consolidated FDPA reversal of tax advantage arrangement

[Repealed]

Section OP 63: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

FDP debits of consolidated FDP groups

[Repealed]

Heading: repealed, on 1 April 2017, by section 241(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 64 Consolidated FDPA payment of dividend

[Repealed]

Section OP 64: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 65 Consolidated FDPA credit transfer by company

[Repealed]

Section OP 65: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 66 Consolidated FDPA refund of FDP

[Repealed]

Section OP 66: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 67 Consolidated FDPA overpayment of FDP

[Repealed]

Section OP 67: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 68 Consolidated FDPA refund of tax credit

[Repealed]

Section OP 68: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 69 Consolidated FDPA transfer to imputation credit account

[Repealed]

Section OP 69: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 70 Consolidated FDPA transfer to group's CTR account

[Repealed]

Section OP 70: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 111(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 71 Consolidated FDPA group company's debit

[Repealed]

Section OP 71: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 72 Consolidated FDPA breach of FDP ratio

[Repealed]

Section OP 72: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 73 Consolidated FDPA debit for loss of shareholder continuity

[Repealed]

Section OP 73: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 74 Consolidated FDPA debit for policyholder base FDP credits

[Repealed]

Section OP 74: repealed, on 1 April 2017, by section 241(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 75 Consolidated FDPA breach of FDP ratio by PCA company

[Repealed]

Section OP 75: repealed, on 30 March 2017, by section 242 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 76 Consolidated FDPA tax advantage arrangement

[Repealed]

Section OP 76: repealed, on 1 April 2017, by section 243 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OP 77 Consolidated FDPA final balance

[Repealed]

Section OP 77: repealed, on 1 April 2017, by section 243 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O21: FDP credits of consolidated FDP groups

[Repealed]

Table O21: repealed, on 1 April 2017, by section 244 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Table O22: FDP debits of consolidated FDP groups

[Repealed]

Table O22: repealed, on 1 April 2017, by section 246 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Consolidated groups and CTR credits

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 112(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Introductory provisions

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 112(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 78 CTR accounts of consolidated groups

[Repealed]

Section OP 78: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 112(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 79 When credits and debits arise only in CTR group accounts

[Repealed]

Section OP 79: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 112(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 80 Provisions applying to consolidated groups with CTR accounts

[Repealed]

Section OP 80: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 112(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CTR credits of consolidated groups

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 113(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 81 Consolidated CTRA tax credit for conduit tax relief

[Repealed]

Section OP 81: repealed (with effect on 30 June 2009), on 6 October 2009, by section 472(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 82 Consolidated CTRA reduction of FDP

[Repealed]

Section OP 82: repealed (with effect on 30 June 2009), on 6 October 2009, by section 473(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 83 Consolidated CTRA dividend derived with CTR credit

[Repealed]

Section OP 83: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 113(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 84 Consolidated CTRA group company's credit

[Repealed]

Section OP 84: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 113(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 85 Consolidated CTRA transfer from group's FDP account

[Repealed]

Section OP 85: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 113(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 86 Consolidated CTRA reversal of tax advantage arrangement

[Repealed]

Section OP 86: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 113(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

CTR debits of consolidated groups

[Repealed]

Heading: repealed, on 27 February 2014, by section 131 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

OP 87 Consolidated CTRA payment of dividend

[Repealed]

Section OP 87: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 113(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 88 Consolidated CTRA transfer to group's FDP account

[Repealed]

Section OP 88: repealed (with effect on 30 June 2009), on 6 October 2009, by section 474(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 89 Consolidated CTRA adjustment for conduit tax relief

[Repealed]

Section OP 89: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 114(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 90 Consolidated CTRA group company's debit

[Repealed]

Section OP 90: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 114(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 91 Consolidated CTRA increase in resident shareholding

[Repealed]

Section OP 91: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 114(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 92 Consolidated CTRA breach of CTR ratio

[Repealed]

Section OP 92: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 114(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 93 Consolidated CTRA tax advantage arrangement

[Repealed]

Section OP 93: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 114(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 94 Consolidated CTRA final balance

[Repealed]

Section OP 94: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 114(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Consolidated groups' FDP payments and refunds

[Repealed]

Heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 115(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 95 FDP payable for credits and debits in group's CTR account

[Repealed]

Section OP 95: repealed (with effect on 30 June 2009), on 6 October 2009, by section 475(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 96 Refund on transfer from group's FDP account

[Repealed]

Section OP 96: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 115(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Table O23: conduit tax relief credits of consolidated groups

[Repealed]

Table O23: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 115(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Table O24: conduit tax relief debits of consolidated groups

[Repealed]

Table O24: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 115(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Consolidated groups and branch equivalent tax accounts

[Repealed]

Heading: repealed, on 1 July 2012, by section 116(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Introductory provisions

[Repealed]

Heading: repealed, on 1 July 2012, by section 116(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 97 Branch equivalent tax accounts of consolidated BETA groups

[Repealed]

OP 97: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 116(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 98 Choosing to stop being consolidated BETA group

[Repealed]

OP 98: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 116(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 99 When credits and debits arise only in branch equivalent tax group accounts

[Repealed]

Section OP 99: repealed (with effect on 30 June 2009), on 6 October 2009, by section 478(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Branch equivalent tax credits of consolidated BETA groups

[Repealed]

Heading: repealed, on 1 July 2012, by section 118(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 100 Consolidated BETA payment of income tax on foreign income

[Repealed]

Section OP 100: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 118(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 101 Consolidated BETA payment of income tax

[Repealed]

Section OP 101: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 120(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section OP 101(4B): amended (with effect on 1 April 2008), on 2 November 2012, by section 136(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section OP 101(4C)(b): amended (with effect on 1 April 2008), on 2 November 2012, by section 136(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

OP 102 Consolidated BETA remaining debit balances

[Repealed]

Section OP 102: repealed (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 120(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

OP 103 Consolidated BETA refund of FDP

[Repealed]

Section OP 103: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 122(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 104 Consolidated BETA credit for loss of shareholder continuity

[Repealed]

Section OP 104: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 122(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Treatment by consolidated BETA groups of BETA debits from conduit relief

[Repealed]

Heading: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 122(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OP 104B Consolidated BETA group with debit balance, including debits from conduit relief, in certain income years

[Repealed]

Section OP 104B: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 122(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Branch equivalent tax debits of consolidated BETA groups

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 479(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 105 Consolidated BETA payment of FDP

[Repealed]

Section OP 105: repealed (with effect on 30 June 2009), on 6 October 2009, by section 479(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 106 Consolidated BETA reduction of FDP

[Repealed]

Section OP 106: repealed (with effect on 30 June 2009), on 6 October 2009, by section 479(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 107 Consolidated BETA refund of income tax

[Repealed]

Section OP 107: repealed (with effect on 30 June 2009), on 6 October 2009, by section 479(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 108 Consolidated BETA debit for loss of shareholder continuity

[Repealed]

Section OP 108: repealed (with effect on 30 June 2009), on 6 October 2009, by section 479(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Debit if credit balance at beginning of first affected income year

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 7 September 2010, by section 110 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

OP 108B Consolidated BETA group with credit balance at beginning of first affected income year

[Repealed]

OP 108B: repealed (with effect on 30 June 2009), on 7 September 2010, by section 110 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Table O25: branch equivalent tax credits of consolidated BETA groups

[Repealed]

Table O25: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 124(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Table O26: branch equivalent tax debits of consolidated BETA groups

[Repealed]

Table O26: repealed (with effect on 30 June 2009), on 6 October 2009, by section 482(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Consolidated groups and policyholder credit accounts

[Repealed]

Heading: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Introductory provision

[Repealed]

Heading: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 109 Policyholder credit accounts of consolidated groups

[Repealed]

Section OP 109: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Policyholder credits of consolidated groups

[Repealed]

Heading: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 110 Consolidated PCA transfer from imputation credit account

[Repealed]

Section OP 110: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 111 Consolidated PCA transfer from FDP account

[Repealed]

Section OP 111: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 112 Consolidated PCA group company's credit

[Repealed]

Section OP 112: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 113 Consolidated PCA maximum deficit debit in FDP account

[Repealed]

Section OP 113: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 114 Consolidated PCA reduced deficit debit in FDP account

[Repealed]

Section OP 114: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Policyholder debits of consolidated groups

[Repealed]

Heading: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 115 Consolidated PCA payment of tax relating to policyholder base

[Repealed]

Section OP 115: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

OP 116 Consolidated PCA transfer to imputation credit account

[Repealed]

Section OP 116: repealed, on 1 July 2010, by section 483(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O27: policyholder credits of consolidated groups

[Repealed]

Table O27: repealed, on 1 July 2010, by section 484(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Table O28: policyholder debits of consolidated groups

[Repealed]

Table O28: repealed, on 1 July 2010, by section 484(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart OZ—Terminating provisions

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OZ 1 No imputation credit for pre-imputation tax paid

No imputation credit arises in the imputation credit account of an imputation credit account (ICA) company for a payment of income tax imposed for a pre-imputation income year.

Defined in this Act: ICA company, imputation credit, imputation credit account, income tax, pay, pre-imputation income year

Compare: 2004 No 35 s ME 4(1)(a)(viii)

OZ 2 No imputation debit for pre-imputation refund

No imputation debit arises in the imputation credit account of an ICA company for a refund of income tax for a pre-imputation income year.

Defined in this Act: ICA company, imputation credit account, imputation debit, income tax, pre-imputation income year

Compare: 2004 No 35 s ME 5(1)(e)(i)

OZ 3 Overpaid income tax for pre-imputation income year

Debit

(1) An ICA company has an imputation debit for an amount of overpaid income tax that is applied to satisfy the company's income tax liability under section BB 1 (Imposition of income tax) for a pre-imputation income year. Subsection (2) overrides this section.

No debit

(2) The debit does not include an amount of overpaid income tax that is—

(a) paid before an imputation debit under section OB 41 (ICA debit for loss of shareholder continuity); and

(b) no more than the debit for loss of shareholder continuity.

Table references

(3) The imputation debit in subsection (1) is referred to in table O2: imputation debits, row 11 (overpayment of income tax). The imputation debit in subsection (2)(a) is referred to in table O2: imputation debits, row 14 (debit for loss of shareholder continuity).

Debit date

(4) The debit date is the day the amount is applied.

Defined in this Act: amount, company, ICA company, imputation credit account, imputation debit, income tax, income tax liability, pay, pre-imputation income year, shareholder

Compare: 2004 No 35 s ME 5(1)(n)

Section OZ 3 heading: amended, on 1 April 2017, by section 247(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 3(1): replaced, on 1 April 2017, by section 247(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 3(2): amended, on 1 April 2017, by section 247(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 3(3): amended, on 1 April 2017, by section 247(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 3 list of defined terms **FDP**: repealed, on 1 April 2017, by section 247(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 3 list of defined terms **FDPA company**: repealed, on 1 April 2017, by section 247(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OZ 4 Terminating modifications to debits for loss of shareholder continuity

The terminating modifications that apply under section OA 8(8) (Shareholder continuity requirements for memorandum accounts) are—

(a) the shareholder continuity requirement does not apply to a credit that arises on or before 16 December 1988; and

(b) credits arising after 16 December 1988 and before 1 April 1992 are treated as 1 credit arising on 1 April 1992 and, until such time as the credit can be treated as cancelled by later debits,—

(i) the shareholder continuity requirement applying to the credit is the earlier version of the requirement incorporated in section 394E(2)(g) of the Income Tax Act 1976 (despite its repeal and replacement by section 51 of the Income Tax Act Amendment Act (No 2) 1992); and

(ii) the earlier version of the requirement of section 394E(2)(g) applies by reading the figure "66" instead of the figure "75".

Defined in this Act: shareholder

Compare: 2004 No 35 ss ME 5(4), MG 5(4)

OZ 5 ASCA lost excess available subscribed capital

When this section applies

(1) This section applies when a public unit trust or a group investment fund that derives category A income—

(a) is in existence between 17 October 2002 and 30 September 2003 (both dates inclusive); and

(b) has redeemed a unit in the trust or fund; and

(c) the slice rule was used to determine the tax treatment of the proceeds from the redemption; and

(d) the amount of the available subscribed capital, calculated on a per unit basis, is greater than the proceeds from the redemption for the unit.

Calculating opening balance

(2) The trust or fund may choose for the period to calculate an opening credit balance using 1 of the methods set out in subsections (3) and (4).

Method 1

(3) Method 1 requires the trust or fund to calculate the actual amount of available subscribed capital lost, that is the difference, in total, between the amount paid on subscription for a unit and the amount paid on redemption of the unit.

Method 2

(4) Method 2 requires the trust or fund to make a calculation for the notional winding up of the trust or fund by taking the following steps:

(a) step 1: determine the total amount of income tax that would be payable on liquidation, treating the value of assets and liabilities as determined at their market value at the date of the notional liquidation according to provisions applying at that date:

(b) step 2: determine the amount of notional credits that are available after notional tax is paid in relation to them:

(c) step 3: determine the amount of notional credits required to fully impute, for each unit holder, the payment of a redemption dividend, and aggregate the amounts, applying the maximum imputation ratio to the total amount:

(d) step 4: establish the imputation credit shortfall between the notional credits under step 2 and the credits required under step 3.

Opening balance

(5) The amount of the opening balance is—

(a) the amount of the difference for method 1; and

(b) the shortfall referred to in subsection (4)(d) for method 2.

Certain causes of shortfalls

(6) For the purposes of subsection (4), the structural features of the taxation and imputation systems that would allow a company that does not issue shares on terms subject to section CD 22(4) (Returns of capital: off-market share cancellations) to fully impute a distribution made on the liquidation of the company, include the tax effects of—

(a) non-taxable gains and losses, including exempt income; and

(b) imputation credits lost because shareholder continuity is lost; and

(c) foreign tax credits; and

(d) retained earnings generated before the trust or fund established an imputation credit account.

Date of notional liquidation, orderly calculations

(7) For the purposes of this section,—

(a) the date of notional liquidation is the date chosen by the trust or fund falling in the period referred to in subsection (1)(a):

(b) a calculation under this section must be undertaken in a manner consistent with the preparation of financial statements and unit pricing calculations, based on an orderly realisation of assets in the ordinary course of business and demonstrable market valuations.

Defined in this Act: amount, available subscribed capital, business, category A income, company, dividend, exempt income, financial statements, group investment fund, imputation credit, imputation credit account, imputation ratio, liquidation, pay, public unit trust, share, shareholder, slice rule, tax credit

Compare: 2004 No 35 ss MJ 1(2), MJ 4, MJ 5(1)

Section OZ 5(1)(d): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 121(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section OZ 5(6)(a): substituted (with effect on 30 June 2009), on 6 October 2009, by section 485(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section OZ 5 list of defined terms **foreign tax**: repealed, on 30 March 2017, by section 248(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 5 list of defined terms **tax credit**: inserted, on 30 March 2017, by section 248(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 5 compare note: amended (with effect on 1 April 2008), on 29 August 2011, by section 121(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

OZ 6 ASCA redemption of unused investments

When this section applies

(1) The section applies when a public unit trust or a group investment fund that derives category A income—

(a) redeems a share within the meaning in paragraphs (c) and (d) of the definition of **share** in section YA 1 (Definitions); and

(b) has never established an ASC account.

Election

(2) The company may choose to establish an ASC account, and the only ASC credit arising in the account is an ASC credit for an opening balance calculated under section OZ 5(5).

Closing balance

(3) An opening balance under subsection (2) is treated as the closing balance of the account.

Defined in this Act: ASC account, ASC credit, category A income, complying trust, group investment fund, public unit trust, share

Compare: 2004 No 35 s MJ 7

OZ 7 Memorandum accounts in transitional period

Unless the context otherwise requires, sections OZ 8 to OZ 15 apply for a period (the **transitional period**)—

(a) beginning the first day of a person's 2011–12 income year; and

(b) ending on 31 March 2013.

Defined in this Act: income year

Section OZ 7: substituted, on 1 October 2010, by section 14 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

OZ 7B Maori authority credit ratios for transitional period

When this section applies

(1) This section applies when a Maori authority makes a taxable Maori authority distribution in the transitional period referred to in section OZ 7.

Application of modified sections OZ 8 to OZ 15

(2) Sections OZ 8 to OZ 11 and OZ 13 apply for the transitional period to the Maori authority and the taxable Maori authority distribution as if,—

(a) for each section,—

(i) a reference to a company had been replaced by a reference to a Maori authority:

(ii) a reference to a dividend had been replaced by a reference to a taxable Maori authority distribution:

(iii) a reference to an imputation credit account had been replaced by a reference to a Maori authority credit account:

(iv) a reference to an imputation credit had been replaced by a reference to a Maori authority credit:

(v) a reference to a benchmark dividend had been replaced by a reference to a benchmark distribution:

(vi) a reference to an imputation ratio had been replaced by a reference to a Maori authority credit ratio:

(vii) *[Repealed]*

(b) in section OZ 8(2), the reference to 30% had been replaced by a reference to 19.5%:

(c) in section OZ 9,—

(i) in subsection (1)(b), the reference to sections OB 61(4) and OC 28(4) had been replaced by a reference to section OK 20(3):

(ii) in subsection (1)(c)(ii), the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:

(iii) in subsection (3)(b), the reference to a ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5:

(d) in section OZ 10,—

(i) in subsection (1)(b), a reference to a ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5 and a reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:

(ii) subsection (1)(b)(ii) and (iii) were omitted:

(iii) in subsection (2), the reference to section LE 8 had been replaced by a reference to section LO 3:

(iv) in subsection (2), the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:

(e) in section OZ 11,—

(i) in subsection (1)(b)(i), the reference to a ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5 and the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:

(ii) subsection (1)(b)(ii) and (iii) had been omitted:

(iii) in subsection (1)(c), a reference to a new company tax rate person had been replaced by a reference to a Maori authority that uses a 17.5% basic tax rate for the 2011–12 income year or later income years:

(iv) in subsection (2), in the formula, the figure 0.28 had been replaced by the figure 17.5:

(v) in subsection (3), the reference to section LE 1(1) had been replaced by a reference to section LO 1(1):

(vi) subsections (4) and (5) had been omitted:

(f) in section OZ 13,—

(i) in subsection (1), the reference to the ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5 and the reference to a ratio of 30/70 had been replaced by a reference to a ratio of 19.5/80.5:

(ii) in subsection (2), the reference to the ratio of 28/72 had been replaced by a reference to a ratio of 17.5/82.5.

Defined in this Act: benchmark distribution, income year, Maori authority, Maori authority credit, Maori authority credit account, Maori authority credit ratio, taxable Maori authority distribution

Section OZ 7B: inserted (with effect on 1 October 2010), on 21 December 2010, by section 120 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section OZ 7B(2)(a)(vii): repealed, on 1 April 2017, by section 249(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 7B(2)(d)(iii): amended, on 1 April 2017, by section 249(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 7B(2)(e)(v): amended, on 1 April 2017, by section 249(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

OZ 8 Attaching imputation credits: maximum permitted ratio

When this section applies

(1) This section applies when—

(a) a company pays a dividend in the transitional period; and

(b) the company has a credit balance in its imputation credit account from income, expenditure, memorandum account debits, credits, and balances,

refunds, tax, tax credits, transfers, amounts withheld, or other items dealt with, arising, or calculated using an old company tax rate.

Rate applying for transitional period

(2) If the amount of the imputation credit attached to the dividend is limited by the maximum permitted ratio set out in section OA 18 (Calculation of maximum permitted ratios), the company may choose to treat the item **tax rate** in the formula in section OA 18(2) as 30%.

Defined in this Act: amount, company, dividend, imputation credit, imputation credit account, income, maximum permitted ratio, tax credit, tax year, transitional period

Section OZ 8: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 8 heading: amended, on 1 April 2017, by section 250(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 8(1)(b): amended, on 1 April 2017, by section 250(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 8(2): amended, on 1 April 2017, by section 250(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 8(2): amended, on 1 October 2010, by section 15 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 8 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 250(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 8 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 250(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 8 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 9 Benchmark dividends: ratio change

When this section applies

(1) This section applies when—

(a) a company pays a dividend in the transitional period; and

(b) the dividend is a later dividend for the purposes of sections OB 61(4) and OC 28(4) (which relate to the benchmark dividend rules), as applicable; and

(c) the relevant benchmark dividend—

(i) was 1 to which section OZ 8 applied; or

(ii) has a ratio of 30/70, for a reason other than the application of section OZ 8.

When ratio treated as same as ratio for benchmark dividend

(2) If, in the cases set out in subsection (3), the imputation ratio of the later dividend is less than that of the relevant benchmark dividend, the ratio is treated as the same as that of the relevant benchmark dividend.

Cases

(3) The cases referred to in subsection (2) are the following:

(a) in the case of a benchmark dividend described in subsection (1)(c)(i), section OZ 8 does not apply to the later dividend through the lack of a relevant credit balance described in section OZ 8(1)(b):

(b) in the case of a benchmark dividend described in subsection (1)(c)(ii), the later dividend has a ratio of 28/72.

Defined in this Act: benchmark dividend, company, dividend, imputation ratio, transitional period

Section OZ 9: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 9(1)(c)(ii): amended, on 1 October 2010, by section 16(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 9(2): amended, on 1 April 2017, by section 251(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 9(3)(b): amended, on 1 October 2010, by section 16(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 9 list of defined terms **FDP ratio**: repealed, on 1 April 2017, by section 251(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 9 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 10 Modifying ratios for imputation credits

When this section applies

(1) This section applies when—

(a) a person derives a dividend in the period from 1 October 2010 to 31 March 2013; and

(b) the dividend and the imputation credits attached to the dividend, as applicable, have—

(i) an imputation ratio greater than 28/72 and less than or equal to 30/70.

(ii) *[Repealed]*

(iii) *[Repealed]*

Ratio applying

(2) For the purposes of section LE 8 (Application of imputation ratio), if the amount of the imputation credit is limited by the maximum permitted ratio set out in section OA 18 (Calculation of maximum permitted ratios), the ratio is treated as 30/70.

Defined in this Act: dividend, imputation credit, imputation ratio, maximum permitted ratio, transitional period

Section OZ 10: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 10 heading: amended, on 1 April 2017, by section 252(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10(1)(a): amended, on 1 October 2010, by section 17(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 10(1)(b): amended, on 1 April 2017, by section 252(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10(1)(b)(i): amended, on 1 April 2017, by section 252(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10(1)(b)(i): amended, on 1 October 2010, by section 17(2)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 10(1)(b)(ii): repealed, on 1 April 2017, by section 252(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10(1)(b)(iii): repealed, on 1 April 2017, by section 252(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10(2): replaced, on 1 April 2017, by section 252(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10 list of defined terms **combined imputation and FDP ratio**: repealed, on 1 April 2017, by section 252(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 252(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10 list of defined terms **FDP ratio**: repealed, on 1 April 2017, by section 252(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 10 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 11 Tax credits for imputation credits

When this section applies

(1) This section applies when—

(a) a person—

(i) derives a dividend in the transitional period, if the person is a new company tax rate person that is not a multi-rate PIE:

(ii) derives a dividend in the period from 1 October 2010 to 31 March 2013, if the person is a new company tax rate person that is a multi-rate PIE; and

(b) the dividend, and the imputation credits attached to the dividend, have—

(i) an imputation ratio greater than 28/72 and less than or equal to 30/70; and

(ii) *[Repealed]*

(iii) *[Repealed]*

(c) the person is a new company tax rate person in the period for the dividend.

Imputation ratio

(2) For a ratio described in subsection (1)(b)(i), the amount of the tax credit that the person has is calculated using the formula—

dividend and credits × 0.28.

Definition of item in formula

(3) In the formula in subsection (2), **dividend and credits** is the amount of the imputation credit included in the person's assessable income for the purposes of section LE 1(1) (Tax credits for imputation credits), together with the amount of dividend to which the credit is attached.

Combined imputation and FDP ratio

[Repealed]

(4) *[Repealed]*

Definition of item in formula

[Repealed]

(5) *[Repealed]*

Defined in this Act: amount, assessable income, basic tax rate, dividend, imputation credit, imputation ratio, multi-rate PIE, new company tax rate person, tax credit, total tax credit, transitional period

Section OZ 11: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 11 heading: amended, on 1 April 2017, by section 253(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(1)(a): substituted, on 1 October 2010, by section 18(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 11(1)(b): amended, on 1 April 2017, by section 253(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(1)(b)(i): amended, on 1 April 2017, by section 253(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(1)(b)(i): amended, on 1 October 2010, by section 18(2)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 11(1)(b)(ii): repealed, on 1 April 2017, by section 253(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(1)(b)(iii): repealed, on 1 April 2017, by section 253(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(1)(c): amended, on 1 October 2010, by section 18(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 11(2) heading: amended, on 1 April 2017, by section 253(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(2): amended, on 1 April 2017, by section 253(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(2) formula: amended, on 1 October 2010, by section 18(4) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 11(3): replaced, on 1 April 2017, by section 253(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(4) heading: repealed, on 1 April 2017, pursuant to section 253(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(4): repealed, on 1 April 2017, by section 253(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(5) heading: repealed, on 1 April 2017, pursuant to section 253(10) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11(5): repealed, on 1 April 2017, by section 253(10) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11 list of defined terms **combined imputation and FDP ratio**: repealed, on 1 April 2017, by section 253(11) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 253(11) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11 list of defined terms **FDP ratio**: repealed, on 1 April 2017, by section 253(11) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 11 list of defined terms **multi-rate PIE**: inserted, on 1 October 2010, by section 18(6) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 11 list of defined terms **new company tax rate person**: inserted, on 1 October 2010, by section 18(6) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 11 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 12 Tax credits for non-resident investors

When this section applies

(1) This section applies when—

(a) a company pays or derives a dividend with an imputation credit attached in the transitional period; and

(b) the dividend and imputation credit, to the extent to which, in the absence of subpart LP (Tax credits for supplementary dividends),—

(i) *[Repealed]*

(ii) the imputation ratio is greater than 28/72 and less than or equal to 30/70; and

(c) section LP 2(1) (Tax credits for supplementary dividends) applies to the company, or the company is a supplementary dividend holding company.

When ratio equal to old rate

(2) For a ratio described in subsection (1)(b)(i) or (ii) that is equal to 30/70, then any tax credit that the company has is calculated using the formula in section LP 2(2), treating 54/119 as 7/17.

When ratio less than old rate

(3) For a ratio described in subsection (1)(b)(i) or (ii) that is less than 30/70, then, to the extent to which a part of the amount of the dividend and imputation credit has a ratio of 30/70 through the application of section OZ 8, any tax credit that the company has is calculated using the formula in section LP 2(2), treating 54/119 as 7/17.

Benchmark calculations

(4) In the application of sections GB 35, GB 36, OA 18, OB 60, and OB 61 (which relate to imputation credit ratios) under section LP 5 (Application of benchmark dividend rules and imputation credit ratio), the provisions apply using the ratio 30/70 and the old company tax rates.

Relationship with exempt income rules

(5) If the company derives a dividend to which this section applies, item **tax rate** in the formula in section LP 8(2) (Relationship with exempt income rules) is treated as 30%, to the extent to which a part of the supplementary dividend was calculated as described in subsection (2) or (3).

Defined in this Act: amount, company, dividend, imputation credit, imputation ratio, non-resident, pay, supplementary dividend, supplementary dividend holding company, tax credit, transitional period

Section OZ 12: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 12(1)(b)(i): repealed, on 1 April 2017, by section 254(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 12(1)(b)(ii): amended, on 1 October 2010, by section 19(1)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12(1)(b)(ii): amended, on 1 October 2010, by section 19(1)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12(2): amended, on 1 October 2010, by section 111(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OZ 12(2): amended, on 1 October 2010, by section 19(2)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12(2): amended, on 1 October 2010, by section 19(2)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12(2): amended (with effect from 1 April 2008), on 29 May 2008, by section 37(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section OZ 12(3): amended, on 1 October 2010, by section 111(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section OZ 12(3): amended, on 1 October 2010, by section 19(3)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12(3): amended, on 1 October 2010, by section 19(3)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12(3): amended (with effect from 1 April 2008), on 29 May 2008, by section 37(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section OZ 12(4): amended, on 1 April 2017, by section 254(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 12(4): amended, on 1 October 2010, by section 19(4) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12(5): amended, on 1 October 2010, by section 19(5) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 12 list of defined terms **combined imputation and FDP ratio**: repealed, on 1 April 2017, by section 254(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section OZ 12 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 13 Fully credited dividends: modifying actual ratio

What this section applies to

(1) This section applies in the transitional period to a dividend for which, in the absence of this section, the actual ratio under section CD 43(26) (Available subscribed capital (ASC) amount) is greater than 28/72 and less than or equal to 30/70.

Ratio for calculation

(2) In the calculation under section CD 43(26), the part of the dividend that is fully credited, the actual ratio is treated as 28/72.

Defined in this Act: dividend, fully credited, transitional period

Section OZ 13: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 13(1): amended, on 1 October 2010, by section 20(1)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 13(1): amended, on 1 October 2010, by section 20(1)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 13(2): amended, on 1 October 2010, by section 20(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 13 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 14 Dividends from qualifying companies

When this section applies

(1) This section applies when—

(a) a qualifying company pays a dividend in the transitional period; and

(b) section OZ 8 applies to the dividend.

Exempt income

(2) In the calculation under section HA 14 (Dividends paid by qualifying companies) the extent to which the dividend is exempt income of the person, item **tax rate** in the formula in section HA 15(2) (Fully imputed dividends) is treated as 0.30.

Defined in this Act: dividend, exempt income, qualifying company, transitional period

Section OZ 14: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 14(2): amended, on 1 October 2010, by section 21 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 14 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 15 Attaching imputation credits and notional distributions: modifying amounts

When this section applies

(1) This section applies when—

(a) a statutory producer board or a co-operative company determines to pay a cash distribution or make a notional distribution in the transitional period; and

(b) the board or company has a credit balance in its imputation credit account from income, expenditure, memorandum account debits, credits, and balances, refunds, tax, tax credits, transfers, amounts withheld, or other items dealt with, arising, or calculated using an old company tax rate.

Statutory producer boards' imputation credits

(2) In the calculation under section OB 73(4) (Statutory producer boards attaching imputation credits to cash distributions), the board may choose to treat item **tax rate** in the formula as 30%.

Statutory producer boards' notional distributions

(3) In the calculation under section OB 75(2) (Statutory producer boards' notional distributions that are dividends), the board may choose to treat item **tax rate** in the formula as 30%.

Co-operative companies' imputation credits

(4) In the calculation under sections OB 78(3) and OB 78B(3) (which relate to co-operative companies making cash distributions), the company may choose to treat item **tax rate** in the formula as 30%. This subsection does not apply to a Maori authority.

Co-operative companies' notional distributions

(5) In the calculation under section OB 80(2) (Co-operative companies' notional distributions that are dividends), the company may choose to treat item **tax**

rate in the formula as 30%. This subsection does not apply to a Maori authority.

Defined in this Act: amount, co-operative company, imputation credit account, income, Maori authority, statutory producer board, tax credit, transitional period

Section OZ 15: added, on 1 April 2008, by section 520 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section OZ 15(2): amended, on 1 October 2010, by section 22(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 15(3): amended, on 1 October 2010, by section 22(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 15(4): amended, on 26 June 2019, by section 73 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section OZ 15(4): amended, on 1 October 2010, by section 22(c) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 15(5): amended, on 1 October 2010, by section 22(d) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section OZ 15 compare note: repealed (with effect on 1 April 2008), on 21 December 2010, by section 119 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

OZ 16 BETA reductions

[Repealed]

Section OZ 16: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 125(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OZ 17 CTRA reductions

[Repealed]

Section OZ 17: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 126(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

OZ 18 Credit-back of PCA balance

[Repealed]

Section OZ 18: repealed, on 30 March 2017, by section 255 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Part R
General collection rules

Subpart RA—General withholding and payment obligations

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Introductory provisions

RA 1 What this Part does

This Part provides the rules to require a person to pay to the Commissioner interim and terminal payments of tax and other amounts payable under the Inland Revenue Acts. The Part provides for—

(a) a person's general withholding and payment obligations; and

(b) the payment of terminal tax, *see* subpart RB; and

(c) the payment of provisional tax, *see* subpart RC; and

(d) the payment of the following employment-related taxes, *see* subpart RD:

(i) pay-as-you-earn (PAYE):

(ii) fringe benefit tax (FBT):

(iii) employer's superannuation contribution tax (ESCT); and

(e) the payment of resident withholding tax (RWT), *see* subpart RE; and

(f) the payment of non-resident withholding tax (NRWT), *see* subpart RF; and

(g) *[Repealed]*

(gb) the payment of retirement scheme contribution tax (RSCT), *see* subpart RH; and

(gc) the payment of residential land withholding tax (RWLT), *see* subpart RL; and

(h) the treatment of refunds by the Commissioner, *see* subpart RM; and

(i) the use of intermediaries in the tax system, *see* subpart RP.

Defined in this Act: amount, Commissioner, employer's superannuation contribution, ESCT, FBT, fringe benefit tax, Inland Revenue Acts, intermediary, NRWT, pay, PAYE, provisional tax, retirement scheme contribution, RSCT, RWT, tax, terminal tax

Section RA 1(g): repealed (with effect on 30 June 2009), on 6 October 2009, by section 488(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 1(gb): inserted, on 1 April 2008, by section 521(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RA 1(gc): inserted (with effect on 1 July 2016), on 30 March 2021, by section 128 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RA 1 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 488(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 1 list of defined terms **retirement scheme contribution**: inserted, on 1 April 2008, by section 521(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RA 1 list of defined terms **RSCT**: inserted, on 1 April 2008, by section 521(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RA 2 Amounts treated as income tax

The provisions of this Act and the Tax Administration Act 1994 apply in relation to an amount that a person is liable to pay under this Part as if the amount were income tax imposed under section BB 1 (Imposition of income tax).

Defined in this Act: amount, income tax, pay

Compare: 2004 No 35 ss MB 12, NC 20(1), ND 1W(2), NE 7(2), NF 13, NG 17(2), NH 3(7)

Section RA 2 compare note: amended (with effect on 1 April 2008), on 7 December 2009, by section 101(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Payment and withholding obligations

RA 3 Terminal tax obligations

A person liable under section BC 8 (Satisfaction of income tax liability) to pay an amount of terminal tax for a tax year must pay the amount to the Commissioner under subpart RB (Terminal tax) by the due date.

Defined in this Act: amount, Commissioner, pay, tax year, terminal tax

Compare: 2004 No 35 ss BC 9, MC 1

RA 4 Provisional tax obligations

A person liable to pay provisional tax must pay instalments on account of their income tax liability for a tax year to the Commissioner under subpart RC (Provisional tax) by the due dates.

Defined in this Act: Commissioner, income tax liability, pay, provisional tax, tax year

Compare: 2004 No 35 ss BB 2(3), MB 4

RA 5 Tax obligations for employment-related taxes

Withholding and payment obligations

(1) A person who makes a payment or provides a benefit of 1 of the following kinds must either withhold and pay, or pay, the amount of tax for the payment or benefit to the Commissioner under subpart RD (Employment-related taxes) by the due dates:

(a) a PAYE income payment:

(b) a fringe benefit:

(c) an employer's superannuation cash contribution.

Timing for PAYE income payments

(2) An amount of tax withheld from a PAYE income payment must be withheld at the time the person makes the payment.

Defined in this Act: amount of tax, Commissioner, employer's superannuation cash contribution, fringe benefit, pay, PAYE income payment

Compare: 2004 No 35 ss BE 1(1), (4), (5), NC 15, ND 1, NE 3

Section RA 5(1) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 489(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 5(1)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 489(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 5(2) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 489(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 5(2): added (with effect on 1 April 2008), on 6 October 2009, by section 489(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 5 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 489(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 5 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 489(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RA 6 Withholding and payment obligations for passive income

Resident passive income

(1) A person who makes a payment of resident passive income must withhold and pay RWT for the payment to the Commissioner under subpart RE (Withholding tax on resident passive income (RWT)) by the due dates.

Non-resident passive income

(2) A person who makes a payment of non-resident passive income must withhold and pay NRWT for the payment to the Commissioner under subpart RF (Withholding tax on non-resident passive income (NRWT)) by the due dates.

Foreign dividends

[Repealed]

(3) *[Repealed]*

Timing for payments of passive income

(4) An amount of tax withheld under subsections (1) and (2) must be withheld at the time the person makes the payment.

Certain dividends paid to dual residents

(5) For the purposes of subsections (2) and (4) and sections OB 9, OB 30, RA 15, and RF 3 (which relate to imputation credit accounts and withholding and payment obligations), a person who makes a payment of a dividend described

in section CD 1(3) (Dividend) is treated as making the payment on the DRCD deferral date.

Meaning of DRCD deferral date

(6) For the purposes of this section and sections CD 1, OB 9, OB 30, RA 15, RF 3, and RF 11BB, the **DRCD deferral date** is the day that is the second anniversary of the date on which the dividend was actually paid.

Defined in this Act: Commissioner, company, dividend, DRCD deferral date, non-resident passive income, NRWT, pay, resident passive income, RWT

Compare: 2004 No 35 ss BE 1(4)–(6), NF 4, NG 11, NH 3

Section RA 6(3) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 490(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 6(3): repealed (with effect on 30 June 2009), on 6 October 2009, by section 490(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 6(4) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 490(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 6(4): inserted (with effect on 1 April 2008), on 6 October 2009, by section 490(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 6(5) heading: inserted (with effect on 30 August 2022), on 31 March 2023, by section 99(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 6(5): inserted (with effect on 30 August 2022), on 31 March 2023, by section 99(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 6(6) heading: inserted (with effect on 30 August 2022), on 31 March 2023, by section 99(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 6(6): inserted (with effect on 30 August 2022), on 31 March 2023, by section 99(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 6 list of defined terms **dividend**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 99(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 6 list of defined terms **DRCD deferral date**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 99(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 6 list of defined terms **FDP**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 490(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 6 list of defined terms **foreign dividend**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 490(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RA 6B Withholding and payment obligations for retirement scheme contributions

A person who makes a contribution to a retirement savings scheme must withhold and pay RSCT for the contribution to the Commissioner under subpart RH (Withholding tax on retirement scheme contributions) by the due dates.

Defined in this Act: Commissioner, pay, retirement savings scheme, RSCT

Compare: 2004 No 35 s NEB 1

Section RA 6B: inserted, on 1 April 2008, by section 522 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RA 6C Withholding and payment obligations for residential land

RLWT: vendors

(1) A person described in section RL 2 (Vendors: who must pay, and how?) must pay RLWT for a residential land purchase amount to the Commissioner under subpart RL (Residential land withholding tax) by the due date.

RLWT: associated persons

(2) A person described in section RL 3 (Associated persons: who must pay, and how?) must withhold and pay RLWT for a residential land purchase amount to the Commissioner under subpart RL by the due date.

Defined in this Act: pay, residential land purchase amount, RLWT

Section RA 6C: inserted, on 1 July 2016, by section 46 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

RA 7 Payment of tax by public authorities

A public authority that pays an amount under this Act acts within its capacity, whether further appropriation is made or not.

Defined in this Act: amount, pay, public authority

Compare: 2004 No 35 s MH 1

RA 8 Liability of persons receiving payments or benefits

Despite sections RA 5 and RA 6, a person receiving or deriving a payment or benefit in relation to which an amount of tax must be withheld or paid may be liable under this Part for payment of the tax.

Defined in this Act: amount of tax, pay, tax

Compare: 2004 No 35 ss NC 16, NE 2A(1), (2), NF 3, NG 12

RA 9 Treatment of amounts withheld as received

Payments treated as received or derived

(1) An amount withheld from a payment under this Part, unless a provision in this Part states otherwise,—

(a) is treated as received—

(i) by the person to whom the payment is made; and

(ii) at the time the payment is made; and

(b) is treated for the purposes of this Act as derived by the person at the same time and in the same way as they derive the payment from which the amount is withheld; and

(c) includes a combined tax and earner-related payment.

Exclusion

(2) Subsection (1) does not apply to a replacement payment under a share-lending arrangement.

Defined in this Act: amount, combined tax and earner-related payment, pay, replacement payment, share-lending arrangement

Compare: 2004 No 35 ss NC 19, NE 6, NF 12, NG 15

RA 10 When obligations not met

When this section applies

(1) This section applies when—

(a) a person liable to withhold an amount of tax for a PAYE income payment, a residential land purchase amount, an employer's superannuation cash contribution, a retirement scheme contribution, a payment of resident passive income, or a payment of non-resident passive income, does not withhold and pay the amount to the Commissioner; or

(b) a person liable to pay an amount of tax to the Commissioner for a fringe benefit does not pay the amount; or

(c) a vendor liable to pay an amount of RLWT does not pay the amount.

Debt payable to Commissioner

(2) The amount is a debt payable to the Commissioner.

When payable

(3) The amount is due to be paid to the Commissioner on the relevant due date after the end date for the original liability set out in section RA 15.

Premiums and levies

(4) The amount includes a combined tax and earner-related payment.

Defined in this Act: amount, amount of tax, combined tax and earner-related payment, Commissioner, employer's superannuation cash contribution, fringe benefit, non-resident passive income, pay, PAYE income payment, resident passive income, residential land purchase amount, RLWT

Compare: 2004 No 35 ss NC 5(2), NC 16, NC 20(1), ND 1, ND 1W(2), NE 5, NEB 4(1), NF 3, NF 4, NF 13, NG 12, NG 13

Section RA 10(1)(a): amended, on 1 July 2016, by section 47(1) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 10(1)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 491(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 10(1)(a): amended, on 1 April 2008, by section 523(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RA 10(1)(b): amended, on 1 July 2016, by section 47(2) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 10(1)(c): replaced, by section 47(2) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 10 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 491(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 10 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 491(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 10 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 491(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 10 list of defined terms **residential land purchase amount**: inserted, on 1 July 2016, by section 47(3) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 10 list of defined terms **RLWT**: inserted, on 1 July 2016, by section 47(3) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 10 compare note: amended, on 1 April 2008, by section 523(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RA 11 Adjustment to correct errors: certain underpayments

When this section applies

(1) This section applies when—

(a) a person (the **payer**) is required to withhold an amount of tax for resident passive income or non-resident passive income in relation to a payment to another person (the **payee**); and

(b) the payer, through an error, does not withhold some or all of the amount.

Adjustments for errors

(2) To correct the error, the payer may make an adjustment by—

(a) subtracting from a later payment to the payee an amount to correct the deficiency; or

(b) recovering from the payee an amount to correct the deficiency; or

(c) for a non-cash dividend, adjusting the amount that is subject to tax.

Timing of and limitations on adjustments

(3) Subject to subsection (4),—

(a) for an adjustment for an error discovered in the tax year in which it is made (**year 1**), the payer must, if it is reasonably practical to do so, make the adjustment under subsection (2) by the next regular reporting date for the delivery of investment income information relating to the payee:

(b) for an adjustment for an error discovered in a tax year following that in which the error is made (**year 2**), the payer may make an adjustment

under subsection (2) by the next regular reporting date in year 2 but only to the extent to which the total adjustments made by the payer in year 2 relating to year 1 are no more than the greater of—

(i) $2,000; or

(ii) 5% of the payer's withholding liability for RWT or NRWT, as applicable, for the tax year in which the first payment is made to the payee.

Requirements when recovering amounts from payees

(4) For the purposes of subsection (2)(b), the recovery action must be taken in the same tax year in which the error is made.

When adjustments made

(5) An adjustment under this section is treated as made on the due date for the amount of tax referred to in subsection (1)(a).

Notifying Commissioner of adjustments

(6) The payer must notify the Commissioner of an adjustment made under subsection (3)(b) at the time it is made, including in their notification—

(a) the information in schedule 6, table 1, rows 1 to 7, 10, 16, and 22 of the Tax Administration Act 1994, as applicable; and

(b) adjustments to the items referred to in schedule 6, table 1, rows 8, 9, 11, 14, 15, and 21 of that Act, as applicable.

Defined in this Act: amount, amount of tax, Commissioner, investment income information, non-cash dividend, non-resident passive income, notify, NRWT, pay, resident passive income, RWT, tax year

Section RA 11: replaced, on 1 April 2020, by section 178 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RA 12 Adjustment to correct errors: certain excess amounts

When this section applies

(1) This section applies when—

(a) a person (the **payer**) is required to withhold and pay to the Commissioner an amount of RWT or NRWT for a payment to another person (the **payee**); and

(b) the payer, through an error, withholds an amount (the **excess amount**) that is more than the amount required under this Part.

Refunding excess amounts of resident and non-resident passive income

(2) For a payment of resident passive income or non-resident passive income, the payer may pay the excess amount to the payee at any time before the 20th of April after the end of the tax year in which the amount is withheld if the payer has not reported to the payee under section 26C, 29, or 31 of the Tax Administration Act 1994, providing the details set out in those provisions.

Treatment of amount

(3) For the purposes of this section, when the payer pays the excess amount under subsection (2), the amount is no longer treated as RWT or NRWT, as applicable.

Notifying payee and Commissioner of excess amounts

(4) If the payer has not refunded the amount to the payee, the payer must notify the following of the excess amount by the date referred to in subsection (2):

(a) the payee:

(b) the Commissioner.

Notifying Commissioner of refunds paid

(4B) If the payer has refunded the amount to the payee, the payer must notify the Commissioner of the payment and of the amount of the refund at the time of paying the refund.

Commissioner refunding overpayment

(5) If the excess amount has been paid to the Commissioner, the Commissioner must refund the amount of the overpayment to—

(a) the payee; or

(b) the payer, if they have not subtracted the amount under subsection (6)(a) from a later payment made in relation to the payee.

Payer's options

(6) For the purposes of subsection (5), if the payer has refunded the excess amount to the payee and has not received a refund from the Commissioner, the payer may—

(a) subtract the amount from an amount paid later to the Commissioner under section RE 21 or RF 13 (which relate to resident passive income and non-resident passive income), noting the action in the investment income information required under subpart 3E of the Tax Administration Act 1994; or

(b) apply for a refund of the amount under section RM 8 (Overpaid RWT or NRWT).

Overpayment through payee's act or omission

(7) Despite subsections (2) and (5), if the excess amount arises from an act or omission by the payee, the payer must pay the full amount withheld to the Commissioner and is not liable to repay the excess amount to the payee or another person.

Defined in this Act: amount, amount of tax, apply, Commissioner, investment income information, non-resident passive income, notify, NRWT, pay, resident passive income, RWT, tax year

Compare: 2004 No 35 ss NF 6(2)–(4), NF 7(1), (2), NG 16A(2), (3)

Section RA 12(2) heading: replaced, on 1 April 2020, by section 179(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(2): replaced, on 1 April 2020, by section 179(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(3): amended, on 1 April 2020, by section 179(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(4) heading: replaced, on 1 April 2020, by section 179(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(4): replaced, on 1 April 2020, by section 179(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(4B) heading: inserted, on 1 April 2020, by section 179(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(4B): inserted, on 1 April 2020, by section 179(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(6): amended, on 1 April 2020, by section 179(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12(6)(a): amended, on 1 April 2020, by section 179(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RA 12 list of defined terms **dividend**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **dividend treated as interest**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **interest**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **investment income information**: inserted, on 1 April 2020, by section 179(6)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **Maori authority**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **notice**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **notify**: inserted, on 1 April 2020, by section 179(6)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **RWT withholding certificate**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **shareholder dividend statement**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 12 list of defined terms **taxable Maori authority distribution**: repealed, on 1 April 2020, by section 179(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Payment dates

RA 13 Payment dates for terminal tax

When payment due

(1) A person must pay their terminal tax for a tax year by—

(a) the 7th day of the month in schedule 3, part A, column G or H (Payment of provisional tax and terminal tax) for the person's corresponding income year, unless paragraph (b) applies; and

(b) the 15th day of January, if January is the month in schedule 3, part A, column G or H, for the person's corresponding income year.

Columns G and H

(2) For the purposes of subsection (1), the month in schedule 3, part A, column G or H, for the person's corresponding income year is—

(a) the month in column H, if—

(i) the person's return of income for the income year was linked to a tax agent as described in subsection (4); or

(ii) *[Repealed]*

(b) the month in column G in any other case.

First occurrence of month

(3) For the purposes of subsection (1),—

(a) the month in column G is the first occurrence of that month after the balance date:

(b) the month in column H is the first occurrence of that month after the month in column G.

Linked to tax agent

(4) For the purposes of subsection (2)(a)(i), a return of income is linked to a tax agent if the Commissioner has been notified that the return is to be filed by the tax agent who has an extension of time under section 37(4) of the Tax Administration Act 1994.

Defined in this Act: ask, Commissioner, corresponding income year, notify, pay, return of income, tax agent, tax year, terminal tax

Compare: 2004 No 35 s MC 1

Section RA 13(1)(b): amended (with effect from 1 April 2008), on 29 May 2008, by section 38(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RA 13(2)(a)(i): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 112(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section RA 13(2)(a)(ii): repealed, on 1 April 2019, by section 245(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RA 13 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RA 13 list of defined terms **income statement**: repealed, on 1 April 2019, by section 245(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RA 14 Payment dates for provisional tax

A person must pay their provisional tax for a tax year under section RC 9 (Provisional tax payable in instalments) according to the relevant cycle of instalments set out in schedule 3, part A, columns A to F1 (Payment of provisional tax and terminal tax).

Defined in this Act: pay, provisional tax, tax year

Compare: 2004 No 35 s MB 8(1), (2)

Section RA 14: amended, on 1 April 2018, by section 33(1) (and see section 33(2) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RA 15 Payment dates for interim and other tax payments

When this section applies

(1) This section applies when a person is required—

(a) to withhold under section RA 5 an amount of tax for a payment and pay it to the Commissioner; or

(b) to withhold and pay, or pay, under section RA 6 an amount to the Commissioner for a payment received or benefit provided by them; or

(c) to withhold and pay under section RA 6B an amount of tax to the Commissioner for a retirement scheme contribution; or

(d) to pay under section RA 6C(1) or to withhold and pay under section RA 6C(2), an amount to the Commissioner for a residential land purchase amount.

When payment due

(2) The person must pay the amount to the Commissioner by the following dates:

(a) when the period for which the payment is made is shorter than a month, by the 5th day after the relevant end date:

(b) when the period for which the payment is made is a month or a period that is longer than a month but not a period referred to in paragraph (c) or (d), by the 20th day of the month after the relevant end date:

(c) when the period for which the payment is made is a tax year or income year or both, by 31 May:

(cb) despite subsection (3)(c), for FBT payable for the last quarter of a tax year, by 31 May:

(d) for a close company that pays FBT on an income year basis, by terminal tax date.

Relevant end dates

(3) In this section, an **end date** means 1 of the following, as applicable:

(a) for PAYE and ESCT payable for 2 payment periods in a month under section RD 4(1)(b) or RD 65(3) (which set out the basis for payment of PAYE and ESCT),—

(i) for the first payment period, the 15th day of the month; and

(ii) for the second payment period, the last day of the month:

(b) for PAYE, RWT, NRWT, RSCT, and RLWT payable monthly under section RD 4(1)(a), RE 21(2) and (7), RF 3, RF 13(3), RH 2(4), or RL 5 (which set out the basis for payment of PAYE, RWT, NRWT, RSCT, and RLWT), as applicable, the last day of a month:

(c) for FBT payable quarterly under sections RD 58, RD 59, and RD 62 (which set out the basis for payment of FBT), the last day of a quarter:

(d) for RWT and NRWT payable by instalment under section RE 21(3) or RF 13(2) (which set out the basis for payment of RWT and NRWT)—

(i) for the first instalment, the last day of September; and

(ii) for the second instalment, the last day of March.

When payment due in December

(4) Despite subsection (2), for the purposes of this section and the payment of PAYE and ESCT to the Commissioner, if the month referred to in subsection (3)(a)(ii) is December, the payment is due by 15 January.

Treatment of certain cross-border employees

(4B) Despite subsections (2)(a) and (b) and (3)(a) and (b), and on application by an employer, the Commissioner may, in special circumstances, agree with the employer that the payment of amounts of tax for PAYE income payments made to a class of cross-border employees for a tax year is due by 31 May after the end of the tax year.

Discrepancies

[Repealed]

(5) *[Repealed]*

Payment dates

[Repealed]

(6) *[Repealed]*

Non-resident passive income

(7) The Commissioner may extend the time for payment of NRWT.

Defined in this Act: amount of tax, assessment, close company, Commissioner, cross-border employees, end date, ESCT, FBT, first payment period, income year, non-resident passive income, NRWT, pay, PAYE, PAYE income payment, quarter, resident passive income, residential land purchase amount, retirement scheme contribution, RLWT, RSCT, RWT, second payment period, tax year, terminal tax

Compare: 2004 No 35 ss NC 15, ND 9(2), (3), ND 10, ND 13, ND 14, NE 4, NEB 3(1), NF 4, NG 11, NH 3

Section RA 15(1)(b): amended, on 1 April 2008, by section 524(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RA 15(1)(c): added, on 1 April 2008, by section 524(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RA 15(1)(c): amended, on 1 July 2016, by section 48(1) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 15(1)(d): inserted, on 1 July 2016, by section 48(1) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 15(2)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 492(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 15(2)(c): substituted (with effect on 1 April 2009), on 6 October 2009, by section 492(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 15(2)(cb): inserted (with effect on 1 April 2009), on 6 October 2009, by section 492(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 15(2)(d): substituted (with effect on 1 April 2008), on 6 October 2009, by section 492(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 15(3)(b): substituted, on 1 April 2008, by section 524(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RA 15(3)(b): amended (with effect on 1 April 2008), on 29 March 2025, by section 121(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RA 15(3)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 256(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RA 15(3)(b): amended, on 1 July 2016, by section 48(2)(a) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 15(3)(b): amended, on 1 July 2016, by section 48(2)(b) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 15(3)(c): substituted (with effect on 30 June 2009), on 6 October 2009, by section 492(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 15(4): amended, on 1 April 2020, by section 180(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 15(4B) heading: inserted, on 1 April 2024, by section 100(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 15(4B): inserted, on 1 April 2024, by section 100(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 15(5) heading: repealed, on 1 April 2020, pursuant to section 180(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 15(5): repealed, on 1 April 2020, by section 180(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 15(6) heading: repealed, on 1 April 2020, pursuant to section 180(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 15(6): repealed, on 1 April 2020, by section 180(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 15 list of defined terms **cross-border employees**: inserted, on 1 April 2024, by section 100(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 15 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 492(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 15 list of defined terms **PAYE income payment**: inserted, on 1 April 2024, by section 100(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 15 list of defined terms **residential land purchase amount**: inserted, on 1 July 2016, by section 48(3) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 15 list of defined terms **retirement scheme contribution**: inserted, on 1 April 2008, by section 524(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RA 15 list of defined terms **RLWT**: inserted, on 1 July 2016, by section 48(3) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RA 15 list of defined terms **RSCT**: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RA 15 compare note: amended, on 1 April 2008, by section 524(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RA 16 Payment date when taxable activity ends

When this section applies

(1) This section applies for a month when a registered person is required under section RA 6 to withhold and pay RWT or NRWT, and the person—

(a) stops carrying on a taxable activity; or

(b) no longer carries on a taxable activity in New Zealand.

Payment to Commissioner

(2) The person must pay to the Commissioner by the 20th day of the next month the total amount of tax for all payments relating to the taxable activity to the extent to which an amount of tax remains unpaid.

Exemption continuing

(3) This section does not apply for resident passive income if the person's RWT-exempt status continues.

Defined in this Act: amount of tax, Commissioner, NRWT, pay, registered person, resident passive income, RWT, RWT-exempt status, taxable activity

Compare: 2004 No 35 ss NF 4(5), NG 11(4)

Section RA 16(3): amended, on 1 April 2020, by section 181(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 16 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 181(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 16 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 181(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RA 17 Payment date when RWT-exempt status ends

When this section applies

(1) This section applies in relation to a month of a tax year when a person's RWT-exempt status ends.

Payment to Commissioner

(2) The person must pay to the Commissioner by the 20th day of the month following that in which the status ends the total amount of tax withheld by them to the extent to which the amount remains unpaid.

Exclusion

(3) This section does not apply if the person continues to be required to withhold RWT through the carrying on of a taxable activity.

Defined in this Act: amount of tax, Commissioner, pay, RWT, RWT-exempt status, tax withheld, tax year, taxable activity

Compare: 2004 No 35 s NF 4(6)

Section RA 17 heading: amended, on 1 April 2020, by section 182(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 17(1): amended, on 1 April 2020, by section 182(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 17(2): amended, on 1 April 2020, by section 182(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 17 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 182(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RA 17 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 182(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RA 18 Payment date for emigrating companies

When this section applies

(1) This section applies to an emigrating company that is treated under section FL 2 or FL 3 (which relate to the treatment of emigrating companies and their shareholders) as paying a distribution to a shareholder.

Payment

(2) On or before the relevant date set out in subsection (3), the company must pay to the Commissioner all amounts of tax for resident passive income or non-resident passive income withheld in relation to the distribution.

Due date

(3) The relevant date is,—

(a) for a company that is treated under section FL 2 as paying a distribution to a shareholder, the date that is 3 months after the time of emigration:

(b) for a company that is treated under section FL 3 as paying a distribution to a shareholder, the date that is 3 months after the earliest of the events described in subsection (1)(a) to (c) of that section occurs.

Defined in this Act: amount of tax, Commissioner, emigrating company, non-resident passive income, pay, resident passive income, shareholder, time of emigration

Compare: 2004 No 35 ss NF 4(6B), NG 11(4B)

Section RA 18(1): amended (with effect on 30 August 2022), on 31 March 2023, by section 101(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 18(2): amended (with effect on 30 August 2022), on 31 March 2023, by section 101(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 18(3) heading: inserted (with effect on 30 August 2022), on 31 March 2023, by section 101(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RA 18(3): inserted (with effect on 30 August 2022), on 31 March 2023, by section 101(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Refunds

RA 19 Refunds of excess amounts or when amounts mistakenly paid

When this section applies

(1) This section applies for a person (the **payer**) and the withholding of an amount of tax that is more than the amount required to be withheld and paid under this Part (the **excess amount**) or an amount mistakenly paid, when—

(a) the payer withholds and pays to the Commissioner an excess amount of RWT or NRWT:

(b) *[Repealed]*

(c) a PAYE intermediary pays an amount of tax for an employer through an error, or when the payment is not funded by the employer, as described in section RM 7 (Refunds to PAYE intermediaries):

(d) the result of a calculation for FBT made by an employer under sections RD 50 to RD 53 (which relate to attributed benefits and non-attributed benefits) is negative.

Refunds

(2) The Commissioner must refund the excess amount to the payer.

Defined in this Act: amount, amount of tax, Commissioner, employer, FBT, NRWT, pay, PAYE intermediary, RWT

Compare: 2004 No 35 ss NBA 7, ND 10(4)(a), NF 7(1), NG 16, NH 4

Section RA 19(1)(b): repealed, on 1 April 2017, by section 257(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RA 19 list of defined terms **FDP**: repealed, on 1 April 2017, by section 257(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Amalgamations

RA 20 Amalgamation of companies

Amalgamated company's obligation

(1) If an amalgamating company ends its existence on a resident's restricted amalgamation, an unsatisfied obligation that the amalgamating company has at the time of the amalgamation to withhold and pay an amount of tax to the Commissioner under this Part is treated as an obligation of the amalgamated company.

Thresholds for close companies

(2) For the purpose of determining whether the threshold under section RD 60 (Close company option) has been met, the amalgamated company is treated as paying the gross amounts of tax withheld under section RA 5(1)(a) and (c) by the amalgamating company in the income year before that in which the amalgamation takes place.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount of tax, close company, Commissioner, gross, income year, pay, resident's restricted amalgamation

Compare: 2004 No 35 ss NC 15(7), ND 13(8), ND 14(8), NEB 3(2), NH 4(8)

Section RA 20(1) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 493(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 20(2) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 493(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 20(2): added (with effect on 1 April 2008), on 6 October 2009, by section 493(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 20 list of defined terms **amalgamation**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 493(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 20 list of defined terms **close company**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 493(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 20 list of defined terms **gross**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 493(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 20 list of defined terms **income year**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 493(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 20 compare note: amended, on 1 April 2008, by section 525 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Regulations

RA 21 Regulations

PAYE income payments

(1) The Governor-General may make regulations by Order in Council to—

(a) declare a particular payment, or particular class of payments, to be included in, or excluded from, the definition of—

(i) salary or wages; or

(ii) extra pay; or

(iii) schedular payment:

(b) provide further rules in relation to schedular payments as set out in subsection (2):

(c) provide that the regulations do not apply to a particular person, or class or persons, on notification from the Commissioner.

Schedular payments

(2) For the purposes of subsection (1)(b), regulations may be made under this Act or the Tax Administration Act 1994 in relation to schedular payments for the following purposes:

(a) to set the amount of tax for a particular schedular payment or particular class of schedular payment:

(b) to provide that the Commissioner may, if a person asks, set the rate of tax for a schedular payment to the person:

(c) to provide that the amount of tax for a particular schedular payment, class of schedular payment, or schedular payments under a particular threshold is the person's income tax liability in relation to the relevant kind of income:

(d) to provide that an amount of tax must be withheld and paid despite any assignment or charge.

Employment-related loans

(3) The Governor-General may make regulations by Order in Council to declare the rate of interest applying to employment-related loans.

Application to quarters

(4) When regulations referred to in subsection (3) are made, they apply to quarters starting from a date at least 1 month following the date the regulations were made. Regulations that reduce the rate of interest from the prescribed rate of interest at the time, if made at least 1 month before the quarter ends, may apply for that quarter.

Secondary legislation

(5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount of tax, ask, employment-related loan, extra pay, income, income tax liability, interest, notify, pay, prescribed rate of interest, quarter, salary or wages, schedular payment, tax

Compare: 2004 No 35 ss NC 21, ND 1F

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section RA 21(4): amended (with effect on 1 April 2008), on 6 October 2009, by section 494(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 21(5) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section RA 21(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section RA 21 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Application of other provisions

RA 22 Limits on application of other provisions for purposes of PAYE rules

Amounts not separated

(1) For an amount of tax not withheld and paid to the Commissioner, the provisions listed in subsection (2) do not require—

(a) the separate identification of the amounts of a combined tax and earner-related payment that are attributable to—

(i) an amount of tax for a PAYE income payment that an employer or PAYE intermediary is required to make under the PAYE rules:

(ii) an amount that an employer must subtract under the sections referred to in subsection (2)(b) to (d):

(b) the bringing of separate proceedings or separate treatment for the collection, recovery, or imposition of penalties in relation to an amount of a combined tax and earner-related payment.

Provisions

(2) The sections referred to in subsection (1) are—

(a) sections 143, 143A, and 156 to 165 of the Tax Administration Act 1994:

(b) section 115 of the Accident Rehabilitation and Compensation Insurance Act 1992:

(c) section 285 of the Accident Insurance Act 1998:

(d) section 221 of the Accident Compensation Act 2001.

Defined in this Act: amount, amount of tax, combined tax and earner-related payment, Commissioner, employer, pay, PAYE income payment, PAYE intermediary, PAYE rules

Compare: 2004 No 35 s NC 20

Section RA 22(2)(d): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

RA 23 Application of other provisions for purposes of ESCT rules and NRWT rules

References

(1) For the purposes of the ESCT rules and the NRWT rules, sections 167 and 169 of the Tax Administration Act 1994 apply, modified as necessary, as if—

(a) a reference to an amount of tax withheld were a reference to ESCT or NRWT, as applicable:

(b) a reference to an employer were a reference to a person required to withhold and pay ESCT or NRWT, as applicable:

(c) a reference to the PAYE rules were a reference to the ESCT rules or the NRWT rules.

Exclusion

[Repealed]

(2) *[Repealed]*

Defined in this Act: amount of tax, employer, ESCT, ESCT rules, NRWT, NRWT rules, pay, PAYE rules, tax withheld

Compare: 2004 No 35 ss NE 7, NG 17(1)

Section RA 23(2) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 495(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 23(2): repealed (with effect on 1 April 2008), on 6 October 2009, by section 495(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RA 23 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 495(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RA 24 Application of other provisions for purposes of RSCT rules

For the purposes of the RSCT rules, sections 170(2), 171, and 172 of the Tax Administration Act 1994, modified as necessary, apply as if—

(a) a reference to an amount of tax withheld were a reference to RSCT:

(b) a reference to the RWT rules were a reference to the RSCT rules.

Defined in this Act: amount of tax, RSCT rules, RWT rules

Compare: 2004 No 35 s NEB 7(1)

Section RA 24: added, on 1 April 2008, by section 526 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subpart RB—Terminal tax

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RB 1 Payment of terminal tax

A person must pay their terminal tax for a tax year on the due date set out in section RA 13 (Payment dates for terminal tax).

Defined in this Act: pay, tax year, terminal tax

Compare: 2004 No 35 s MC 1

Section RB 1: amended (with effect on 1 April 2008), on 6 October 2009, by section 496(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RB 2 Income tax liability for non-filing taxpayers for non-resident passive income

[Repealed]

Section RB 2: repealed, on 30 March 2017, by section 258 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RB 3 Schedular income tax liability for filing taxpayers for non-resident passive income

When this section applies

(1) This section applies for the purposes of calculating a filing taxpayer's terminal tax under section BC 8 (Satisfaction of income tax liability).

Calculating amount of liability

(2) The schedular income tax liability of the filing taxpayer under section BC 7 (Income tax liability of person with schedular income) for each class of non-resident passive income that is schedular income under paragraph (f) of the definition of **schedular income** is equal to an amount calculated using the formula—

amount of income × tax rate.

Definition of item in formula

(3) In the formula, **tax rate** is the rate set out in sections RF 7 to RF 10, and RF 12 (which relate to the calculation of NRWT) that applies to the class of non-resident passive income.

No imputation credits

(4) If the taxpayer derives a dividend to which subsection (2) applies, they do not have a credit under section LE 1 (Tax credits for imputation credits) for an imputation credit attached to the dividend.

Defined in this Act: amount, dividend, filing taxpayer, imputation credit, non-resident passive income, NRWT, schedular income, schedular income tax liability, terminal tax

Compare: 2004 No 35 ss BC 7, NG 3

Section RB 3(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 497(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RB 3 list of defined terms **non-filing taxpayer**: repealed, on 1 April 2019, by section 246 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RB 4 Using refunds to satisfy tax liabilities

If a person is entitled to a refund of an amount of tax from the Commissioner, the amount may be applied under section RM 10 (Using refund to satisfy tax liability) to satisfy a liability that the person has under the Inland Revenue Acts.

Defined in this Act: amount of tax, Commissioner, Inland Revenue Acts

Compare: 2004 No 35 s MD 1(3), (3A)

Subpart RC—Provisional tax

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Introductory provisions

RC 1 What this subpart does

When this subpart applies

(1) Sections RC 3 to RC 39 apply, for the purposes of the provisional tax rules, to provide—

(a) the circumstances in which a person has a provisional tax obligation:

(b) a person's provisional tax liability for a tax year, and the methods for calculating the amount payable for the tax year:

(c) the number of instalments of provisional tax and the instalment dates for a corresponding income year:

(d) how the amount of an instalment of provisional tax is determined:

(e) the payment of provisional tax in a transitional year:

(f) the application of the rules relating to use of money interest in Part 7 of the Tax Administration Act 1994, and late payment penalties and shortfall penalties in Part 9 of that Act.

Instalment dates

(2) In this subpart, a reference to an instalment classified by the alphanumeric designations A to F1 is a reference to a date in the table in schedule 3, part A (Payment of provisional tax and terminal tax) on which an instalment of provisional tax is payable for an income year corresponding to a tax year.

Defined in this Act: amount, corresponding income year, income year, instalment date, pay, provisional tax, provisional tax rules, shortfall penalty, tax year, transitional year

Compare: 2004 No 35 s MB 1

Section RC 1(2): amended, on 1 April 2018, by section 34(1) (and see section 34(2) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RC 2 Provisional tax rules and their application

Meaning

(1) The **provisional tax rules** means—

(a) this subpart; and

(b) section LB 2 (Tax credits for provisional tax payments); and

(c) sections 124S to 124W and 124ZF, 119, 120KB to 120N, 120OE, 139B and 139C, 173P to 173R of the Tax Administration Act 1994.

Application

(2) The provisional tax rules apply to a person who is required or who chooses to pay provisional tax.

Defined in this Act: provisional tax, provisional tax rules

Compare: 2004 No 35 s OB 1 "provisional tax rules"

Section RC 2(1)(c): amended, on 18 March 2019, by section 293 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RC 3 Who is required to pay provisional tax?

Threshold or election

(1) A person who is liable to pay provisional tax for a tax year is—

(a) a person whose residual income tax for the tax year is more than $5,000; or

(b) a person who chooses under section RC 4 to pay provisional tax.

Exclusions

(2) Despite subsection (1), the following persons do not pay provisional tax:

(a) a company that does not have a fixed establishment in New Zealand and is not treated as resident in New Zealand:

(b) *[Repealed]*

(c) a non-resident contractor who has not been given an exemption by the Commissioner for the tax year:

(d) a multi-rate PIE that does not choose to calculate and pay tax using the provisional tax calculation option under section HM 44 (Provisional tax calculation option).

No obligation

(3) A person has no obligation to pay provisional tax for a tax year if their residual income tax for the preceding tax year is $5,000 or less.

Defined in this Act: Commissioner, company, fixed establishment, multi-rate PIE, New Zealand, non-resident, non-resident contractor, pay, provisional tax, resident in New Zealand, residual income tax, tax year

Compare: 2004 No 35 ss MB 2, OB 1 "provisional taxpayer"

Section RC 3(1)(a): amended, on 1 April 2020, by section 21(1) (and see section 21(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 3(2)(b): repealed, on 1 April 2019, by section 247 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 3(2)(c): amended, on 1 April 2019, by section 183(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RC 3(2)(d): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 498(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 3(3): amended, on 1 April 2020, by section 21(2) (and see section 21(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 3 list of defined terms **exemption certificate**: repealed, on 1 April 2019, by section 183(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RC 3 list of defined terms **multi-rate PIE**: inserted, on 1 April 2010, by section 498(2)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 3 list of defined terms **portfolio tax rate entity**: repealed, on 1 April 2010, by section 498(2)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RC 4 Choosing to pay provisional tax

Election

(1) A person, when first providing a return of income for a tax year, may choose to pay provisional tax for the tax year if—

(a) they have paid provisional tax of more than $5,000 on or before—

(i) the date of instalment F for the corresponding income year; or

(ii) the final instalment date in a transitional year; and

(b) they have, on the day on which the first payment of provisional tax is made for the tax year, a reasonable expectation that they are liable to pay provisional tax for the tax year, other than by this election.

Exclusion

(2) This section does not apply to a person described in section RC 3(2).

Defined in this Act: corresponding income year, final instalment, instalment date, pay, provisional tax, return of income, tax year, transitional year

Compare: 2004 No 35 s MB 3

Section RC 4(1)(a): amended, on 1 April 2020, by section 22(1) (and see section 22(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Calculating provisional tax liability

RC 5 Methods for calculating provisional tax liability

Choice of method

(1) A person liable to pay provisional tax must calculate the amount payable for a tax year using 1 of the methods described in subsections (2) to (7).

Standard method: 5% uplift

(2) Under the standard method, the amount of provisional tax payable for the tax year is, for the purpose of determining the amount of any particular instalment of provisional tax payable under section RC 9, 105% of the person's residual income tax for the preceding tax year, determined under section RC 6. Subsection (3) overrides this subsection.

Standard method: 10% uplift

(3) Despite subsection (2), the amount of provisional tax payable for the tax year is, for the purpose of determining the amount of any particular instalment of provisional tax payable under section RC 9, 110% of the person's residual income tax for the tax year before the preceding tax year if—

(a) they are required to provide a return of income for the preceding tax year; and

(b) the return is not due on or before the relevant instalment date through the application of section 37 of the Tax Administration Act 1994, or an extension granted under that section; and

(c) they have not provided the return on or before the relevant instalment date; and

(d) the relevant instalment date is not the date of instalment F for the corresponding income year.

Non-working days

(3B) For the purposes of subsection (3)(c), if the relevant instalment date falls on a day that is not a working day, a return for the preceding tax year provided on the first working day after that instalment date is deemed to have been provided on the instalment date.

Relationships and modification of standard method

(4) Subsections (5) to (7) override subsection (3). Sections RC 10(5), RZ 3 (Standard method: 2010–11 to 2012–13 income years) and RZ 5D (Standard method or GST method: transition for Maori authorities) modify subsections (2) and (3).

Truncation

(4B) An amount calculated under subsection (2) or (3) is truncated to whole dollars, *for example* $10.98 equals $10.

Estimation method

(5) The person may estimate their provisional tax liability for the tax year under section RC 7.

AIM method

(5B) A person must use the AIM method under section RC 7B to determine their provisional tax liability for the tax year (the **current tax year**), other than a transitional year, if the person—

(a) has chosen to either—

(i) use the AIM method for the current tax year on or before their first instalment date under the AIM method; or

(ii) change part-year to use the AIM method for their remaining instalment dates under the AIM method for the current tax year, and they use either the standard method or GST ratio method at the beginning of the current tax year and, before changing to use the AIM method, they met all of their provisional tax obligations under the relevant method, from the beginning of the current tax year; and

(b) has an AIM-capable accounting system that is up-to-date for relevant tax law for the corresponding income year and for determinations under section 91AAX of the Tax Administration Act 1994 for the corresponding income year; and

(c) has—

(i) annual gross income of $5,000,000 or less for the tax year before the current tax year:

(ii) annual gross income of $5,000,000 or less for the first tax year for which the person used the AIM method, and the Commissioner has approved under section 15Z of the Tax Administration Act 1994 the person's continued use of an AIM-capable accounting system for tax years in which the person has annual gross income of more than $5,000,000:

(iii) a large business AIM-capable system; and

(d) has not been liable, in 1 of the last 4 tax years before the current tax year, for a shortfall penalty in relation to their use of the AIM method and an approved AIM provider's AIM-capable accounting system; and

(e) has not returned tax liabilities using the AIM method with the sole purpose or effect of consistently, year-on-year, reducing their tax liabilities below the amounts of reasonably accurate assessments; and

(f) is not a member of a class of taxpayers that the Commissioner has determined, under section 91AAY of the Tax Administration Act 1994, must not use the AIM method; and

(g) for the current tax year, has not failed more than twice to give the Commissioner information in the prescribed form, as provided by section 45 of the Tax Administration Act 1994.

AIM method: exception

(5C) A person who does not meet the requirements of subsection (5B) can not use the AIM method for the current tax year. If they can not use the AIM method for the current year because part-way through the corresponding income year the person stops meeting the requirements of subsection (5B), the person is treated as using the estimation method for the whole of the current tax year.

GST ratio method

(6) A person who is eligible under section RC 16 and not excluded by section RC 17 may choose to use a goods and services tax (GST) ratio under section RC 8 to determine their provisional tax liability for the tax year.

Commissioner's determination

(7) If the Commissioner determines a person's provisional tax liability under section 119 of the Tax Administration Act 1994, the amount or liability is that last determined by the Commissioner and notified to the person at least 30 days before the instalment date. The 30-day requirement does not apply in a case to which section 119(1)(d) of that Act applies (which relates to an estimate of residual income tax that is not fair and reasonable).

Life insurance business

(8) A person who carries on a business of providing life insurance and who is liable for income tax under the rules for life insurers, must at the time they determine their provisional tax liability provide the Commissioner with details of the calculation of that liability. In particular, they must detail the extent to which the amount of provisional tax relates to the policyholder base.

Defined in this Act: AIM-capable accounting system, amount, annual gross income, business, Commissioner, corresponding income year, GST ratio, income tax, instalment date, large business AIM-capable system, life insurance, notify, pay, policyholder base, provisional tax, residual income tax, return of income, shortfall penalty, tax year, taxpayer, transitional year

Compare: 2004 No 35 s MB 4

Section RC 5(2): replaced (with effect on 1 October 2007), on 31 March 2023, by section 102(1) (and see section 102(7) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RC 5(3): amended (with effect on 1 October 2007), on 31 March 2023, by section 102(2) (and see section 102(7) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RC 5(3)(b): amended (with effect on 1 April 2017), on 31 March 2023, by section 102(3) (and see section 102(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RC 5(3)(c): amended (with effect on 1 April 2017), on 31 March 2023, by section 102(4) (and see section 102(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RC 5(3)(d): amended (with effect on 1 April 2017), on 31 March 2023, by section 102(5) (and see section 102(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RC 5(3B) heading: inserted (with effect on 1 April 2017), on 31 March 2023, by section 102(6) (and see section 102(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RC 5(3B): inserted (with effect on 1 April 2017), on 31 March 2023, by section 102(6) (and see section 102(8) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RC 5(4): amended (with effect on 1 April 2019), on 23 March 2020, by section 169(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 5(4): amended (with effect on 1 October 2010), on 21 December 2010, by section 121 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RC 5(4): amended, on 1 October 2010, by section 25 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RC 5(4): amended, on 1 October 2008, by section 39 of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RC 5(4B) heading: inserted (with effect on 1 April 2017), on 23 March 2020, by section 169(2) (and see section 169(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 5(4B): inserted (with effect on 1 April 2017), on 23 March 2020, by section 169(2) (and see section 169(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 5(5B) heading: inserted, on 1 April 2018, by section 35(1) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 5(5B): inserted, on 1 April 2018, by section 35(1) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 5(5B)(a): replaced, on 1 April 2019, by section 248(1) (and see section 248(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 5(5C) heading: inserted, on 1 April 2018, by section 35(1) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 5(5C): inserted, on 1 April 2018, by section 35(1) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 5(8): amended (with effect on 2 November 2012), on 30 March 2021, by section 129(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RC 5 list of defined terms **AIM-capable accounting system**: inserted, on 1 April 2018, by section 35(2) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3)

Section RC 5 list of defined terms **annual gross income**: inserted, on 1 April 2018, by section 35(2) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3)

Section RC 5 list of defined terms **large business AIM-capable system**: inserted, on 1 April 2018, by section 35(2) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3)

Section RC 5 list of defined terms **life insurance rules**: repealed (with effect on 2 November 2012), on 30 March 2021, by section 129(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RC 5 list of defined terms **shortfall penalty**: inserted, on 1 April 2018, by section 35(2) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3)

Section RC 5 list of defined terms **taxpayer**: inserted, on 1 April 2018, by section 35(2) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3)

Section RC 5 list of defined terms **transitional year**: inserted, on 1 April 2018, by section 35(2) (and see section 35(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3)

RC 6 Standard method

When this section applies

(1) This section applies to a person liable to pay provisional tax for the purposes of section RC 5(2) and (3) and the calculation of the amount of provisional tax payable for a tax year under the standard method.

Assessment for preceding tax year

(2) The person's residual income tax for a tax year is based on their assessment for the preceding tax year unless the Commissioner has sent out a notice of assessment for the tax year at least 30 days before the relevant instalment date, in which case the amount of residual income tax is based on the Commissioner's assessment for the preceding tax year.

Commissioner's assessment for preceding tax year

(3) The person's residual income tax is based on the Commissioner's assessment for the preceding tax year, whenever the assessment is made, if—

(a) they are required under sections 33 and 37 of the Tax Administration Act 1994 to provide a return of income for the preceding tax year but have failed to do so by the relevant instalment date; or

(b) they are not required under sections 33 and 37 of that Act to provide a return by the relevant instalment date, and subsections (2) and (4) do not apply.

Residual income tax for preceding tax year

(4) The amount of provisional tax payable for a tax year is the amount of the person's residual income tax for the preceding tax year if—

(a) they are not required to provide a return of income for the preceding tax year; or

(b) their residual income tax for the tax year before the preceding tax year was $5,000 or less, and they were not required to provide, and have not provided, a return of income for the tax year by the date of instalment F for the corresponding income year.

Later increased assessment

(5) If the Commissioner's assessment of a person's income tax liability occurs after the payment date for an instalment of provisional tax and would result in an increase in the person's residual income tax for the relevant tax year, the residual income tax is treated for the purposes of the provisional tax rules as if it had not been increased.

Transitional years and consolidated groups

(6) A person's residual income tax in a transitional year is calculated under section RC 20. For consolidated groups, the calculation is made under section RC 29.

Defined in this Act: amount, assessment, Commissioner, consolidated group, corresponding income year, income tax liability, instalment date, notice, pay, provisional tax, provisional tax rules, residual income tax, return of income, tax year, transitional year

Compare: 2004 No 35 s MB 5

Section RC 6(4)(b): amended, on 1 April 2020, by section 23(1) (and see section 23(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 6(5): amended (with effect on 1 April 2008), on 28 March 2024, by section 112 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

RC 7 Estimation method

When this section applies

(1) This section applies to a person who is liable to pay provisional tax under section RC 5(5) and to the calculation of the amount of their provisional tax payable for a tax year under the estimation method.

Fair and reasonable estimate

(2) On or before an instalment date, the person may make a fair and reasonable estimate of their residual income tax for the tax year by informing the Commissioner of the estimate. The amount of provisional tax payable for a tax year is the amount of the estimated residual income tax.

Revising estimates

(3) On or before an instalment date, the person may choose to revise an estimate made under subsection (2). The amount last estimated is the amount taken into account under section RC 5(5).

Exception for person making election under section IZ 8

(3B) A person, including a person who otherwise does not use the estimation method in the tax year, who makes an election under section IZ 8 (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year), and a shareholder-employee of such a person, may make or revise an estimate made under subsection (2), for the tax year corresponding to the income year referred to in section IZ 8 as the taxable income year, before the earlier of the date on which the person files the return of income for the tax year and the date on which the return is due.

Reasonable care in making and maintaining assessment

(4) A person who makes an estimate under subsection (2) must take reasonable care in making it, and must revise the estimate for the tax year if, at some time in the tax year, the amount estimated is no longer fair and reasonable.

Estimation higher than provisional tax payable

(5) If a person's estimate is more than the provisional tax that is payable for the tax year, they are treated as having taken reasonable care in making the estimate.

Changing calculation method from GST ratio

(6) If, under section RC 18(5), a person changes the way they determine the amount of provisional tax after the date of an instalment, they must estimate their residual income tax for their corresponding income year, and must pay provisional tax on whichever of the following instalment dates for the income year occur after 30 days from their last ratio instalment date:

(a) C and F for changes to a 6-monthly GST taxable period:

(b) B, D, and F for other changes.

Disaster relief

[Repealed]

(7) *[Repealed]*

Defined in this Act: amount, Commissioner, corresponding income year, GST ratio, income year, inform, instalment date, pay, provisional tax, ratio instalment date, residual income tax, return, return of income, shareholder-employee, tax year

Compare: 2004 No 35 s MB 6

Section RC 7(3): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 221(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RC 7(3B) heading: inserted (with effect on 15 April 2020), on 30 April 2020, by section 13(1) (and see section 13(3) for application) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section RC 7(3B): inserted (with effect on 15 April 2020), on 30 April 2020, by section 13(1) (and see section 13(3) for application) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section RC 7(6): substituted, on 1 April 2008, by section 527 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 7(7) heading: repealed, on 6 October 2009, pursuant to section 499(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 7(7): repealed, on 6 October 2009, by section 499(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 7 list of defined terms **income year**: inserted (with effect on 15 April 2020), on 30 April 2020, by section 13(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section RC 7 list of defined terms **inform**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 7 list of defined terms **qualifying event**: repealed, on 6 October 2009, by section 499(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 7 list of defined terms **return**: inserted (with effect on 15 April 2020), on 30 April 2020, by section 13(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section RC 7 list of defined terms **return of income**: inserted (with effect on 15 April 2020), on 30 April 2020, by section 13(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section RC 7 list of defined terms **self-assessed adverse event**: repealed, on 6 October 2009, by section 499(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 7 list of defined terms **shareholder-employee**: inserted (with effect on 15 April 2020), on 30 April 2020, by section 13(2) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

RC 7B AIM method

When this section applies

(1) This section applies to—

(a) a person who meets the requirements of section RC 5(5B); and

(b) the calculation of the amount of provisional tax payable for a tax year, other than a transitional year, under the AIM method.

AIM method

(2) A person must use an AIM-capable accounting system for the calculation of provisional tax payable for a tax year.

Meaning of AIM-capable accounting system

(3) **AIM-capable accounting system** means a double-entry accounting system that is an approved AIM provider's product, and uses a core software package from an approved AIM provider, if the system has the following features:

(a) a core software accounting package and connected packages that provide the ability to—

(i) generate and keep comprehensive financial accounts, including accounting income and expenditure, ledger accounts, trial balances, bank account reconciliations, and journals, on an on-demand basis, in accordance with good accounting and tax practice; and

(ii) calculate tax liabilities for the tax year using tax adjustments for the financial accounts, in accordance with a determination under section 91AAX of the Tax Administration Act 1994(a **section 91AAX determination**), and using tax rates under a section 91AAX determination; and

(iii) for amounts for which there is no tax adjustment under a section 91AAX determination, calculate tax liabilities for the tax year using tax rates under a section 91AAX determination, and using tax adjustments for the financial accounts that result in reasonably accurate assessments of tax liabilities for a person; and

(iv) recalculate all financial accounts and tax liabilities, if retrospective adjustments are required for the year to date; and

(v) produce reports and other information as required by the Commissioner, in formats prescribed by the Commissioner; and

(b) electronic communication facilities for—

(i) giving information in the form prescribed by the Commissioner; and

(ii) sending and receiving messages and notifications; and

(c) help documentation for end-users and their tax agents on the use of the package, with ongoing support provided by the approved AIM provider on the use of the package.

Defined in this Act: AIM-capable accounting system, approved AIM provider, Commissioner, person, provisional tax, tax agent, tax year

Section RC 7B: inserted, on 1 April 2018, by section 36(1) (and see section 36(2) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RC 8 GST ratio method

Using GST ratio

(1) A person liable to pay provisional tax who meets the requirements of section RC 16 and is not excluded by section RC 17 may choose to use a GST ratio to determine the amount of provisional tax payable for a tax year.

Meaning of GST ratio

(2) The person's **GST ratio** is the percentage figure that is obtained by dividing their residual income tax for the preceding tax year by their total taxable supplies for the corresponding income year. The amount of residual income tax and the amount of total taxable supplies are called **base amounts** for the purposes of this section.

When amounts based on tax year before preceding tax year

(3) If a base amount for the preceding tax year or corresponding income year is not known, the GST ratio is the percentage based on the assessment for the tax year and corresponding income year that are just before the preceding tax year and corresponding income year.

When no assessment for tax year before preceding tax year

(3B) Subsection (3) does not apply and the GST ratio is the percentage based on the assessments of the base amounts for the year that is 2 years before the preceding tax year if—

(a) for the year before the preceding tax year—

(i) an assessment of a base amount has not been made and the absence of an assessment arises because of an extension of time for filing a return for the year, or a period in the year:

(ii) an assessment of a base amount is the subject of a dispute or challenge under the Tax Administration Act 1994:

(iii) the year is a transitional year; and

(b) for the year that is 2 years before the preceding tax year—

(i) the base amounts have been assessed; and

(ii) the circumstances in paragraph (a)(ii) and (iii) do not exist.

Commissioner's calculation

(4) The Commissioner must calculate a person's GST ratio, informing them by—

(a) including the percentage figure on the person's preprinted GST return form; or

(b) *[Repealed]*

(c) some other means.

Adjustment to GST ratio

(5) The Commissioner must adjust a person's GST ratio if a base amount is revised through, among other reasons,—

(a) an assessment or an amended assessment of the person's income tax return for the preceding tax year; or

(b) a change in the value of the total taxable supplies for the corresponding income year; or

(c) the disposal of an asset to which section RC 19 applies.

New GST ratio

(6) When subsection (5) applies, the Commissioner must inform the person of the new GST ratio. The new ratio applies in relation to the relevant instalment dates that occur 30 days after the date on which the person is informed.

Transitional years

(7) If a person has paid instalments of provisional tax in a transitional year, for the tax year that follows the transitional year, for the purposes of this section and section RC 11, they must—

(a) ignore the transitional year when determining their residual income tax or total taxable supplies; and

(b) base their determination of residual income tax and total taxable supplies on the tax year preceding the transitional year.

When no assessment for tax year before preceding tax year

(7B) Subsection (7) does not apply and the GST ratio is the percentage based on the assessments of the base amounts for the year that is 2 years before the transitional year if—

(a) for the year before the transitional year—

(i) an assessment of a base amount has not been made and the absence of an assessment arises because of an extension of time for filing a return for the year, or a period in the year:

(ii) an assessment of a base amount is the subject of a dispute or challenge under the Tax Administration Act 1994:

(iii) the year is a transitional year; and

(b) for the year that is 2 years before the transitional year—

(i) the base amounts have been assessed; and

(ii) the circumstances in paragraph (a)(ii) and (iii) do not exist.

Total taxable supplies

(8) In subsections (2), (5), and (7), and in sections RC 11, RC 19, and RC 31, **total taxable supplies**, for a person and a period, means the amount that is the total value of taxable supplies by the person for the period. The amount includes the GST charged on the supplies.

Modification

(9) Sections RZ 4 (GST ratio method: 2010–11 to 2013–14 income years) and RZ 5D (Standard method or GST method: transition for Maori authorities) modify this section.

Defined in this Act: amount, assessment, base amount, Commissioner, corresponding income year, GST, GST ratio, income tax, inform, instalment date, pay, provisional tax, residual income tax, return, tax year, taxable supply, total taxable supplies, transitional year

Compare: 2004 No 35 s MB 7

Section RC 8(3B) heading: inserted, on 1 April 2008, by section 528(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 8(3B): inserted, on 1 April 2008, by section 528(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 8(4)(b): repealed, on 2 June 2016, by section 51(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 8(7B) heading: inserted, on 1 April 2008, by section 528(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 8(7B): inserted, on 1 April 2008, by section 528(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 8(9): amended (with effect on 1 October 2010), on 21 December 2010, by section 122 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RC 8(9): amended, on 1 October 2010, by section 26 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RC 8(9): amended, on 1 October 2008, by section 40 of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RC 8 list of defined terms **inform**: inserted, on 2 June 2016, by section 51(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Instalments of provisional tax

RC 9 Provisional tax payable in instalments

Who this section applies to

(1) This section applies to a person who is liable to pay provisional tax.

General principle

(2) For a person liable to pay provisional tax using the standard and estimation methods, the amount of the provisional tax liability must be spread evenly over the applicable number of instalments, so that equal amounts are paid on each instalment date. If the full amount is not divisible into exactly equal instalments, the final instalment carries the difference.

Provisional tax payable in 3 instalments

(3) A person pays provisional tax in 3 instalments on the interest instalment dates for the tax year in the months set out in schedule 3, part A, columns B, D, and F (Payment of provisional tax and terminal tax) for the person's corresponding income year. The amount of each instalment is calculated under section RC 10. Subsection (4) overrides this subsection.

Exclusions

(4) Subsection (3) does not apply—

(a) to a person liable to pay provisional tax who—

(i) pays GST on a 6-monthly basis; or

(ii) uses a GST ratio to determine the amount of provisional tax payable, or who changes their calculation method under section RC 18(5); or

(iii) changes the cycle of their taxable periods under section 15C of the Goods and Services Tax Act 1985:

(b) to a person with an initial provisional tax liability who—

(i) pays GST on a 6-monthly basis; or

(ii) pays GST on a monthly or 2-monthly basis, and starts a taxable activity within 30 days before the date of instalment B in their corresponding income year:

(bb) to a person that uses the AIM method for the tax year:

(c) to a person liable to pay provisional tax who has not provided a return of income for the preceding tax year, and whose residual income tax for the tax year before the preceding tax year was $5,000 or less:

(d) in a transitional year.

AIM method

(4B) A person liable to pay provisional tax who uses the AIM method for the current tax year must pay provisional tax—

(a) if the person is not registered for GST, or has a 6-month taxable period under section 15 of the Goods and Services Tax Act 1985, on the 6 instalment dates in the months set out in schedule 3, part A, columns A, B, C, D, E, and F for their balance date. The amount of each instalment is provided by section RC 10B; or

(b) if the person has a 2-month taxable period under section 15 of the Goods and Services Tax Act 1985, on the group of 6 instalment dates in the months set out in either schedule 3, part A, columns A, B, C, D, E, and F or in schedule 3, part A, columns A1, B1, C1, D1, E1, and F1 that corresponds to the due dates for their GST returns. The amount of each instalment is provided by section RC 10B; or

(c) if the person has a 1-month taxable period under section 15 of the Goods and Services Tax Act 1985, on the 12 instalment dates in the months set out in schedule 3, part A, columns A to F1 for their corresponding income year. The amount of each instalment is provided by section RC 10B.

Part-year change into AIM

(4C) A person who chooses to change to the AIM method under section RC 5(5B)(a)(ii) must use the relevant remaining instalment dates for them under the AIM method. The amount of each relevant instalment is calculated under section RC 10B.

Provisional tax when GST paid on 6-monthly basis

(5) A person liable to pay provisional tax who pays GST on a 6-monthly basis must pay provisional tax on the 2 interest instalment dates for the tax year in the months set out in schedule 3, part A, columns C and F for their corresponding income year. This subsection applies to a person with an initial provisional tax liability other than 1 who pays GST on a 6-monthly basis and starts a taxable activity within 30 days before the date of instalment C.

Provisional tax determined using GST ratio

(6) A person liable to pay provisional tax who uses a GST ratio to determine the amount of provisional tax payable for a tax year, must pay provisional tax on the 6 ratio instalment dates in the months set out in schedule 3, part A, columns A, B, C, D, E, and F for their corresponding income year. The amount of each instalment is calculated under section RC 11.

Changing calculation method

(7) A person who is unable or who decides not to use a GST ratio, changing their calculation method under section RC 18, must pay the provisional tax payable for the tax year on the relevant instalment dates under the replacement method. The amount of each instalment is calculated under section RC 10.

Changing cycle of taxable periods

(8) A person who changes the cycle of their taxable periods under section 15C of the Goods and Services Tax Act 1985 must pay provisional tax for the tax year on the instalment dates set out in section RC 27 after the change in taxable period takes effect. The amount of each instalment is calculated under section RC 10.

Persons with initial provisional tax liability

(9) A person with an initial provisional tax liability who starts a taxable activity in a tax year is liable to pay interest calculated under section 120KC of the Tax Administration Act 1994 as if they were liable to pay provisional tax for the tax year—

(a) in 3 instalments under subsection (3) if they start a taxable activity at some time in the period that starts at the beginning of the corresponding income year and ends 30 days before the date of instalment B:

(b) in 2 instalments—

(i) in a case to which section RC 13 applies; or

(ii) if they pay GST on a 6-monthly basis and start a taxable activity at some time in the period that starts at the beginning of the corresponding income year and ends 30 days before the date of instalment C:

(c) in 1 instalment in a case to which section RC 14 applies.

Extension of time for return

(10) A person who has not provided a return of income for a preceding tax year and whose residual income tax for the tax year before the preceding tax year was $5,000 or less must pay provisional tax for the tax year on the instalment dates set out in section RC 13 or RC 14, as applicable.

Transitional years

(11) In a transitional year, provisional tax is payable as set out in section RC 21 and schedule 3, part B. The amount of each instalment is calculated under sections RC 22 to RC 24.

Voluntary payments

(12) A person liable to pay provisional tax may pay an instalment under section RC 12 at any time.

Truncation

(13) An instalment calculated under this section is truncated to whole dollars, *for example* $10.98 equals $10.

Defined in this Act: amount, corresponding income year, final instalment, GST, GST ratio, initial provisional tax liability, instalment date, interest instalment date, pay, provisional tax, ratio instalment date, residual income tax, return of income, tax year, taxable activity, taxable period, transitional year

Compare: 2004 No 35 s MB 8

Section RC 9(4)(bb): inserted, on 1 April 2018, by section 37(1) (and see section 37(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 9(4)(c): amended, on 1 April 2020, by section 24(1) (and see section 24(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 9(4B) heading: inserted, on 1 April 2018, by section 37(2) (and see section 37(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 9(4B): inserted, on 1 April 2018, by section 37(2) (and see section 37(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 9(4C) heading: inserted, on 1 April 2019, by section 249(1) (and see section 249(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 9(4C): inserted, on 1 April 2019, by section 249(1) (and see section 249(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 9(6): amended, on 1 April 2018, by section 37(3) (and see section 37(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 9(7): amended, on 1 April 2008, by section 529(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 9(9): amended, on 1 April 2020, by section 170(1) (and see section 170(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 9(9): amended, on 1 April 2008, by section 529(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 9(9)(b)(ii): substituted, on 1 April 2008, by section 529(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 9(10): amended, on 1 April 2020, by section 24(2) (and see section 24(3) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 9(13) heading: inserted (with effect on 1 April 2017), on 23 March 2020, by section 170(2) (and see section 170(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 9(13): inserted (with effect on 1 April 2017), on 23 March 2020, by section 170(2) (and see section 170(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Table R1: Summary of instalment dates and calculation methods for provisional tax

Categories: ordinary	**Variables**	**Method**	**Instalments**	**Instalment dates**	**Calculation**	**Interest, penalties**
Standard RC 5(2), (3)		RC 6	3: RC 9(3)	B, D, F	RC 10	120KBB, 120KE(1), (2)
Estimation RC 5(5)		RC 7	3: RC 9(3)	B, D, F	RC 10	120KB
AIM	2 month	RC 7B	6: RC 9(4B)(a) and (b)	A, B, C, D, E, and F, or A1, B1, C1, D1, E1, F1	RC 10B	120KBC
RC 5(5B)	1 month	RC 7B	12: RC 9(4B)(c)	A to F1	RC 10B	120KBC
GST ratio RC 5(6)	1 month	RC 8	6: RC 9(6)	A, B, C, D, E, and F	RC 11	120KE(3), 139C
	2 month	RC 8	6: RC 9(6)	A, B, C, D, E, and F	RC 11	120KE(3), 139C
GST 6-month RC 9(4)	standard	RC 6	2: RC 9(5)	C and F	RC 11	120KE(1)
	estimation	RC 7	2: RC 9(5)	C and F	RC 11	120KB
Categories: exceptional						
Persons with initial provisional tax liability		RC 6 or RC 7	RC 9(9), RC 13(3), RC 14(2)	D and F, or F as required	RC 10 (RC 13(4)), RC 10 (RC 14(3))	120KC
Transitional years		RC 20	RC 22 (RC 9(11))	B, D, F, or C, F as required	RC 22– RC 24	120KC
Changing taxable period, or starting and stopping GST registration		RC 27, 15C, 15E (GST Act)	RC 27 (RC 9(8))	B, D, F, or C, F as required	RC 26, RC 27	120KD
Changing calculation method		RC 18	RC 7(6), RC 9(7)	B, D, F, or C, F as required	RC 18	120KE(5) –(7)
Voluntary payments		RC 12				120E

Note: references in the last column are to sections of the Tax Administration Act 1994.

Table R1: amended, on 1 April 2018, by section 38(1) (and see section 38(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Table R1: amended, on 1 April 2018, by section 38(2) (and see section 38(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Table R1: amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 85(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RC 10 Calculating amount of instalment under standard and estimation methods

When this section applies

(1) This section applies for the purposes of—

(a) section RC 5(2), (3), and (5) (which relates to the calculation of a provisional tax liability); and

(b) section RC 9(3) and (5) (which relates to payment of instalments); and

(c) sections RC 13 and RC 14 (which relate to persons with an initial provisional tax liability and those with an extension of time for providing a return); and

(d) sections RC 26 and RC 27 (which relate to changes in taxable periods).

Calculation

(2) The amount of an instalment of provisional tax is calculated using the formula—

(residual income tax × instalment number ÷ total instalments)
− provisional tax.

Definition of items in formula

(3) In the formula,—

(a) **residual income tax** is a person's residual income tax, as applicable—

(i) for the preceding tax year, uplifted by 5% (modified as applicable by sections RZ 5 (Calculating amounts under standard method: 2010–11 to 2012–13 income years) and RZ 5D (Standard method or GST method: transition for Maori authorities); or

(ii) for the tax year before the preceding tax year, uplifted by 10% (modified as applicable by sections RZ 5 and RZ 5D); or

(iii) the amount estimated by them:

(b) **instalment number** is the number of the instalment for the tax year, whether first, second, or third:

(c) **total instalments** is the total number of instalments for the tax year:

(d) **provisional tax** is the amount of a person's provisional tax liabilities for the tax year to date.

Instalment amounts after change in balance date or taxable period

(4) If a change occurs to the balance date or cycle of a person's taxable periods, the calculation of the amount of an instalment is made under this section, applying the updated figures to the items in the formula.

Some standard method taxpayers

(5) A person who uses the standard method may, despite subsection (2), choose that the amount of their final instalment of provisional tax of a tax year is

calculated using the following formula, if their expected RIT under subsection (6)(a) is $60,000 or more—

expected RIT − tax.

Definition of items in formula

(6) In the formula,—

(a) **expected RIT** is the person's expectation of their residual income tax for the tax year:

(b) **tax** is the amount of a person's provisional tax liabilities for the tax year to date.

Truncation

(7) An instalment calculated under this section is truncated to whole dollars, *for example* $10.98 equals $10.

Defined in this Act: amount, balance date, initial provisional tax liability, pay, provisional tax, residual income tax, return of income, tax year, taxable period

Compare: 2004 No 35 s MB 9

Section RC 10(1)(b): amended, on 1 April 2008, by section 530 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 10(3)(a)(i): amended (with effect on 1 October 2010), on 21 December 2010, by section 123(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RC 10(3)(a)(i): amended, on 1 October 2010, by section 27(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RC 10(3)(a)(i): amended, on 1 October 2008, by section 41(a) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RC 10(3)(a)(ii): amended (with effect on 1 October 2010), on 21 December 2010, by section 123(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RC 10(3)(a)(ii): amended, on 1 October 2010, by section 27(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RC 10(3)(a)(ii): amended, on 1 October 2008, by section 41(b) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RC 10(5) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 171(1) (and see section 171(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 10(5): inserted (with effect on 1 April 2019), on 23 March 2020, by section 171(1) (and see section 171(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 10(6) heading: inserted (with effect on 1 April 2019), on 23 March 2020, by section 171(1) (and see section 171(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 10(6): inserted (with effect on 1 April 2019), on 23 March 2020, by section 171(1) (and see section 171(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 10(7) heading: inserted (with effect on 1 April 2017), on 23 March 2020, by section 171(2) (and see section 171(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 10(7): inserted (with effect on 1 April 2017), on 23 March 2020, by section 171(2) (and see section 171(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

RC 10B Calculating amount of instalment for periods using AIM method

Calculating amount for full-year AIM method

(1) For a person who uses the AIM method, the amount of provisional tax payable on an instalment date for a tax year is the amount calculated using an AIM-capable accounting system for the 2-monthly or monthly period given by schedule 3, part AB (Payment of provisional tax and terminal tax) for the applicable instalment date.

Calculating amount when part-year change into AIM method

(2) For a person who chooses to change to the AIM method under section RC 5(5B)(a)(ii), the amount of provisional tax payable on a remaining instalment date for a tax year is given by subsection (1), except for the first remaining instalment date. Subsection (3) provides the calculation for the first remaining instalment date.

Calculating when part-year change into AIM method: first remaining instalment

(3) For the purposes of subsection (2), the amount of provisional tax payable for the first remaining instalment date is the total amount, year to date including the firstRD remaining instalment date, that would have been payable if the person had used the AIM method from the beginning of the tax year, less the amount of provisional tax the person has paid, before the change, under the relevant non-AIM method for the tax year.

Defined in this Act: AIM-capable accounting system, instalment date, person, provisional tax

Section RC 10B: inserted, on 1 April 2018, by section 39(1) (and see section 39(2) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RC 10B(1) heading: inserted, on 1 April 2019, by section 250(1) (and see section 250(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 10B(2) heading: inserted, on 1 April 2019, by section 250(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 10B(2): inserted, on 1 April 2019, by section 250(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 10B(3) heading: inserted, on 1 April 2019, by section 250(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RC 10B(3): inserted, on 1 April 2019, by section 250(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RC 11 Calculating amount of instalment using GST ratio

Calculation

(1) For a person who uses a GST ratio, the amount of provisional tax payable on an instalment date for a tax year is calculated using the formula—

GST ratio for tax year × total taxable supplies.

Definition of item in formula

(2) In the formula, **total taxable supplies** is the amount of the person's total taxable supplies in the taxable period that matches the instalment period.

Taxable supplies when person pays on monthly basis

(3) For the purposes of subsection (1), a person who pays GST on a 1-month cycle under section 15 of the Goods and Services Tax Act 1985 must apply the GST ratio to the sum of their taxable supplies in the current taxable period and the preceding taxable period, that is, the taxable supplies in the 2-month period matching the instalment period.

Modification

(4) Sections RZ 4 (GST ratio method: 2010–11 to 2013–14 income years) and RZ 5D (Standard method or GST method: transition for Maori authorities) modify this section.

Defined in this Act: amount, GST, GST ratio, instalment date, pay, provisional tax, tax year, taxable period, taxable supply, total taxable supplies

Compare: 2004 No 35 s MB 10

Section RC 11(4): amended (with effect on 1 October 2010), on 21 December 2010, by section 124 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RC 11(4): amended, on 1 October 2010, by section 28 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RC 11(4): amended, on 1 October 2008, by section 42 of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

RC 12 Voluntary payments

A person who is liable to pay provisional tax may at any time make a voluntary payment of an amount of provisional tax that—

(a) relates to their income tax liability for a tax year in which they are not liable for provisional tax; or

(b) is more than the provisional tax payable by them for the tax year; or

(c) is more than the income tax payable by them for the tax year.

Defined in this Act: amount, income tax, income tax liability, pay, provisional tax, tax year

Compare: 2004 No 35 s MB 12

RC 13 Paying 2 instalments for tax year

Who this section applies to

(1) This section applies for a tax year to—

(a) a person with an initial provisional tax liability whose first business day occurs in the period that starts 30 days before the date of instalment B and ends 30 days before the date of instalment D; or

(b) a person liable to pay provisional tax whose return of income for the preceding tax year is provided in the period that starts on the date of instalment B and ends on the date of instalment D if—

(i) they were required to provide a return for the preceding tax year but, under section 37 of the Tax Administration Act 1994 or an extension under that section, are not required to provide the return by the date of instalment B; and

(ii) their residual income tax for the tax year before the preceding tax year was $5,000 or less.

Exclusion

(2) Despite subsection (1), this section does not apply to a person liable to pay provisional tax who pays GST on a 6-monthly basis.

When instalments are payable

(3) The instalments are payable on the date of instalments D and F for the person's corresponding income year.

Formula for amount of instalment

(4) The amount of each instalment is calculated under section RC 10.

Defined in this Act: amount, corresponding income year, first business day, GST, initial provisional tax liability, pay, provisional tax, residual income tax, return of income, tax year

Compare: 2004 No 35 s MB 13

Section RC 13(1)(b)(ii): amended, on 1 April 2020, by section 25(1) (and see section 25(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 13(3): amended, on 1 April 2020, by section 172(1) (and see section 172(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

RC 14 Paying 1 instalment for tax year

Who this section applies to

(1) This section applies for a tax year to—

(a) a person with an initial provisional tax liability whose first business day occurs in the period that starts 30 days before the date of instalment D and ends at the end of the corresponding income year:

(b) a person liable to pay provisional tax whose return of income for the preceding tax year is not provided on or before the date of instalment D if—

(i) they were required to provide a return for the preceding tax year but, under section 37 of the Tax Administration Act 1994 or an extension under that section, are not required to provide the return by the date of instalment D; and

(ii) their residual income tax for the tax year before the preceding tax year was $5,000 or less:

(c) a person who pays GST on a 6-monthly basis if—

(i) their first business day occurs in the period that starts 30 days before the date of instalment C and ends at the end of the corresponding income year; or

(ii) they meet the requirements of paragraph (b)(i) and (ii) as if the reference to instalment D in paragraph (b)(i) were a reference to instalment C.

When instalment payable

(2) The instalment is payable on the date of instalment F for the person's corresponding income year.

Amount of instalment

(3) The amount of the instalment is calculated under section RC 10.

Defined in this Act: amount, corresponding income year, first business day, GST, initial provisional tax liability, pay, provisional tax, residual income tax, return of income, tax year

Compare: 2004 No 35 s MB 14

Section RC 14(1)(b)(ii): amended, on 1 April 2020, by section 26(1) (and see section 26(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 14(2): amended, on 1 April 2020, by section 173(1) (and see section 173(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Requirements for using GST ratio

RC 15 Choosing to use GST ratio

A person who meets the requirements of section RC 16(2) and (3) for a tax year may choose to use a GST ratio for the corresponding income year if they inform the Commissioner of their election before the start of the income year.

Defined in this Act: Commissioner, corresponding income year, GST ratio, inform, tax year

Compare: 2004 No 35 s MB 16

Section RC 15 list of defined terms **inform**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RC 16 Who may use GST ratio?

General eligibility

(1) A person liable to pay provisional tax may choose to use a GST ratio to determine under section RC 5(6) the amount of provisional tax payable for a tax year only if they meet all the requirements of subsections (2) and (3) in relation to the same entity.

Requirements for preceding tax year

(2) For the purposes of determining their eligibility for a tax year, the person must meet the following requirements in the preceding tax year and corresponding income year:

(a) their residual income tax, as calculated, was more than $5,000 but no more than $150,000; and

(b) they were a registered person for the whole income year, and provided a return under the Goods and Services Tax Act 1985 for an entity whose taxable activity did not begin operations in that tax year; and

(c) the ratio of their residual income tax to total taxable supplies, as calculated under section RC 11 and expressed as a percentage, is between zero and 100%.

Requirement for current year

(3) For the tax year in which the person uses a GST ratio, they must be liable to file a return under the Goods and Services Tax Act 1985 for a 2-month or a 1-month period under section 15(1)(b) and (c) of that Act.

When election applies

(4) A person's election under section RC 15 to use a GST ratio applies for the tax year for which the election is made and in later tax years, unless the person changes their calculation method under section RC 18.

References to preceding tax year

(5) In this section, a reference to a preceding tax year includes a reference to a tax year earlier than the preceding tax year if that earlier tax year is used for the purposes of calculating a GST ratio.

Defined in this Act: amount, GST ratio, pay, provisional tax, registered person, residual income tax, tax year, taxable activity, total taxable supplies

Compare: 2004 No 35 s MB 15(1)–(4), (11)

Section RC 16(2): amended, on 1 April 2008, by section 531(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 16(2)(a): amended, on 1 April 2020, by section 27(1) (and see section 27(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RC 16(2)(b): amended, on 1 April 2008, by section 531(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 16(5): amended, on 1 April 2008, by section 531(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RC 17 When GST ratio must not be used

Requirement to discontinue use of GST ratio

(1) Despite section RC 16, a person must stop using a GST ratio for a tax year and must apply section RC 18(4) or (5) if—

(a) their GST registration ends under section 52 of the Goods and Services Tax Act 1985 in the tax year; or

(b) they no longer qualify under section RC 16(2) as a result of an amended assessment of their income tax liability or their GST liability for the preceding tax year; or

(bb) their residual income tax, as disclosed in a return of income filed in the tax year, means they no longer meet the requirements of section RC 16(2); or

(c) they no longer qualify under section RC 16(3) as a result of a change in their taxable period.

No GST return

(2) A person must not use, or must stop using, a GST ratio for a tax year if they—

(a) are liable to provide a return under the Goods and Services Tax Act 1985 for a period in their corresponding income year; and

(b) do not file the return within 60 days after the due date for filing the return.

Instalments following default

(3) A person who is required by subsection (2) to stop using a GST ratio must pay the provisional tax instalments required under section RC 18 for an instalment period beginning on or after the due date for filing the return referred to in subsection (2) that is not the subject of notification under subsection (4).

Further use of GST ratio

(4) Despite subsections (2) and (3), a person may use a GST ratio for an instalment period referred to in subsection (3) if—

(a) they ask the Commissioner; and

(b) the Commissioner considers—

(i) the failure to file the return is caused by an event or circumstance beyond the person's control; and

(ii) the event or circumstance provides reasonable justification or excuse for the failure; and

(iii) the person remedied the failure as soon as practicable; and

(c) the Commissioner notifies the person that they may use the GST ratio for the instalment period.

Standard required

(5) For the purposes of subsection (4)(b), the Commissioner must use the same approach that would be used to justify the remission of a penalty under section 183A of the Tax Administration Act 1994.

Later default

(6) Notification under subsection (4) does not apply to an instalment period if—

(a) the person fails to file a return due after the date of the notice unless the failure is anticipated and referred to in the notice; and

(b) the instalment period begins on or after the due date of the return described in paragraph (a).

Defined in this Act: ask, assessment, Commissioner, corresponding income year, GST ratio, income tax liability, notice, notify, pay, provisional tax, residual income tax, return of income, tax year, taxable period

Compare: 2004 No 35 s MB 15(5)–(10)

Section RC 17(1)(bb): inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 222(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RC 17(4)(a): replaced, on 2 June 2016, by section 52(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 17 list of defined terms **ask**: inserted, on 2 June 2016, by section 52(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 17 list of defined terms **notice**: inserted, on 2 June 2016, by section 52(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 17 list of defined terms **residual income tax**: inserted, on 1 April 2016, by section 222(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RC 17 list of defined terms **return of income**: inserted, on 1 April 2016, by section 222(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RC 18 Changing calculation method

When this section applies

(1) This section applies if, after having chosen to use a GST ratio for a tax year, a person liable to pay provisional tax either—

(a) chooses another way to calculate the amount of provisional tax payable for the tax year; or

(b) is required under section RC 17(1) or (2) to stop using a GST ratio for the corresponding income year.

Informing Commissioner of decision to change

(2) The person must inform the Commissioner of their decision under subsection (1)(a). Subsection (4) or (5) then applies for the remaining instalments of provisional tax for the tax year.

Date on which use of GST ratio stopped

(3) For the purposes of subsection (1)(b), the date on which the person stops using a GST ratio is, as applicable,—

(a) the date their GST registration ends; or

(b) the date of the amended assessment of their income tax liability or GST liability for the preceding tax year; or

(bb) the date the person's return of income referred to in section RC 17(1)(bb) is received by the Commissioner; or

(c) the effective date of a change in taxable period; or

(d) the last day of the period in which a return is liable to be provided under the Goods and Services Tax Act 1985.

Changing method before date of instalment A

(4) If the person is unable or decides not to use a GST ratio before the date of instalment A, and section RC 3(3) does not apply, they may choose to determine the amount of provisional tax payable under section RC 5(2), (3) or (5). The person is treated as never having chosen to use the GST ratio method and, for the purposes of section 120KE(5) of the Tax Administration Act 1994, as never having changed the way they determine an amount of provisional tax under this section.

Changing method after instalment date

(5) If the person is unable or decides not to use the GST ratio after an instalment date, and section RC 3(3) does not apply, they must determine the amount of provisional tax payable on instalment for the remainder of the income year under section RC 5(5) using the estimation method. The person must inform the Commissioner of the estimate.

Date of application when method changed

(6) If the person changes their calculation method under subsection (4) or (5), and the change is not required by section RC 17(1)(bb), the date on which the change applies may be a future date agreed between the person and the Commissioner.

Other consequences of changing method

(7) For the purposes of this section,—

(a) the number of instalments and the instalment dates remaining for an income year depend on—

(i) the requirements of the method chosen by the person when they stop using the GST ratio; and

(ii) the cycle of taxable periods chosen by the person, being either a monthly or 2-monthly basis:

(b) a person may change from using a GST ratio to a 6-monthly cycle of taxable periods only if—

(i) the requirements of section 15C of the Goods and Services Tax Act 1985 are met; and

(ii) their 6-month taxable period is aligned with their balance date under section 15B of the Goods and Services Tax Act 1985:

(c) section 120KE(5) to (7) of the Tax Administration Act 1994 applies in deciding whether use of money interest is payable in relation to instalments under the new method.

Defined in this Act: amount, assessment, balance date, Commissioner, corresponding income year, GST ratio, income tax liability, income year, inform, instalment date, pay, provisional tax, return of income, tax year, taxable period

Compare: 2004 No 35 s MB 17

Section RC 18(2): amended, on 2 June 2016, by section 53(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 18(2): amended, on 1 April 2008, by section 533(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 18(3)(bb): inserted, on 1 April 2016 (applying for the 2016–17 and later income years), by section 223(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RC 18(4): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 223(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RC 18(4): amended, on 1 April 2008, by section 533(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 18(5): amended, on 2 June 2016, by section 53(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 18(5): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 223(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RC 18(6): amended, on 1 April 2016 (applying for the 2016–17 and later income years), by section 223(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RC 18 list of defined terms **inform**: inserted, on 2 June 2016, by section 53(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 18 list of defined terms **return of income**: inserted, on 1 April 2016, by section 223(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RC 19 Disposal of assets

When this section applies

(1) This section applies if, as part of the taxable activity of an entity referred to in section RC 16(2) and (3), a person who is liable to pay provisional tax, disposes of an asset—

(a) that is not revenue account property; and

(b) the value of the supply of which is not less than the greater of—

(i) an amount equal to 5% of the total taxable supplies of the business for the previous 12 months; or

(ii) $1,000.

Adjustment to GST ratio for current and next income year

(2) The person may choose to take the disposal of the asset into account in adjusting their taxable supplies for the relevant taxable period and income year, by subtracting the value, including GST, of the asset from—

(a) the total taxable supplies for a taxable period for the purposes of the formula in section RC 11(1), in proportion to the output tax which is attributed under section 20(4) of the Goods and Services Tax Act 1985 to that taxable period for the supply of the asset:

(b) the base amount of total taxable supplies for the corresponding income year under section RC 8(2), in proportion to the output tax which is attributed under section 20(4) of that Act to a taxable period in that income year for the supply of the asset.

Informing Commissioner

(3) For the purposes of subsection (2), the person must inform the Commissioner of both the disposal of the asset and the value of its supply.

Rounding percentages

(4) In the determination of the value of the supply of the asset under subsection (1)(b)(i), the amount must be rounded to a whole percentage number.

Defined in this Act: amount, base amount, business, Commissioner, GST, GST ratio, income year, inform, pay, provisional tax, revenue account property, taxable activity, taxable period, taxable supply, total taxable supplies

Compare: 2004 No 35 s MB 18

Section RC 19(2): substituted, on 1 April 2008, by section 534 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 19(2)(a): amended, on 29 March 2018 (with effect on 1 April 2008), by section 184 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RC 19(3): amended, on 2 June 2016, by section 54(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 19 list of defined terms **inform**: inserted, on 2 June 2016, by section 54(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Transitional years

RC 20 Calculating residual income tax in transitional years

Calculation for transitional year

(1) This section applies for the purposes of section RC 5(2) and (3) and the calculation of a person's residual income tax for a tax year if—

(a) the preceding tax year is a transitional year:

(b) the tax year before the preceding tax year is a transitional year.

Amount increased or decreased

(2) The amount of residual income tax for the transitional year must be increased or decreased by the amount calculated under subsection (3) to reflect the amount that would apply in a 12-month period.

Formula

(3) The amount of residual income tax is calculated using the formula—

residual income tax × days in current tax year ÷ days in transitional year.

Definition of items in formula

(4) In the formula,—

(a) **residual income tax** is a person's residual income tax, as applicable—

(i) for the preceding tax year, uplifted by 5%; or

(ii) for the tax year before the preceding tax year, uplifted by 10%; or

(iii) the amount estimated by them:

(b) **days in current tax year** is the number of days in the current tax year:

(c) **days in transitional year** is the number of days in the person's transitional year.

Truncation

(5) An amount of residual income tax calculated under this section is truncated to whole dollars, *for example* $10.98 equals $10.

Defined in this Act: amount, residual income tax, tax year, transitional year

Compare: 2004 No 35 s MB 19

Section RC 20(5) heading: inserted (with effect on 1 April 2017), on 23 March 2020, by section 174(1) (and see section 174(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 20(5): inserted (with effect on 1 April 2017), on 23 March 2020, by section 174(1) (and see section 174(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

RC 21 Paying provisional tax in transitional years

Total amount payable

(1) A person liable to pay provisional tax in a transitional year must pay the sum of all instalments of provisional tax payable for the transitional year, both interim instalments under subsection (2) and a final instalment under subsection (3).

When instalments payable

(2) The person must pay an instalment other than a final instalment on—

(a) the 28th day of the months set out in schedule 3, part B (Payment of provisional tax and terminal tax) unless paragraph (b) or (c) applies:

(b) 15 January, when the month set out in schedule 3, part B is December and the year is a transitional year:

(c) 7 May, when the month set out in schedule 3, part B is April and the year is a transitional year.

When final instalment payable

(3) The person must pay the final instalment on—

(a) the 28th day of the month following the final month in the transitional year; or

(b) the 15th day of January, when November is the final month; or

(c) 7 May, when March is the final month and the year is a transitional year.

Modifications to instalment dates

(4) For the purposes of subsection (2), provisional tax is not payable on—

(a) the date of instalment B, if section RC 13 would have applied if the year were not a transitional year; or

(b) the dates of instalments B and D, if section RC 14(1)(a) and (b) would have applied if the year were not a transitional year; or

(c) the dates of instalments B, D, and F, if the person liable to pay provisional tax is a person with an initial provisional tax liability whose first business day occurs within 30 days of the date of instalment F; or

(d) the date of instalment C, if section RC 14(1)(c) would have applied if the year were not a transitional year; or

(e) the dates of instalments C and F, if the person liable to pay provisional tax is a person with an initial provisional tax liability who pays GST on a 6-monthly basis whose first business day occurs after the day that is 30 days before the date of instalment F.

Counting months in transitional years

(5) In this section, and in sections RC 22 to RC 25, and in schedule 3, part B, the number of months in a transitional year is determined as follows:

(a) the first month in a person's transitional year is the first whole month in the transitional year:

(b) the final month in a person's transitional year is the month in which their new balance date under section 39 of the Tax Administration Act 1994 occurs:

(c) each month falling between the first and final months must be included in determining the length of the transitional year.

Defined in this Act: balance date, final instalment, first business day, GST, initial provisional tax liability, pay, provisional tax, transitional year, year

Compare: 2004 No 35 s MB 20

Section RC 21(2)(a): substituted, on 1 April 2008, by section 535(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 21(2)(b): substituted, on 1 April 2008, by section 535(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 21(2)(c): added, on 1 April 2008, by section 535(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 21(3)(b): amended, on 1 April 2008, by section 535(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 21(3)(c): added, on 1 April 2008, by section 535(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RC 22 Calculating instalments in transitional years: standard method

When this section applies

(1) This section applies to a person liable to pay provisional tax using the standard method in relation to instalments of provisional tax payable in a transitional year under section RC 21.

Instalment other than final instalment

(2) For an instalment date other than the date of the final instalment, the person must pay an amount calculated using the formula—

(person's provisional tax × instalments payable
÷ total instalments) − tax previously payable.

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **person's provisional tax** is the person's provisional tax liability under section RC 5(2) or (3):

(b) **instalments payable** is the number of instalments that the person has in the transitional year on or before the instalment date:

(c) **total instalments** is whichever of the following applies:

(i) 3, for a person who pays on instalment dates B, D, and F; or

(ii) 2, for a person who pays on instalment dates C and F:

(d) **tax previously payable** is the amount for the transitional year of the person's provisional tax payable before the instalment date.

Final instalment

(4) For the final instalment, the person must pay an amount calculated using the formula—

(person's provisional tax × transitional year days
÷ preceding year days) − tax previously payable.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **person's provisional tax** is the person's provisional tax liability under section RC 5(2) or (3):

(b) **transitional year days** is the number of days in the person's transitional year:

(c) **preceding year days** is the number of days in the person's preceding tax year:

(d) **tax previously payable** is the amount of provisional tax for a tax year calculated on the basis of the person's transitional year that is payable before the instalment date.

Defined in this Act: amount, instalment date, final instalment, pay, provisional tax, tax year, transitional year

Compare: 2004 No 35 s MB 21

RC 23 Calculating instalments in transitional years: estimation method

When this section applies

(1) This section applies to a person liable to pay provisional tax using the estimation method in relation to instalments of provisional tax payable in a transitional year under section RC 21.

Instalment other than final instalment

(2) For an instalment date other than the date of the final instalment, the person must pay an amount calculated using the formula—

(tax estimate × instalments payable
÷ transitional months) − tax previously payable.

Definition of items in formula

(3) In the formula,—

(a) **tax estimate** is the person's provisional tax liability last estimated by the person under section RC 5(5):

(b) **instalments payable** is either—

(i) 4 multiplied by the number of instalments in the person's transitional year payable on or before the instalment date, for a person who pays on the equivalent of instalment dates B, D, and F; or

(ii) 6 multiplied by the number of instalments in the person's transitional year payable on or before the instalment date, for a person who pays on the equivalent of instalment dates C and F:

(c) **transitional months** is the number of months in the person's transitional year:

(d) **tax previously payable** is the amount of provisional tax for a tax year calculated on the basis of the person's transitional year that is payable before the instalment date.

Final instalment

(4) For the final instalment, the person must pay the amount calculated under section RC 5(5) less the amount of any instalment previously payable.

Defined in this Act: amount, final instalment, instalment date, pay, provisional tax, tax year, transitional year

Compare: 2004 No 35 s MB 22

RC 24 Calculating instalments in transitional years: GST ratio method

What this section applies to

(1) This section applies to a person liable to pay provisional tax using a GST ratio in relation to instalments of provisional tax payable in a transitional year.

Adjustment if required

(2) For a period or part period before the start of the new income year, the person must apply the GST ratio under section RC 11 on whichever dates of instalments A, B, C, D, E, and F for their corresponding income year occur in the transitional year.

Defined in this Act: corresponding income year, GST ratio, income year, pay, provisional tax, transitional year

Compare: 2004 No 35 s MB 23

Section RC 24(2): amended, on 1 April 2018, by section 40(1) (and see section 40(2) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RC 25 Consequences of change in balance date

Continuing frequency

(1) This section applies to a person liable to pay provisional tax who changes their balance date.

Continuing to use instalment dates to new balance date

(2) The person must continue to use the instalment dates that applied before the change in balance date was approved until the new balance date is reached.

How amounts determined

(3) Sections RC 20 to RC 24 and schedule 3, part B (Payment of provisional tax and terminal tax) apply for the person's transitional year to determine the amount and payment date of the instalments.

Estimation method

(4) In a transitional year, if the person uses the estimation method, they must,—

(a) before the date on which the Commissioner notifies a change in balance date, estimate the residual income tax as if no change in balance date is or will be approved; and

(b) after the date on which the Commissioner notifies a change in balance date, re-estimate the residual income tax.

GST ratio method

(5) Subsection (6) applies if the person uses a GST ratio to determine the provisional tax payable for a tax year, and in changing their balance date, moves from—

(a) a set of instalment dates in even-numbered months to a set of instalment dates in odd-numbered months; or

(b) a set of instalment dates in odd-numbered months to a set of instalment dates in even-numbered months.

Adjustment to liability

(6) The person must—

(a) adjust their provisional tax liability for the part-period of 1 month before the start of the new income year; and

(b) pay the instalment of provisional tax for the part-period as their final taxable period—

(i) 28 days after the end of the part period, unless subparagraph (ii) or (iii) applies; or

(ii) by 15 January if the part-period falls in November; or

(iii) by 7 May if the part period falls in March.

Aligning taxable periods

(7) For a registered person, if a change in balance date means that their taxable period is not aligned with the balance date, an adjustment must be made to their taxable period under section 15B(3) or 15C of the Goods and Services Tax Act 1985.

Defined in this Act: amount, balance date, Commissioner, GST ratio, income year, instalment date, notify, pay, provisional tax, registered person, residual income tax, tax year, taxable period, transitional year

Compare: 2004 No 35 s MB 24

Section RC 25(6): substituted, on 1 April 2008, by section 536 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

When persons start or stop paying GST, or change taxable periods

RC 26 Registering for GST or cancelling registration

When this section applies

(1) This section applies if a person who uses the standard or estimation method to determine the amount of provisional tax payable for a tax year—

(a) applies to the Commissioner to become a registered person under section 51 of the Goods and Services Tax Act 1985; or

(b) is treated as registered under section 51B of that Act; or

(c) asks the Commissioner to cancel their GST registration, or has their GST registration cancelled under section 52 of that Act.

Starting or ending GST registration: monthly or 2-monthly basis

(2) For a person liable to pay provisional tax who becomes registered for GST paying on a monthly or 2-monthly basis, or who cancels or has their GST registration cancelled having paid on that basis, the instalments of provisional tax payable by them for the tax year are unaffected.

Starting GST registration: 6-monthly basis

(3) A person liable to pay provisional tax who becomes registered for GST paying on a 6-monthly basis must pay their instalments of provisional tax on whichever dates of instalments C and F for their corresponding income year coincide with the cycle of their taxable periods after they become a registered person.

Ending GST registration: 6-monthly basis

(4) A person liable to pay provisional tax who pays GST on a 6-monthly basis and cancels their GST registration or has their registration cancelled, must pay their instalments of provisional tax on whichever dates of instalments B, D, and F for their corresponding income year occur after 30 days from the date of cancellation.

Date of cancellation

(5) For the purposes of subsection (4) and the provisional tax rules, the date of cancellation is the later of the date on which—

(a) the cancellation of GST registration is notified:

(b) the person's liability under section 52 of the Goods and Services Tax Act 1985 stops.

Formula for amount of instalment

(6) The amount of each instalment is calculated under section RC 10.

Defined in this Act: amount, apply, ask, Commissioner, corresponding income year, GST, notify, pay, provisional tax, provisional tax rules, registered person, tax year, taxable period

Compare: 2004 No 35 s MB 25

Section RC 26(5): substituted, on 1 April 2008, by section 537 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RC 26 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 26 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RC 26 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RC 27 Payment of provisional tax instalments when GST cycle changed

When subsection (2) applies

(1) Subsection (2) applies in a tax year to a person liable to pay provisional tax who—

(a) uses the standard or estimation method to determine the amount of provisional tax payable; and

(b) has been paying GST on a monthly or 2-monthly basis; and

(c) changes to a 6-monthly basis under section 15C(1) of the Goods and Services Tax Act 1985.

Changing to 6-monthly basis

(2) The person must pay their instalments of provisional tax on whichever dates of instalments C and F for their corresponding income year occur after the change in taxable period takes effect.

When subsection (4) applies

(3) Subsection (4) applies in a tax year to a person liable to pay provisional tax who—

(a) uses the standard or estimation method to determine the amount of provisional tax payable; and

(b) has been paying GST on a 6-monthly basis; and

(c) changes to a monthly or 2-monthly basis under section 15C(2) or (3) of the Goods and Services Tax Act 1985.

Changing to monthly or 2-monthly basis

(4) The person must pay their instalments of provisional tax on whichever dates of instalments B, D, and F for the person's corresponding income year occur after the change in taxable period takes effect.

Interest instalment dates in new cycle

(5) If an instalment of provisional tax that falls on an instalment date in the new cycle is payable in relation to a period in the person's original cycle that was, under that original cycle, an interest instalment date, it remains an interest instalment date in the new cycle. However, if the instalment falls on an instalment date other than an interest instalment date, the change does not affect the nature of the instalment.

Formula for amount of instalment

(6) The amount of each instalment is calculated under section RC 10.

Defined in this Act: amount, corresponding income year, GST, instalment date, interest instalment date, pay, provisional tax, tax year, taxable period

Compare: 2004 No 35 s MB 27

Treatment of groups of companies and amalgamated companies

RC 28 Provisional tax rules and consolidated groups

Single company

(1) The provisional tax rules apply, modified as necessary, to a consolidated group of companies as if it were a single company.

Joint and several liability

(2) Each company in a consolidated group in a tax year is jointly and severally liable for the amount of provisional tax payable by the consolidated group to be credited against the income tax liability of the group for the tax year. The liability of a group company for income tax for the tax year is substituted by that joint and several liability to the extent to which the liability arises while the company is part of the consolidated group.

Relationship with section FM 4

(3) Section FM 4(3) to (5) (Limiting joint and several liability of group companies) overrides this section.

Defined in this Act: amount, company, consolidated group, income tax, income tax liability, pay, provisional tax, provisional tax rules, tax year

Compare: 2004 No 35 s MB 29

RC 29 Residual income tax of consolidated groups

When this section applies

(1) This section applies for the purposes of the provisional tax rules if a company is part of a consolidated group of companies in a tax year but was not part of the group for some or all of the preceding tax year, or some or all of the tax year before the preceding tax year, as applicable.

Increased residual income tax

(2) The residual income tax of the consolidated group for the preceding tax year, or for the tax year before the preceding tax year, as applicable is treated as increased by an amount equal to the residual income tax of the company for the preceding tax year, or for the tax year before the preceding tax year, as applicable. If the company is part of the group for part of the current tax year, the amount of residual income tax is increased as a proportion on the basis of the part of the tax year during which the company is part of the group.

Instalments after company joins group

(3) If the company is part of a group for part of the tax year, this section applies only to instalments of provisional tax payable after the date on which the company becomes part of the group.

Defined in this Act: amount, company, consolidated group, pay, provisional tax, provisional tax rules, residual income tax, tax year

Compare: 2004 No 35 s MB 30

Section RC 29(1): amended, on 1 April 2020, by section 175(1) (and see section 175(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 29(2): amended, on 1 April 2020, by section 175(2) (and see section 175(3) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

RC 30 Consolidated groups using estimation method

When subsection (2) applies

(1) Subsection (2) applies for the purposes of the provisional tax rules if a company is part of a consolidated group of companies for some or all of a tax year but is not part of the group for some or all of the following tax year.

Estimation before final instalment date

(2) The company must estimate its residual income tax on or before the date of instalment F for the following income year that corresponds to the tax year, and the company is treated as a person to which section RC 7 applies for the purposes of its estimate.

When company part of another consolidated group

(3) The consolidated group, in the case of a company that is part of another consolidated group, must make an estimate of residual income tax on or before the date of instalment F for the following income year that corresponds to the tax year, and the consolidated group is treated as a person to which section RC 7 applies for the purposes of its estimate.

When company no longer part of group

(4) If a company stops being part of the consolidated group in the following tax year, the company's estimate applies only to instalments of provisional tax payable after the date on which it stopped being part of the group.

Defined in this Act: company, consolidated group, corresponding income year, pay, provisional tax, provisional tax rules, residual income tax, tax year

Compare: 2004 No 35 s MB 31

RC 31 Consolidated groups using GST ratio method

Sections RC 8, RC 9(6), RC 11, and RC 15 to RC 19 apply to a consolidated group of companies with the following modifications:

(a) if a consolidated group that is eligible to use, or is using, a GST ratio for a tax year is joined by a company, the following subparagraphs apply:

(i) if the company joins at the start of the tax year and, as a result, the threshold in section RC 16(2)(a) is exceeded, the group is no longer eligible to use a GST ratio:

(ii) if the company joins at the start of the tax year, and the group, allowing for the inclusion of the company, is eligible under section RC 16(1), the group may use a GST ratio, subject to the recalculation of the ratio under paragraph (c):

(iii) if the company joins at some time in the tax year, the group may continue to use a GST ratio for the tax year, as recalculated under paragraph (c), provided the requirements for eligibility other than the threshold in section RC 16(2)(a) are met:

(b) if a consolidated group that does not determine provisional tax payable for a tax year using a GST ratio, is joined by a company that is using a GST ratio for the tax year, the group may not start using a GST ratio for this purpose for the tax year:

(c) for the purposes of paragraph (a),—

(i) the group must recalculate the GST ratio applying for a tax year to include the residual income tax of the company for the preceding tax year and the total taxable supplies of the company for the corresponding income year, applying section RC 8(3) if required; and

(ii) the recalculated GST ratio applies to provisional tax payments made for the corresponding income year on or after the date on which the company joins the group:

(d) sections RC 17(3) and RC 18(4) or (5), as applicable, apply to a company that leaves a consolidated group at some time in a tax year.

Defined in this Act: company, consolidated group, corresponding income year, GST ratio, pay, provisional tax, residual income tax, tax year, total taxable supplies

Compare: 2004 No 35 s MB 32

RC 32 Wholly-owned groups of companies

When this section applies

(1) This section applies for the purposes of the provisional tax rules and Part 7 of the Tax Administration Act 1994 in relation to a company (**company A**) that is in a tax year part of a wholly-owned group of companies that includes another company (**company B**). Sections RM 13 to RM 17 (which relate to refunds) override this section.

Company A transferring overpayment to company B

(2) If, for a tax year, company A has paid an amount that is more than the provisional tax payable for the tax year, the company may transfer some or all of the overpayment to company B to the extent to which the amount of provisional tax paid by company B is less than their residual income tax for the tax year. Company A must notify the Commissioner under subsection (4).

When transfer made

(3) Company A may transfer an amount under subsection (2) on or after the later of—

(a) the day on which company A overpays the provisional tax; or

(b) the day on which the first instalment of provisional tax for the tax year becomes payable by company B.

Notice

(4) A notice under subsection (2) must—

(a) name company B, and the amount to be transferred; and

(b) state the date on which the overpayment is treated as transferred to company B; and

(c) be given to the Commissioner within—

(i) the time for providing a return of income for the tax year for company B; or

(ii) an extension of time allowed by the Commissioner.

When transfer made, and how transfer treated

(5) For the purposes of this section,—

(a) a transfer under subsection (2) is treated as made on the date stated in the notice; and

(b) provisional tax transferred by company A to company B is treated as provisional tax paid by company B and not by company A.

Defined in this Act: amount, Commissioner, company, notice, notify, pay, provisional tax, provisional tax rules, residual income tax, return of income, tax year, wholly-owned group of companies

Compare: 2004 No 35 s MB 33

RC 33 Amalgamated companies: calculating residual income tax

When this section applies

(1) This section applies for a tax year when an amalgamating company ends its existence on an amalgamation.

Residual income tax for preceding tax year

(2) The residual income tax of the amalgamated company for the preceding tax year, or for the tax year before the preceding tax year, as applicable is the amount that would have been the residual income tax of the amalgamated company for the preceding tax year, or for the tax year before the preceding tax year, as applicable if the amalgamating company and the amalgamated company had been 1 company.

Exclusion

(3) Subsection (2) does not apply for the purposes of the provisional tax rules in relation to instalments of provisional tax payable before the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, pay, provisional tax, provisional tax rules, residual income tax, tax year

Compare: 2004 No 35 s MB 34

Section RC 33(2): amended, on 1 April 2020, by section 176(1) (and see section 176(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Attribution rule for income from personal services

RC 34 Attribution rule for income from personal services

When this section applies

(1) This section applies for the purposes of the provisional tax rules and Part 7 of the Tax Administration Act 1994 for provisional tax paid for income from personal services to which section GB 27 (Attribution rule for income from personal services) may apply. The references in this section to **working person** and **associated entity** reflect the terminology used in section GB 27.

Associated entity transferring amount to working person

(2) If, in a tax year, the associated entity pays an amount of tax that is more than the provisional tax payable for the tax year, the entity may transfer some or all of the overpayment to the working person to the extent to which the amount of provisional tax paid by the person is less than their residual income tax for the tax year.

Working person transferring amount to associated entity

(3) If, in a tax year, the working person pays an amount of tax that is more than the provisional tax payable for the tax year, they may transfer some or all of the overpayment to the associated entity to the extent to which the amount of provisional tax paid by the entity is less than their residual income tax for the tax year.

When transfer made

(4) The associated entity and the working person may transfer an amount under subsection (2) or (3), as applicable, on or after the later of—

(a) the day on which the overpayment of provisional tax is paid by the entity or person, as applicable:

(b) the day on which the instalment of provisional tax payable for the tax year becomes payable by—

(i) the person, if the entity is making the transfer; or

(ii) the entity, if the person is making the transfer.

Notice

(5) The Commissioner must be notified of a transfer under subsection (2) or (3) in a notice that—

(a) names the person to whom a transfer is made, and the amount to be transferred; and

(b) states the date on which the overpayment is treated as transferred to the associated entity or working person, as applicable; and

(c) is provided within the time for filing a return of income for the tax year for the person to whom the transfer is made, or an extended time allowed by the Commissioner.

When transfer made and how transfer treated

(6) For the purposes of this section,—

(a) a transfer under subsection (2) or (3) is treated as made on the day stated in the notice; and

(b) provisional tax transferred by the associated entity to the working person for a tax year is treated as provisional tax paid by the working person and not by the associated entity; and

(c) provisional tax transferred by the working person to the associated entity is treated as provisional tax paid by the associated entity and not by the working person.

Defined in this Act: amount, amount of tax, associated person, Commissioner, income, notice, notify, pay, provisional tax, provisional tax rules, residual income tax, return of income, tax year

Compare: 2004 No 35 s MB 35

Section RC 34(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(2) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(2): substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(3) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(3): substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(4) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(4): substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(5) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(5): substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(6) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34(6): substituted (with effect on 1 April 2008), on 6 October 2009, by section 500(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34 list of defined terms **amount of tax**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 500(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RC 34 list of defined terms **associated person**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 500(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Credits

RC 35 Further income tax credited to provisional tax liability

When this section applies

(1) This section applies for the purposes of sections RC 9 to RC 11 if, under sections OB 65 to OB 69 (which relate to further income tax for ICA companies), a company applies an amount of further income tax to pay an instalment of provisional tax for which the company becomes liable after the date of payment of the further income tax.

Amount treated as provisional tax

(2) The instalment is satisfied to the extent of the amount of further income tax. The amount is treated as provisional tax paid on the date on which the instalment was payable.

Order

(3) The Commissioner must credit the amount of the further income tax in payment successively of—

(a) the instalment of provisional tax that is first payable after the date of payment of the further income tax; and

(b) to the extent of the amount of further income tax, to later instalments in the order in which they are payable.

Defined in this Act: amount, Commissioner, company, further income tax, ICA company, pay, provisional tax

Compare: 2004 No 35 s MB 37

RC 35B Treatment of overpaid provisional tax instalments calculated using AIM method

When this section applies

(1) This section applies for the purposes of sections RC 5(5B), RC 7B, RC 9(4B), RC 10B, and RM 6B (Refunds for overpaid AIM method instalments) when—

(a) a company uses the AIM method to calculate and pay a provisional tax liability; and

(b) the amount of an instalment of provisional tax is overpaid.

Overpaid amounts credited to shareholders

(2) The company may ask the Commissioner to credit the overpaid amount to the account of a shareholder-employee of the company, treating the amount as—

(a) a payment of tax for the shareholder-employee:

(b) a refund of income tax paid to the company for the purposes of section OB 32 (ICA refund of tax or transfer from account).

Maximum amount

(3) The amount that may be credited under subsection (2) must be no more than the least of the following:

(a) an amount chosen by the company; and

(b) the amount of the shareholder's residual income tax for the relevant tax year less the amount of any tax credit that the shareholder has under section LB 2 (Tax credits for provisional tax payments) for the tax year, treating a negative amount as zero; and

(c) the amount of the company's tax credit under section LB 2 for the relevant tax year less the amount of the company's residual income tax for the tax year, treating a negative amount as zero.

Defined in this Act: amount, Commissioner, company, income tax, pay, provisional tax, residual income tax, shareholder, shareholder-employee, tax credit

Section RC 35B: inserted, on 1 April 2018, by section 185(1) (and see section 185(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RC 35B(2): amended (with effect on 1 April 2019), on 23 March 2020, by section 177(1) (and see section 177(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 35B(2)(a): replaced (with effect on 1 April 2019), on 23 March 2020, by section 177(2) (and see section 177(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RC 35B(2)(b): amended, on 30 March 2022, by section 150 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RC 35B list of defined terms **shareholder-employee**: inserted (with effect on 1 April 2019), on 23 March 2020, by section 177(3) (and see section 177(4) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Disaster relief

[Repealed]

Heading: repealed, on 27 February 2014, by section 131 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

RC 36 Persons affected by adverse events

[Repealed]

Section RC 36: repealed, on 6 October 2009, by section 501 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Early-payment discounts

RC 37 Availability of early-payment discounts

Sections RC 38 and RC 39 apply for an income year to a small-business person who has no obligation to pay provisional tax under section RC 3(3) and, for earlier income years,—

(a) has never been liable to pay provisional tax and either—

(i) has never received an early-payment discount; or

(ii) has not derived assessable income from a business in a period of 4 income years starting after the latest income year for which they received an early-payment discount; or

(b) has not derived assessable income from a business in a period of 4 income years starting after the latest income year for which they were liable to pay provisional tax.

Defined in this Act: assessable income, business, early-payment discount, income year, pay, provisional tax, small-business person

Compare: 2004 No 35 s MBB 2(1)(a), (d)

Section RC 37: amended, on 1 April 2020, by section 178(1) (and see section 178(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

RC 38 Crediting income tax with early-payment discount

When this section applies

(1) This section applies when a small-business person—

(a) pays income tax on or before their balance date for the income year; and

(b) during the period from the balance date for the income year to their terminal tax date for the income year, has a credit in their tax account with the Commissioner that is greater than or equal to the lesser of—

(i) the total amount paid under paragraph (a):

(ii) the amount that would be their terminal tax for the income year in the absence of this section; and

(c) files a return of income for the tax year corresponding to the income year; and

(d) applies for an early-payment discount on or before the last date for filing a return of income under section 37(5) of the Tax Administration Act 1994.

Crediting early-payment discount

(2) The Commissioner must credit the tax account of the small-business person with an early-payment discount calculated under subsection (3).

Amount of early-payment discount

(3) The amount of the early-payment discount is found by multiplying the discount rate under subsection (4) by the lesser of—

(a) the total amount paid under subsection (1)(a):

(b) 105% of the small-business person's residual income tax for the income year.

Discount rate

(4) The discount rate is—

(a) the rate that is 2% greater than the Commissioner's paying rate set by an Order in Council under section 120H of the Tax Administration Act 1994 that applied at the end of the preceding tax year if no rate is set under paragraph (b):

(b) the rate set by the Governor-General by Order in Council.

Secondary legislation

(5) An Order in Council under subsection (4)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, apply, balance date, Commissioner, corresponding income year, early-payment discount, income, income tax, income year, pay, residual income tax, return of income, small-business person, tax account with the Commissioner, tax year, terminal tax

Compare: 2004 No 35 s MBB 2(1)(b), (c), (2)–(4)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section RC 38(4)(a): replaced, on 1 April 2024, by section 113(2) (and see section 113(4) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RC 38(5) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section RC 38(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section RC 38 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RC 39 Credit treated as payment of income tax

A credit of an early-payment discount under section RC 38 is treated as a payment made by a small-business person on the day after the last day of the income year referred to in section RC 38 as income tax for the income year.

Defined in this Act: early-payment discount, income tax, income year, pay, small-business person

Compare: 2004 No 35 s MBB 3

RC 40 Some definitions

In this subpart,—

early-payment discount means a discount of income tax under sections RC 38 and RC 39

small-business person means a person who—

(a) conducts a business on their own account, acting alone or as a partner in a partnership or as the owner of a look-through company; and

(b) does not use a company or a trust in the conduct of the business; and

(c) derives income that is mainly from the business, and does not consist of interest, dividends, royalties, rent, or beneficiary income.

Defined in this Act: beneficiary income, business, company, dividend, income, income tax, interest, royalty

Compare: 2004 No 35 s MBB 4

Section RC 40 **small-business person** paragraph (a): amended (with effect on 1 April 2019), on 30 March 2022, by section 152(1) (and see section 152(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Subpart RD—Employment-related taxes

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[Repealed]

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Introductory provision

RD 1 What this subpart does

This subpart establishes and measures an employer's liability under—

(a) the PAYE rules by—

(i) listing the types of payments to which the rules apply:

(ii) calculating the amounts of tax that must be withheld and paid to the Commissioner under the rules:

(iii) providing for certain adjustments to the amounts:

(iv) providing some rules related to the payment of the amounts:

(b) the FBT rules by—

(i) calculating the value of the benefit provided:

(ii) attributing certain fringe benefits to employees:

(iii) setting out the taxable value of certain fringe benefits:

(iv) providing options for the payment of FBT to the Commissioner:

(c) the ESCT rules and RSCT rules by setting out the payments to which the rules apply and calculating the amounts of tax that must be withheld and paid to the Commissioner under the rules.

Defined in this Act: amount of tax, Commissioner, employee, employer, ESCT rules, FBT, FBT rules, fringe benefit, fringe benefit tax, pay, PAYE rules, RSCT rules

Section RD 1(c): amended, on 1 April 2008, by section 538 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RD 1 list of defined terms **RSCT rules**: inserted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

PAYE rules and PAYE income payments

Introductory provisions

RD 2 PAYE rules and their application

Meaning

(1) The **PAYE rules** means—

(a) section BC 1 (Non-filing and filing taxpayers); and

(b) sections LA 6, LB 1, and LD 4 (which relate to tax credits); and

(c) sections RD 3 to RD 24; and

(d) sections RP 2 to RP 16 (which relate to PAYE intermediaries); and

(e) subparts 3C and 3D, sections 22AA, 124H to 124K, 124O to 124Q, 133, Part 9, sections 167 to 169, and schedules 4 and 5 of the Tax Administration Act 1994.

Application

(2) The PAYE rules apply to a person who makes or is required to make a PAYE income payment and, in certain circumstances, to the person to whom the PAYE income payment is made.

Deceased employers

(3) The executor or administrator of a deceased employer must complete any uncompleted PAYE obligations of the employer.

Defined in this Act: employer, PAYE income payment, PAYE rules

Compare: 2004 No 35 ss NC 15(4), OB 1 "PAYE rules"

Section RD 2(1)(b): substituted, on 6 January 2010, by section 502 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 2(1)(e): replaced, on 1 April 2019, by section 251(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 2(1)(e): amended, on 1 April 2020, by section 251(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RD 3 PAYE income payments

Meaning generally

(1) The PAYE rules apply to a **PAYE income payment** which—

(a) means—

(i) a payment of salary or wages, *see* section RD 5; or

(ii) extra pay, *see* section RD 7; or

(iii) a schedular payment, *see* section RD 8:

(b) does not include—

(i) an amount attributed under section GB 29 (Attribution rule: calculation):

(ii) an amount paid to a shareholder-employee in the circumstances set out in section RD 3B or RD 3C:

(iii) an amount paid or benefit provided, by a person (the **claimant**), who receives a personal service rehabilitation payment from which an amount of tax has been withheld at a rate specified in section RD 10B.

When subsections (3) and (4) apply: close companies and some others

[Repealed]

(2) *[Repealed]*

Income in current tax year

[Repealed]

(3) *[Repealed]*

Income in later tax years

[Repealed]

(4) *[Repealed]*

If questions arise

(5) If a question arises whether the PAYE rules apply to all or part of a PAYE income payment, other than an amount referred to in section RD 3B or RD 3C, the Commissioner must determine the matter.

Defined in this Act: amount, annual gross income, Commissioner, employee, extra pay, income, income year, pay, pay period, PAYE income payment, PAYE rules, salary or wages, schedular payment, shareholder-employee, tax year

Compare: 2004 No 35 ss NC 1(2), OB 2

Section RD 3(1)(b)(ii): amended, on 30 March 2017, by section 260(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(1)(b)(iii): replaced, on 1 April 2017, by section 86 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 3(2) heading: amended (with effect on 1 April 2008), on 30 March 2017, by section 259(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(2) heading: repealed, on 30 March 2017, pursuant to section 260(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(2): amended (with effect on 1 April 2008), on 30 March 2017, by section 259(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(2): repealed, on 30 March 2017, by section 260(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(3) heading: repealed, on 30 March 2017, pursuant to section 260(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(3): amended (with effect on 1 April 2008), on 30 March 2017, by section 259(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(3): repealed, on 30 March 2017, by section 260(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(4) heading: repealed, on 30 March 2017, pursuant to section 260(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(4): amended (with effect on 1 April 2008), on 30 March 2017, by section 259(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(4): repealed, on 30 March 2017, by section 260(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(5) heading: replaced, on 30 March 2017, by section 260(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3(5): replaced, on 30 March 2017, by section 260(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3 list of defined terms **close company**: repealed (with effect on 1 April 2008), on 30 March 2017, by section 259(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RD 3B Shareholders who are employees, for some companies: income other than PAYE

When this section applies

(1) This section applies for an income year for a person who is a shareholder and an employee of a company that is not a look-through company and is a close company or has 25 or fewer shareholders if the person elects to apply this section and—

(a) the person does not derive as an employee payments of salary or wages of a regular amount for regular pay periods of 1 month or less throughout the income year:

(ab) the person derives less than 66% of their annual gross income as an employee from payments of salary or wages of a regular amount for regular pay periods throughout the income year:

(b) an amount is paid as income that may later be allocated to the person as an employee for the income year.

When this section does not apply

[Repealed]

(2) *[Repealed]*

Income other than PAYE

(3) All amounts paid to the person in the income year and in later income years in their capacity as employee of the company are treated as income other than from a PAYE income payment.

Defined in this Act: amount, annual gross income, close company, employee, income, income year, pay, pay period, PAYE income payment, salary or wages, shareholder

Section RD 3B: inserted, on 30 March 2017, by section 261 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3B(1): amended, on 29 March 2018 (with effect on 30 March 2017), by section 187(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 3B(1)(a): replaced, on 29 March 2018 (with effect on 30 March 2017), by section 187(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 3B(1)(ab): inserted, on 29 March 2018 (with effect on 30 March 2017), by section 187(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 3B(2) heading: repealed, on 29 March 2018 (with effect on 30 March 2017), pursuant to section 187(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5)

Section RD 3B(2): repealed, on 29 March 2018 (with effect on 30 March 2017), by section 187(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 3C Shareholders who are employees, for some companies: PAYE and income other than PAYE

When this section applies

(1) This section applies for an income year for a person who is a shareholder and an employee of a company that is not a look-through company and is a close company or has 25 or fewer shareholders if the person elects to apply this section and—

(a) the person derives as an employee payments of salary or wages of a regular amount for regular pay periods; but

(b) an amount is paid as income that may later be allocated to the person as an employee for the income year.

When this section does not apply

[Repealed]

(2) *[Repealed]*

PAYE

(3) All amounts described in subsection (1)(a) paid to the person in the income year and in later income years in their capacity as employee of the company are PAYE income payments.

Income other than PAYE

(4) All amounts described in subsection (1)(b) paid to the person in the income year and in later income years in their capacity as employee of the company are treated as income other than from a PAYE income payment.

Defined in this Act: amount, close company, employee, income, income year, pay, pay period, PAYE income payment, salary or wages, shareholder

Section RD 3C: inserted, on 30 March 2017, by section 261 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 3C(1): amended, on 29 March 2018 (with effect on 30 March 2017), by section 188(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 3C(2) heading: repealed, on 29 March 2018 (with effect on 30 March 2017), pursuant to section 188(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 3C(2): repealed, on 29 March 2018 (with effect on 30 March 2017), by section 188(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 4 Payment of amounts of tax to Commissioner

Payments monthly or twice-monthly

(1) An employer or PAYE intermediary who withholds an amount of tax for a PAYE income payment must pay the amount to the Commissioner as follows:

(a) on a monthly basis, if they are an employer to whom subsection (2) applies:

(b) for 2 payment periods in a month, if paragraph (a) does not apply.

Monthly payments

(2) For the purposes of subsection (1)(a), an employer must pay the amount of tax withheld by the 20th day of the month following the month in which the PAYE income payment is made if they are—

(a) an employer who—

(i) is not a new employer; and

(ii) has, for the preceding tax year, gross amounts of tax of less than $500,000 withheld under section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes):

(b) a new employer who has, for the current tax year, gross amounts of tax withheld under section RA 5(1)(a) and (c) that total less than $500,000.

Twice-monthly payments

(3) An employer to whom subsection (1)(b) applies must pay the amount of tax withheld to the Commissioner by the dates referred to in section RA 15(2) (Payment dates for interim and other tax payments).

Liability when amount not withheld

(4) If some or all of the amount of tax for a PAYE income payment is not withheld under subsection (1), the employee in relation to whom the payment is required to have been made must pay to the Commissioner under section RD 21 an amount equal to the amount of tax by the 20th day of the month following the month in which the PAYE income payment was made.

Amounts aggregated for threshold purposes

(5) For the purposes of determining whether a threshold referred to in subsection (2)(a)(ii) and (b) is reached, if the employer ends their business and starts a new business, or operates 2 or more businesses at the same time, all amounts of tax withheld must be aggregated.

Persons treated as single employers

(6) For the purposes of this section, the following are treated as 1 employer:

(a) 2 or more companies if they are part of a group of companies at a time in the relevant tax year:

(b) all partners in a partnership:

(c) all persons in whom property has become vested, or to whom the control of property has passed in the case of—

(i) an estate of a deceased person; or

(ii) a trustee of a trust; or

(iii) a company in liquidation; or

(iv) an assigned estate; or

(v) another fiduciary relationship.

Threshold changes by Order in Council

(7) The Governor-General may, on the recommendation of the Minister of Revenue, make an Order in Council amending the threshold amount referred to in subsection (2). Before making the recommendation, the Minister must undertake consultation on the proposed amendment that is appropriate and reasonable for the purposes of this section.

(8) An Order in Council under subsection (7) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, amount of tax, business, Commissioner, company, employee, employer, gross, group of companies, partner, partnership, pay, PAYE income payment, PAYE intermediary, payment period, tax year, trustee

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section RD 4: replaced, on 1 April 2019, by section 189 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 4(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Types of PAYE income payments

RD 5 Salary or wages

Meaning

(1) **Salary or wages**—

(a) means a payment of salary, wages, or allowances made to a person in connection with their employment; and

(b) includes—

(i) a bonus, commission, gratuity, overtime pay, or other pay of any kind; and

(ii) a payment described in subsections (2) to (10); and

(iii) an accident compensation earnings-related payment; and

(iiib) a payment of earnings compensation under the Compensation for Live Organ Donors Act 2016; and

(iv) *[Repealed]*

(c) does not include—

(i) an amount of exempt income:

(ii) an extra pay:

(iii) a schedular payment:

(iv) an amount of income described in section RD 3B(3):

(ivb) an amount of income described in section RD 3C(4):

(v) an employer's superannuation contribution other than a contribution referred to in subsection (9):

(vi) a payment excluded by regulations made under this Act.

(d) *[Repealed]*

Employees' expenditure on account

(2) A payment of expenditure on account of an employee is included in their salary or wages.

Payments to working partners

(3) A payment to a working partner under section DC 4 (Payments to working partners) is included in their salary or wages.

Payments to working owners

(3B) A payment to a working owner under section DC 3B (Payments to working owners) is included in their salary or wages.

Payments to past employees

(4) A periodic payment of a pension, allowance, or annuity made to a person or their spouse, civil union partner, de facto partner, child, or dependant in connection with the past employment of the person is included in their salary or wages.

Payments to Governor-General, members of Parliament, and other office holders

(5) A payment to a person is included in salary or wages of the person if it is made as—

(a) salary to the Governor-General:

(b) salary or allowances to a member of Parliament:

(c) salary or principal allowances to a judicial officer referred to in section 12B of the Remuneration Authority Act 1977:

(d) salary or allowances to a member of the Employment Relations Authority.

Sum payable after office of Governor-General becomes vacant

(5B) A payment to a person made under section 7 of the Governor-General Act 2010 is included in the salary and wages of that person.

Certain benefits and grants

(6) A payment of the following benefits or grants is included in salary or wages

(a) a gratuitous payment as described in paragraph (a) of the definition of **pension** in section CF 1(2) (Benefits, pensions, compensation, and government grants):

(b) a main benefit:

(bb) a veteran's pension, other than a veteran's pension paid under section 182 of the Veterans' Support Act 2014:

(bc) New Zealand superannuation, other than New Zealand superannuation paid under section 26(2)(b) of the New Zealand Superannuation and Retirement Income Act 2001:

(bd) a retirement lump sum paid under Part 5, subpart 7 of the Veterans' Support Act 2014:

(be) weekly income compensation paid under Part 3, subpart 4 of the Veterans' Support Act 2014:

(bf) weekly compensation paid under Part 4, subpart 5 of the Veterans' Support Act 2014:

(bg) weekly compensation or aggregated payments, as applicable, paid under schedule 2, part 4, clause 54, 55, 58, or 59 of the Veterans' Support Act 2014:

(bh) the amount of an honorarium that is paid by Fire and Emergency New Zealand to a volunteer as defined in section CW 62B(4) (Voluntary activities):

(c) a basic grant and independent circumstances grant made under regulations made under section 645 of the Education and Training Act 2020 or an enactment substituted for that section.

Parental leave and preterm baby payments

(7) A parental leave payment or preterm baby payment made under Part 7A of the Parental Leave and Employment Protection Act 1987 is included in salary or wages.

Accommodation benefits

(8) A benefit treated as income under section CE 1(1)(bb) (Amounts derived in connection with employment) is included in salary or wages.

Cash contributions

(9) An amount of an employer's superannuation cash contribution that an employee chooses to have treated as salary or wages under section RD 68 is included in salary or wages.

Unrepaid PAYE income overpayments

(10) An unrepaid PAYE income overpayment that is treated as salary or wages under section RD 8B(2)(a) is included in salary or wages.

Defined in this Act: accident compensation earnings-related payment, accommodation, amount, de facto partner, employee, employer's superannuation cash contribution, employer's superannuation contribution, employment, exempt income, expenditure on account of an employee, extra pay, income, main benefit, New Zealand superannuation, pay, salary or wages, schedular payment, unrepaid PAYE income overpayment, veteran's pension

Compare: 2004 No 35 s OB 1 "salary or wages"

Section RD 5(1)(b)(ii): amended, on 1 April 2019, by section 252(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 5(1)(b)(iiib): inserted, on 5 December 2017, by section 30 of the Compensation for Live Organ Donors Act 2016 (2016 No 96).

Section RD 5(1)(b)(iv): repealed (with effect on 7 December 2014), on 31 March 2015, by section 14(1) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section RD 5(1)(c)(iv): replaced (with effect on 30 March 2017), on 30 March 2022, by section 153 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RD 5(1)(c)(ivb): inserted (with effect on 30 March 2017), on 30 March 2022, by section 153 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RD 5(1)(c)(v): amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 126(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RD 5(1)(c)(v): substituted (with effect on 1 April 2008), on 6 October 2009, by section 504(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5(1)(c)(vi): amended, on 1 April 2012, by section 8(1) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 5(1)(c)(vi): amended, on 1 April 2008, by section 133 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section RD 5(1)(d): repealed, on 1 April 2012, by section 8(2) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 5(3B) heading: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 126(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RD 5(3B): inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 126(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RD 5(5) heading: replaced, on 30 March 2017, by section 262 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 5(5): replaced, on 30 March 2017, by section 262 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 5(5B) heading: inserted (with effect on 1 April 2013), on 27 February 2014, by section 123(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section RD 5(5B): inserted, on 23 November 2010, by section 24(3) of the Governor-General Act 2010 (2010 No 122).

Section RD 5(6)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 504(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5(6)(b): replaced, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 5(6)(bb): inserted, on 5 January 2010, by section 102 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 5(6)(bb): amended, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section RD 5(6)(bc): inserted, on 5 January 2010, by section 102 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 5(6)(bd): replaced (with effect on 7 December 2014), on 31 March 2015, by section 14(2) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section RD 5(6)(be): inserted, on 31 March 2015, by section 14(3) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section RD 5(6)(bf): inserted, on 31 March 2015, by section 14(3) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section RD 5(6)(bg): inserted, on 31 March 2015, by section 14(3) of the Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40).

Section RD 5(6)(bh): replaced (with effect on 1 April 2019), on 23 March 2020, by section 179 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RD 5(6)(c): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 122(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RD 5(6)(c): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section RD 5(7) heading: replaced, on 1 April 2016, by section 83 of the Parental Leave and Employment Protection Amendment Act 2016 (2016 No 8).

Section RD 5(7): amended, on 1 April 2016, by section 83 of the Parental Leave and Employment Protection Amendment Act 2016 (2016 No 8).

Section RD 5(8) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 504(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5(8): added (with effect on 1 April 2008), on 6 October 2009, by section 504(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5(8): amended, on 1 April 2015, by section 138 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RD 5(9) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 504(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5(9): added (with effect on 1 April 2008), on 6 October 2009, by section 504(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5(10) heading: inserted, on 1 April 2019, by section 252(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 5(10): inserted, on 1 April 2019, by section 252(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 5 list of defined terms **accommodation**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 504(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5 list of defined terms **employee**: inserted (with effect on 1 April 2008), on 27 February 2014, by section 123(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section RD 5 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 504(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 5 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 5 list of defined terms **living alone payment**: repealed, on 2 September 2013 (applying for the 2011–12 tax year and later tax years), by section 16(1) of the Social Assistance (Living Alone Payments) Amendment Act 2013 (2013 No 11).

Section RD 5 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 5 list of defined terms **unrepaid PAYE income overpayment**: inserted, on 1 April 2019, by section 252(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RD 6 Certain benefits and payments

When this section applies

(1) This section applies when an employee receives—

(a) a benefit treated as income under section CE 1(1)(bb) (Amounts derived in connection with employment); or

(b) another benefit in kind that is included in their salary or wages; or

(c) 1 or more of the following payments:

(i) a superannuation payment:

(ii) a pension:

(iii) a retiring or other allowance:

(iv) an annuity; or

(d) a benefit under section CE 1(1)(d) (Amounts derived in connection with employment) in relation to which the employer has made an election under section RD 7B; or

(e) a payment made to them as a person on a shadow payroll.

Value or amount included in salary or wages

(2) For the purposes of subsection (1)(a) to (c), the value of the benefit or amount of the payment is treated as—

(a) accruing from day to day; and

(b) included in the employee's salary or wages for the pay period or, as applicable, as part of their salary or wages for the pay period.

When non-cash benefit treated as paid

(3) If the employee receives the benefit otherwise than in cash, the value is treated as paid—

(a) for a benefit referred to in subsection (1)(d), on the ESS deferral date on which the employee is treated as deriving the benefit under section CE 2(8) (Benefits under employee share schemes); or

(ab) *[Repealed]*

(b) for a benefit referred to in subsection (1)(a) to (c) that constitutes the only salary or wages of the employee, on the last day of the pay period:

(c) for a benefit that paragraphs (a) and (b) do not apply to, when the last amount of salary or wages for the pay period is paid.

Employees on shadow payrolls

(4) For the purposes of the PAYE rules, a payment referred to in subsection (1)(e) is treated as paid to the employee—

(a) on the day that the amount is paid by the non-resident employer, that is the payday for the purposes of sections 23E to 23H and 23J(2) of the Tax Administration Act 1994:

(b) on the 20th day after the amount is paid by the non-resident employer, that is the 20th day referred to in section 23J(3) of that Act.

Meaning of payment to person on shadow payroll

(5) For the purposes of this section, a payment made to a person on a shadow payroll is a PAYE income payment paid by a non-resident employer to a person

who undertakes employment services in New Zealand but who remains on the employer's payroll system in a country or territory outside New Zealand.

Defined in this Act: accommodation, amount, employee, employer, employment, employment income information, ESS deferral date, New Zealand, non-resident, pay, pay period, PAYE income payment, salary or wages, share purchase agreement

Compare: 2004 No 35 s NC 4

Section RD 6(1)(d): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 55(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 6(1)(d): amended, on 1 April 2019, by section 191(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6(1)(d): amended, on 29 September 2018, by section 190(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6(1)(e): inserted, on 1 April 2019, by section 191(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6(2): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 55(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 6(3)(a): replaced, on 1 April 2019, by section 191(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6(3)(ab): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 55(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 6(3)(ab): repealed, on 1 April 2017 (applying for the 2017–18 and later income years), by section 87(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 6(3)(b): replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 87(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 6(3)(c): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 87(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 6(4) heading: inserted, on 1 April 2019, by section 191(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6(4): inserted, on 1 April 2019, by section 191(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6(5) heading: inserted, on 1 April 2019, by section 191(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6(5): inserted, on 1 April 2019, by section 191(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6 list of defined terms **accommodation**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 505(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 6 list of defined terms **amount**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 55(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 6 list of defined terms **employer**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 55(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 6 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 191(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6 list of defined terms **ESS deferral date**: inserted, on 1 April 2019, by section 191(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6 list of defined terms **New Zealand**: inserted, on 1 April 2019, by section 191(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6 list of defined terms **non-resident**: inserted, on 1 April 2019, by section 191(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6 list of defined terms **PAYE income payment**: inserted, on 1 April 2019, by section 191(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6 list of defined terms **PAYE income payment form period**: repealed, on 1 April 2019, by section 191(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 6 list of defined terms **share purchase agreement**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 55(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RD 7 Extra pay

Meaning

(1) An **extra pay**—

(a) means a payment that—

(i) is made to a person in connection with their employment; and

(ii) is not a payment regularly included in salary or wages payable to the person for a pay period; and

(iii) is not overtime pay; and

(iv) is made in 1 lump sum or in 2 or more instalments; and

(b) includes a payment of the kind described in paragraph (a) made—

(i) as a bonus, gratuity, or share of profits; or

(ii) as a redundancy payment; or

(iii) when the person retires from employment; or

(iv) as a result of a retrospective increase in salary or wages, but only to the extent to which it accrues from the start of the increase until the start of the first pay period in which the increase is included in salary or wages; and

(bb) includes a benefit under section CE 1(1)(d) (Amounts derived in connection with employment) in relation to which the employer has made an election under section RD 7B to withhold an amount of tax; and

(c) includes an amount of income that a person derives under section CE 9 (Restrictive covenants) or CE 10 (Exit inducements) if the income is derived in connection with an employment relationship between the person and the person who paid the amount; and

(cb) includes an unrepaid PAYE income overpayment that is treated as all or part of an amount of extra pay under section RD 8B(2)(b); and

(d) does not include a payment of exempt income.

Limit on retrospective increase in salary or wages

[Repealed]

(2) *[Repealed]*

Remedial payments for certain entitlements

(3) A remedial payment made in relation to 1 or more of a person's entitlements under the Holidays Act 2003, an employment agreement, or both, is treated as an extra pay if—

(a) the payment is made to a person in connection with their employment; and

(b) but for this subsection, the payment would be a payment of salary or wages or an extra pay, or a combination of both; and

(c) the payment is made to the person to meet all or part of a shortfall in 1 or more previous payments to the person who has an entitlement under the Holidays Act 2003, or an employment agreement, or both.

Exclusion

(4) A payment made to a person to address some or all of a failure to pay the person any salary or wages for a pay period is excluded from a remedial payment under subsection (3). If more than 1 payment is made to the person to address the failure, this subsection applies to exclude only the first of these payments.

Meaning of employment agreement

(5) For the purposes of subsection (3), an **employment agreement** has the meaning given by section 5 of the Employment Relations Act 2000 except that—

(a) it includes an individual employment contract continued in force by section 242(1) of that Act; and

(b) it excludes a contract for services described in paragraph (b) of the definition.

Defined in this Act: amount, amount of tax, employment, exempt income, income, pay, pay period, salary or wages, unrepaid PAYE income overpayment

Compare: 2004 No 35 s OB 1 "extra pay"

Section RD 7(1)(b)(iv): replaced, on 1 April 2018, by section 193(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(1)(bb): inserted, on 1 April 2017, by section 56(1) (and see section 56(3)) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 7(1)(bb): amended, on 29 September 2018, by section 192 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(1)(cb): inserted, on 1 April 2019, by section 253(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 7(2) heading: repealed, on 1 April 2018, pursuant to section 193(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(2): repealed, on 1 April 2018, by section 193(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(3) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 194(1) (and see section 194(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(3): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 194(1) (and see section 194(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(4) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 194(1) (and see section 194(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(4): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 194(1) (and see section 194(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(5) heading: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 194(1) (and see section 194(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7(5): inserted, on 29 March 2018 (with effect on 1 April 2008), by section 194(1) (and see section 194(2) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 7 list of defined terms **amount of tax**: inserted, on 1 April 2017, by section 56(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 7 list of defined terms **unrepaid PAYE income overpayment**: inserted, on 1 April 2019, by section 253(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RD 7B Treatment of employee share schemes

When this section applies

(1) This section applies for employees or a former employee in relation to benefits under an employee share scheme, if—

(a) an employer has irrevocably chosen to withhold and pay tax for a benefit for an employee under the scheme in accordance with subsection (3); or

(b) an employer chooses to withhold and pay tax for a benefit for an employee under the scheme in accordance with subsection (4).

Irrevocable obligation

(2) An employer who has made an irrevocable election described in subsections (1)(a) and (3) must comply with subsection (4)(a) to (c) for—

(a) the relevant benefit and employee under the scheme:

(b) benefits offered or provided to the employee in replacement of the relevant benefit.

Irrevocable obligation: form

(3) For the purposes of subsection (1)(a), an employer has irrevocably chosen to withhold and pay tax for a benefit for an employee, if it is a term of the offer of the benefit, or of the scheme under which the benefit is provided, that the employer must withhold and pay tax under this section.

Withholding and paying

(4) For the purposes of subsection (1)(b), an employer chooses to withhold and pay tax for some benefits for some employees by—

(a) calculating the amounts of tax that must be withheld for the relevant benefits and employees, and paying the amounts to the Commissioner as described in section RD 4(1); and

(b) including the amounts in the employer's employment income information under subpart 3C of the Tax Administration Act 1994, treating the relevant ESS deferral date as the relevant payday; and

(c) making the disclosure referred to in paragraph (b) within the time required under section RD 6(3)(a).

Defined in this Act: amount, amount of tax, Commissioner, employee, employee share scheme, employment income information, ESS deferral date, pay, payday, tax

Section RD 7B: replaced (with effect on 1 April 2019), on 26 June 2019, by section 74(1) (and see section 74(2) for application) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

RD 8 Schedular payments

Meaning

(1) A **schedular payment**—

(a) means—

(i) a payment of a class set out in schedule 4 (Standard rates of tax for schedular payments); and

(ii) in relation to a sale, the net amount paid after subtracting from the purchase price all commission, insurance, freight, classing charges and other expenses incurred by the seller in connection with the sale; and

(ab) includes an unrepaid PAYE income overpayment that is treated as all or part of a schedular payment under section RD 8B(2)(c); and

(b) does not include—

(i) salary or wages; or

(ii) an extra pay; or

(iii) a payment for services provided by a public authority, a local authority, a Maori authority, or a company, other than a non-resident contractor, a non-resident entertainer, a company in relation to a payment described in schedule 4, part J or part W, or an agricultural, horticultural, or viticultural company; or

(iv) an exempt payment referred to in section 24H and schedule 5, part C, clause 6 of the Tax Administration Act 1994 applies; or

(v) a payment for services provided by a non-resident contractor who has full relief from tax under a double tax agreement, and is present in New Zealand for 92 or fewer days in a 12-month period; or

(vi) a contract payment for a contract activity or service of a non-resident contractor when the total amount paid for those activities to the contractor or another person on their behalf is $15,000 or less in a 12-month period.

Protected payments

(2) The fact that a schedular payment may be protected against assignment or charge does not override a person's obligation to withhold the amount of tax for the payment.

Determination of expenditure incurred

(3) The Commissioner may determine from time to time the amount or proportion of expenditure that a person incurs in deriving a particular schedular payment or class of schedular payments.

Defined in this Act: agricultural, horticultural, or viticultural company, amount, amount of tax, Commissioner, company, contract activity or service, contract payment, double tax agreement, extra pay, local authority, Maori authority, New Zealand, non-resident contractor, non-resident entertainer, pay, public authority, salary or wages, schedular payment, unrepaid PAYE income overpayment

Compare: 2004 No 35 s NC 21(f)–(h), Income Tax (Withholding Payments) Regulations 1979, regulations 2, 4, 6–8

Section RD 8(1)(a)(i): amended, on 1 April 2017, by section 89(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 8(1)(ab): inserted, on 1 April 2019, by section 254(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 8(1)(b)(iii): amended, on 1 April 2017, by section 89(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 8(1)(b)(iv): replaced, on 1 April 2019, by section 197(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 8(1)(b)(v): amended (with effect on 1 April 2008), on 6 October 2009, by section 506 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 8 list of defined terms **exemption certificate**: repealed, on 1 April 2019, by section 197(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 8 list of defined terms **unrepaid PAYE income overpayment**: inserted, on 1 April 2019, by section 254(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RD 8B Treatment of PAYE-related overpayments

When this section applies

(1) This section applies when an employer pays an amount (a **PAYE-related overpayment**) to an employee and—

(a) the amount is paid—

(i) in error, to the extent to which the employee is not beneficially entitled to the amount; or

(ii) as an advance payment, to the extent to which the employee does not become beneficially entitled to the amount; and

(b) the amount is, at the time of payment, treated by the employer as all or part of—

(i) a payment of salary or wages; or

(ii) an extra pay; or

(iii) a schedular payment.

Treatment of amount

(2) To the extent to which the amount is an unrepaid PAYE income overpayment, the amount is treated as follows:

(a) as salary or wages, if the amount is treated as described in subsection (1)(b)(i):

(b) as all or part of an amount of extra pay, as applicable, if the amount is treated as described in subsection (1)(b)(ii):

(c) as all or part of a schedular payment, as applicable, if the amount is treated as described in subsection (1)(b)(iii).

Meaning of unrepaid PAYE income overpayment

(3) An **unrepaid PAYE income overpayment**—

(a) means an amount that—

(i) is a PAYE-related overpayment; and

(ii) has not been repaid to the employer; and

(iii) is not repayable to the employer by the employee under an agreement between them; and

(iv) is not recoverable under section 248 of the Accident Compensation Act 2001; and

(b) does not include an amount of exempt income.

Amounts repayable under breached repayment agreements

(4) For the purposes of subsection (3)(a)(iii), an amount that is repayable to the employer by the employee under an agreement (the **agreement**) between them is treated as an amount that is not repayable to the employer by the employee under an agreement between them if—

(a) the employee breaches the agreement and does not remedy the breach within 2 months:

(b) the employer considers that the employee will not comply with the agreement in the future.

Exclusions

(5) An amount referred to in subsection (1) does not include—

(a) an amount that is income of the employee under section CB 32 (Property obtained by theft):

(b) an amount that is an overpayment of a benefit or grant referred to in section RD 5(6)(a) to (c):

(c) an employer's superannuation contribution other than an overpayment of an amount of an employer's superannuation cash contribution that an employee chooses to have treated as salary or wages under section RD 68 (Choosing to have amount treated as salary or wages).

Employers who use PAYE intermediaries

(6) In this section, **employer** includes a PAYE intermediary.

Defined in this Act: amount, employee, employer, exempt income, extra pay, pay, PAYE intermediary, PAYE-related overpayment, salary or wages, schedular payment, unrepaid PAYE income overpayment

Section RD 8B: inserted, on 1 April 2019, by section 255 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Calculating amounts of tax

RD 9 Maximum amount

When a person calculates an amount of tax for a PAYE income payment, they must use the maximum rate under schedule 2 (Basic tax rates for PAYE income payments) at the time for the payment and the person receiving the payment, unless this Act states otherwise.

Defined in this Act: amount of tax, pay, PAYE income payment

Compare: 2004 No 35 s NC 6(1A), (3)

RD 10 Amounts of tax for PAYE income payments

PAYE income payments other than schedular payments

(1) The amount of tax for a PAYE income payment that a person must withhold and pay to the Commissioner under section RA 5 (Tax obligations for employ-

ment-related taxes) is the relevant amount under schedule 2 (Basic tax rates for PAYE income payments). Subsections (2), (2B), (2C), (2D), and (3) and sections RD 12 to RD 20C override this subsection.

Choosing rate for extra pay

(2) An employee who notifies their employer of their tax code may choose to have the amount of tax for an extra pay fixed as follows:

(a) for an employee whose taxable income for the income year is expected to be not more than $53,500, the rate set out in schedule 2, part B, table 1, row 3; or

(b) for an employee whose taxable income for the income year is expected to be not more than $78,100, the rate set out in schedule 2, part B, table 1, row 4; or

(c) for an employee whose taxable income for the income year is expected to be not more than $180,000, the rate set out in schedule 2, part B, table 1, row 5; or

(d) for other employees, the rate set out in schedule 2, part B, table 1, row 6.

Relationship with section RD 17

(2B) Despite subsection (2), a person must not choose a rate set out in schedule 2, part B, table 1 that is lower than the rate that would apply to the amount of extra pay under section RD 17.

Rates for extra pays: non-resident seasonal workers

(2C) The amount of tax for an extra pay that is paid to a non-resident seasonal worker is calculated at the rate set out in schedule 2, part B, table 1, row 1 (Basic tax rates for PAYE income payments). This rate applies for both a worker who has notified their employer under section 24C of the Tax Administration Act 1994 of their tax code under schedule 2, part A, clause 8, and a worker to whom schedule 5, part B, clause 3 of that Act applies. This subsection overrides subsection (2).

Rates for extra pays: non-notified tax codes

(2D) The amount of tax for an extra pay that is paid to an employee who has not notified their employer of their tax code is calculated at the rate set out in schedule 2, part B, table 1, row 7.

Schedular payments

(3) The amount of tax for a schedular payment is determined—

(a) under section RD 10B; and

(b) on the basis of the gross amount of the payment, other than GST, whether—

(i) some or all of the payment is income; and

(ii) the full income tax liability lies with the person receiving the payment, or lies partly with an employee or subcontractor of the person.

Tax tables

(4) The Commissioner may provide tables for the calculation of an amount of tax for a PAYE income payment that may incorporate other relevant information.

Defined in this Act: amount, amount of tax, Commissioner, employee, employer, extra pay, gross, income, income tax liability, income year, non-resident seasonal worker, notify, pay, PAYE income payment, schedular payment, tax code, taxable income

Compare: 2004 No 35 ss NC 6, NC 8(1A), Income Tax (Withholding Payments) Regulations 1979, regulation 3

Section RD 10(1): amended, on 1 April 2024, by section 114 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RD 10(1): amended, on 29 March 2018, by section 198(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10(2): replaced, on 1 April 2021, by section 5(1) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 10(2)(a): amended, on 1 April 2025, by section 35(1) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 10(2)(b): amended, on 1 April 2025, by section 35(2) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 10(2B) heading: inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 103(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 10(2B): inserted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 103(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 10(2C) heading: inserted, on 29 March 2018, by section 198(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10(2C): inserted, on 29 March 2018, by section 198(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10(2C): amended, on 1 April 2021, by section 5(2) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 10(2C): amended, on 1 April 2019, by section 198(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10(2C): amended, on 1 April 2019, by section 198(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10(2D) heading: inserted, on 29 March 2018, by section 198(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10(2D): inserted, on 29 March 2018, by section 198(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10(2D): amended, on 1 April 2021, by section 5(3) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 10(3)(a): replaced, on 1 April 2017, by section 90 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 10(3)(b): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 124(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section RD 10 list of defined terms **non-resident seasonal worker**: inserted, on 29 March 2018, by section 198(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 10B Amounts of tax for schedular payments

When this section applies

(1) This section applies to determine the amount of tax for a schedular payment for the purposes of section RD 10(3)(a).

Basic rates

(2) When the person making the schedular payment has been notified under section 24I of the Tax Administration Act 1994 of the payee's name and tax file number, the person must withhold an amount of tax for the payment at—

(a) the payee's elected rate, for a payee, other than a payee referred to in paragraph (b), who chooses a tax rate under section 24F(3) of that Act:

(b) the special tax rate set by the Commissioner, for a payee who has been provided with a special tax rate under section 24G of that Act:

(c) in other cases, the applicable tax rate set out in schedule 4 (Standard rates of tax for schedular payments).

Rates set by Commissioner

(3) Despite subsection (2), if the person making the schedular payment has been notified of a rate under section 24F(4) of that Act, the person must use that rate in relation to the payment, subtracting the amount notified or the amount equal to the percentage prescribed, as applicable, and paying the amount to the Commissioner.

Default rates

(4) When the person making the schedular payment has not been notified of the payee's name and tax file number under section 24I, the person must withhold an amount of tax for the payment that is—

(a) for a payee that is a company that is non-resident, 20% of the amount of the payment:

(b) in all other cases, 45% of the amount of the payment.

Non-resident entertainer rate

(5) Despite subsections (2), (3), and (4), the tax rate, if the payee is a non-resident entertainer, is 0.20.

Defined in this Act: amount, amount of tax, Commissioner, company, non-resident contractor, non-resident entertainer, notify, pay, schedular payment, tax, tax file number

Section RD 10B: inserted, on 1 April 2017, by section 91 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 10B(2) heading: replaced, on 1 April 2019, by section 199(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10B(2): replaced, on 1 April 2019, by section 199(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10B(3) heading: replaced, on 1 April 2019, by section 199(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10B(3): replaced, on 1 April 2019, by section 199(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10B(4) heading: replaced, on 1 April 2019, by section 199(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10B(4): replaced, on 1 April 2019, by section 199(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10B list of defined terms **amount**: inserted, on 1 April 2019, by section 199(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 10B list of defined terms **Commissioner**: inserted, on 1 April 2019, by section 199(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 10C Calculating amounts of tax following changes to rates or thresholds

When a change occurs to a rate or threshold in this Act or the Tax Administration Act 1994 affecting the amount of tax for a PAYE income payment, the calculation of the amount of tax must be made using the rate applying on the day on which the PAYE income payment is paid or is otherwise under this Act treated as paid.

Defined in this Act: amount of tax, pay, PAYE income payment

Section RD 10C: inserted, on 1 April 2018, by section 200 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 11 Amount of tax in certain circumstances

Special circumstances

(1) Despite sections RD 2 to RD 10, the Commissioner may, in special circumstances, reduce the amount of tax for a PAYE income payment to an employee or a class of employees. The PAYE rules then apply as if amended.

When schedule or regulations inapplicable

(2) If the amount of tax for a PAYE income payment cannot be determined under schedule 2 (Basic tax rates for PAYE income payments) or under regulations made under this Act because of the size of the PAYE income payment, or the number of the employee's dependants, or for any other reason, the amount of tax for the payment must be determined by the Commissioner, taking into

account the factors considered in fixing the amount of tax for other similar payments.

Main benefits, New Zealand superannuation, and veteran's pension

(3) Despite section RD 10(1), the amount of tax for a PAYE income payment that is a payment of any of the following benefits must be determined by the Commissioner in consultation with the chief executive of the administering department:

(a) a main benefit:

(b) New Zealand superannuation:

(c) a veteran's pension.

Education allowances

(3B) Despite section RD 10(1), the amount of tax for a PAYE income payment that is a payment of an allowance under regulations made under section 645 of the Education and Training Act 2020 must be determined by the Commissioner in consultation with the Secretary for Education.

When Commissioner makes determination under section RD 8(3)

(4) If the Commissioner makes a determination under section RD 8(3) in relation to the amount or proportion of expenditure that a person incurs in deriving a schedular payment, the basis for calculating the amount of tax for the schedular payment is the reduced amount found after subtracting the amount or proportion of expenditure determined by the Commissioner from the amount of the payment. This subsection overrides section RD 10(3).

Defined in this Act: amount, amount of tax, chief executive of the administering department, Commissioner, employee, main benefit, PAYE income payment, PAYE rules, schedular payment

Compare: 2004 No 35 ss NC 6(1C), (1D), NC 13, Income Tax (Withholding Payments) Regulations 1979, regulation 6(3)

Section RD 11 heading: replaced, on 9 November 2020, by section 45(1) of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36).

Section RD 11(3) heading: replaced, on 9 November 2020, by section 45(2) of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36).

Section RD 11(3) heading: amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 11(3): replaced, on 9 November 2020, by section 45(2) of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36).

Section RD 11(3)(a): replaced, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 11(3B) heading: inserted, on 9 November 2020, by section 45(2) of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36).

Section RD 11(3B): inserted, on 9 November 2020, by section 45(2) of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36).

Section RD 11(4) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 507(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 11(4): added (with effect on 1 April 2008), on 6 October 2009, by section 507(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 11 list of defined terms **amount**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 507(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 11 list of defined terms **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 11 list of defined terms **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 11 list of defined terms **schedular payment**: added (with effect on 1 April 2008), on 6 October 2009, by section 507(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 11 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 507(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Adjustments for certain PAYE income payments

RD 12 Multiple payments of salary or wages

When this section applies

(1) This section applies when an employee receives more than 1 payment of salary or wages from their employer in a week or part of a week. The employment may relate to 1 or more employment situations with that employer.

What this section does not apply to

(2) This section does not apply to salary or wages from employment as a casual agricultural employee, election-day worker, or non-resident seasonal worker.

Treatment as 1 payment

(3) The total amount of tax for all payments of salary or wages is the amount that would be required to be withheld if all the payments were treated as 1 payment made by the employer for the week.

Defined in this Act: amount of tax, casual agricultural employee, election-day worker, employee, employer, employment, non-resident seasonal worker, pay, salary or wages

Section RD 12: replaced, on 1 April 2019, by section 201 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 13 Advance payments

When this section applies

(1) This section applies when an employee receives from their employer—

(a) an advance payment of salary or wages referred to in section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes):

(b) an amount of holiday pay that is paid—

(i) in a lump sum before the employee takes their holiday; and

(ii) when the employee's employment is continuing.

Employers' elections

(2) The employer may choose to treat the amount as—

(a) an extra pay; or

(b) a lump sum paid and spread over the pay period or periods to which it relates.

Choosing to treat amounts as lump sum payments

(3) Subsections (4) and (5) apply when an employer chooses under subsection (2)(b) to treat the amount as a lump sum.

Calculating amounts of tax for lump sum payments

(4) The amount of tax for the lump sum payment is determined by—

(a) apportioning the lump sum to the pay period or pay periods to which it relates based on the employee's usual hours of work; and

(b) calculating the amount of tax for each portion of the lump sum, treating the portion as if it were the only payment of salary or wages paid by the employer to the employee for the particular pay period; and

(c) adding together the amounts of tax for each portion.

Calculating amounts of tax for salary or wages

(5) The amount of tax for a payment of salary or wages for a pay period referred to in subsection (4)(a) that is made after the payment of the lump sum is found by—

(a) adding together—

(i) the amount of the payment of salary or wages for the pay period; and

(ii) the portion of the lump sum that relates to the pay period as determined under subsection (4)(a); and

(b) calculating the amount of tax that must be withheld for the total amount referred to in paragraph (a), treating that amount as if it were a single payment of salary or wages paid by the employer to the employee for the pay period; and

(c) subtracting the amount of tax for the portion of the lump sum that relates to the pay period as described in subsection (4)(b).

Defined in this Act: amount, amount of tax, employee, employer, employment, extra pay, pay, pay period, salary or wages

Section RD 13: replaced, on 1 April 2018, by section 202 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 13B Adjustments for payroll donations

When this section applies

(1) This section applies when an employee makes a payroll donation for a pay period for which they have a tax credit under section LD 4 (Tax credits for payroll donations).

Subtracting amount of tax credit

(2) The employer or PAYE intermediary must subtract the amount of the tax credit from the amount of tax for the employee's PAYE income payment for the pay period and include in their employment income information the items described in schedule 4, table 1, row 5(a) of the Tax Administration Act 1994.

Defined in this Act: employee, employer, employment income information, pay period, PAYE income payment, PAYE intermediary, payroll donation, tax credit

Section RD 13B: inserted, on 6 January 2010, by section 510 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 13B(2): amended, on 1 April 2019, by section 203(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 13B list of defined terms **employer monthly schedule**: repealed, on 1 April 2019, by section 203(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 13B list of defined terms **employment income information**: inserted, on 1 April 2019, by section 203(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 14 Changes to tax rates for salary or wages

[Repealed]

Section RD 14: repealed, on 1 April 2018, by section 204 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 15 Payments of salary or wages in pay periods

Payment for part of period

(1) If an employee who is in regular full-time employment is paid salary or wages for part of a pay period, the payment is treated as a payment for a full pay period.

Payment on production basis

(2) If an employee who is paid on a production basis for work performed as a piece worker or out-worker is paid salary or wages, the payment is treated as payment for the period that runs from the date the work starts to the date of its completion.

Payments in several sums

(3) If a PAYE income payment for a pay period is paid in 2 or more separate sums, those sums must be added together to determine the amount of tax for the payment.

When impractical to make payments at same time

(4) Despite subsection (3), if it is impractical for an employer to pay an employee overtime pay and other salary or wages for a pay period at the same time, the employer may add the amount of the overtime pay of the employee to their salary or wages for a later pay period, but not their overtime pay if, for both pay periods,—

(a) the amounts of the employee's salary or wages are more or less the same; and

(b) the amounts of tax withheld from the employee's salary or wages are the same; and

(c) the employee has the same tax code.

Periods not coinciding

(5) For the purposes of subsection (4), if overtime pay is paid for a particular period that is the same length as a pay period but does not coincide with a pay period, it may be treated as overtime pay for the pay period in which the particular period ends.

Defined in this Act: amount of tax, employee, employer, employment, pay, pay period, PAYE income payment, salary or wages, tax code, tax withheld

Compare: 2004 No 35 s NC 2(2)–(4)

RD 16 Payments to private domestic workers

When this section applies

(1) This section applies to a person who is employed as a private domestic worker by another person and—

(a) the employer is the occupier, or 1 of the occupiers, of a house or premises used exclusively for residential purposes; and

(b) the employment—

(i) is for the performance of work in or about the house or premises, or a garden or grounds belonging to the house or premises; and

(ii) is not for a business carried on by the employer, or an occupation or calling of the employer; and

(iii) is not regular full-time employment.

No amount of tax withheld

(2) No amount of tax is required to be withheld for a PAYE income payment relating to the person's employment as a private domestic worker when sections RA 8 (Liability of persons receiving payments or benefits) and RD 4(4) apply.

Defined in this Act: amount of tax, business, employer, employment, PAYE income payment, private domestic worker

Compare: 2004 No 35 s NC 2(1)

Section RD 16(2): amended, on 1 April 2019, by section 205 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 17 Payment of extra pay with other PAYE income payments

When this section applies

(1) This section applies when a person pays an amount of extra pay to an employee who also receives a PAYE income payment from the person, regardless of whether the extra pay is paid with or separately from a PAYE income payment. The amount of tax for the extra pay is based on the sum of—

(a) the amount of the extra pay; and

(b) the annualised value of all PAYE income payments made to the employee in the period that starts 4 weeks before the date of the payment of the extra pay and ends on the date of that payment.

End of employment

(1BA) Despite subsection (1), if the extra pay includes an amount that arises from the ending of the employee's employment, the amount of tax for the extra pay is based on the sum of—

(a) the amount of the extra pay; and

(b) the annualised value of the PAYE income payments for the last 2 pay periods before the PAYE income payment for the extra pay.

Calculating annualised value

(1B) For the purposes of calculating the amount that is the annualised value referred to in subsection (1)(b), the amount of the extra pay referred to in subsection (1)(a) and of extra pays paid to the employee in the period referred to in subsection (1)(b) is excluded.

Exclusion: non-resident seasonal workers and non-notified tax codes

(1C) This section does not apply to—

(a) a non-resident seasonal worker—

(i) who has notified their employer of their tax code, for which *see* section RD 10(2C):

(ii) to whom schedule 5, part B, clause 3 of the Tax Administration Act 1994 applies:

(b) an employee who has a non-notified tax code referred to in schedule 2, part A, clause 3.

Rates applying

(2) For the sum of the amounts referred to in subsection (1) listed in the following paragraphs, the amount of tax for the extra pay that must be withheld is the amount determined using the basic amounts of tax for PAYE income payments set out in the relevant row of schedule 2, part B, table 1 (Basic tax rates for PAYE income payments):

(a) if the sum of the amounts is $15,600 or less, the amount determined by applying row 2:

(b) if the sum of the amounts is more than $15,600 but not more than $53,500, the amount determined by applying row 3:

(c) if the sum of the amounts is more than $53,500 but not more than $78,100, the amount determined by applying row 4:

(d) if the sum of the amounts is more than $78,100 but not more than $180,000, the amount determined by applying row 5:

(e) if the sum of the amounts is more than $180,000, the amount determined by applying row 6.

When secondary tax codes apply

(3) Despite subsection (2), if the person pays an amount of extra pay to an employee in relation to which the employee has notified the person that a secondary code under schedule 5, part A, clause 4, rows 3 to 6B of the Tax Administration Act 1994 applies, the rate under schedule 2, part B, table 1 applying to the extra pay is determined using the formula—

extra pay + annualised amount + low threshold amount.

Definition of items in formula

(4) In the formula,—

(a) **extra pay** is the amount of the employee's extra pay:

(b) **annualised amount** is the amount given by subsections (1)(b) and (1B):

(c) **low threshold amount** is, as applicable,—

(i) for secondary code SB, $0:

(ii) for secondary code S, $15,601:

(iii) for secondary code SH, $53,501:

(iv) for secondary code ST, $78,101:

(v) for secondary code SA, $180,001.

Defined in this Act: amount, amount of tax, employee, extra pay, non-resident seasonal worker, notify, pay, pay period, PAYE income payment, tax code

Compare: 2004 No 35 s NC 2(5)

Section RD 17(1) heading: substituted (with effect on 1 April 2008), on 7 December 2009, by section 104(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(1): substituted (with effect on 1 April 2008), on 7 December 2009, by section 104(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(1BA) heading: inserted, on 1 April 2025, by section 115(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RD 17(1BA): inserted, on 1 April 2025, by section 115(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RD 17(1BA): amended, on 1 April 2025, by section 122 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 17(1B) heading: inserted (with effect on 1 April 2008), on 7 December 2009, by section 104(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(1B): inserted (with effect on 1 April 2008), on 7 December 2009, by section 104(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(1B): amended (with effect on 1 April 2008), on 18 March 2019, by section 256(1) (and see section 256(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 17(1C) heading: inserted, on 29 March 2018, by section 206(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 17(1C): replaced, on 1 April 2019, by section 206(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 17(2) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 104(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(2): replaced, on 1 April 2021, by section 6(1) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 17(2)(a): amended, on 1 April 2025, by section 36(1) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 17(2)(b): amended, on 1 April 2025, by section 36(2) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 17(2)(b): amended, on 1 April 2025, by section 36(3) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 17(2)(c): amended, on 1 April 2025, by section 36(4) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 17(2)(c): amended, on 1 April 2025, by section 36(5) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 17(2)(d): amended, on 1 April 2025, by section 36(6) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 17(3) heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 104(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(3): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 104(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(3): amended, on 1 April 2021, by section 6(2) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 17(3): amended, on 1 April 2019, by section 206(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 17(4) heading: added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 104(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(4): added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 104(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RD 17(4)(c): replaced, on 1 April 2025, by section 36(7) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 17 list of defined terms **non-resident seasonal worker**: inserted, on 29 March 2018, by section 206(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 17 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 17 list of defined terms **pay period**: inserted, on 1 April 2025, by section 115(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RD 17 list of defined terms **tax code**: inserted, on 29 March 2018, by section 206(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 18 Schedular payments without notification

[Repealed]

Section RD 18: repealed, on 1 April 2017, by section 92 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RD 19 Schedular payments to non-resident entertainers

When this section applies

(1) This section applies when a non-resident entertainer derives income from an activity or performance connected with any of the activities or performances described in the definition of **non-resident entertainer**.

Amounts withheld

[Repealed]

(2) *[Repealed]*

Amounts not withheld

(3) If the entertainer has received a schedular payment from which no amount of tax has been withheld, the entertainer must pay the amount of tax to the Commissioner by the 20th day of the month following that in which the payment was made, or by the date of their departure from New Zealand if that is earlier.

Defined in this Act: amount, amount of tax, Commissioner, income, income tax liability, New Zealand, non-resident entertainer, pay, schedular payment, tax year

Compare: Income Tax (Withholding Payments) Regulations 1979, regulations 10, 11

Section RD 19(2) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 513 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 19(2): repealed (with effect on 1 April 2008), on 6 October 2009, by section 513 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RD 20 Schedular payments to subcontractors

When this section applies

(1) This section applies when a contractor is paid a schedular payment for services provided under a contract, and a subcontractor has provided services under the contract.

Obligation to retain amount

(2) The PAYE rules apply to the contractor in relation to a payment made to the subcontractor in relation to the work carried out under the contract.

Defined in this Act: pay, PAYE rules, schedular payment

Compare: Income Tax (Withholding Payments) Regulations 1979, regulation 12

RD 20B Treatment of certain support payments made for period of more than 1 year

What this section applies to

(1) This section applies to a person for a payment (the **multi-year support payment**) that is made in a lump sum and relates to a period of more than 1 income year for the person and is—

(a) an accident compensation earnings-related payment, except to the extent to which the payment is the conversion of weekly compensation to an aggregated payment under schedule 1, part 4, clause 67 of the Accident Compensation Act 2001; or

(b) a personal service rehabilitation payment, except to the extent to which the payment is a reimbursement payment to which section CW 35 (Personal service rehabilitation payments) applies; or

(c) a lump sum support payment made under the Veterans' Support Act 2014, except to the extent to which the payment is—

(i) a pension referred to in section CW 28 (Pensions):

(ii) an impairment payment relating to incapacity to work referred to in section CW 34 (Compensation payments).

Tax rate for payment and income year

(2) The tax rate given by subsection (3) applies to the multi-year support payment for the income year in which the person derives the payment.

Tax rate

(3) The tax rate referred to in subsection (2) is—

(a) 10.5%, if the rate given by the formula in subsection (4) (the **average basic tax rate**) is less than 10.5% and paragraph (c) does not apply; or

(b) the person's average basic tax rate, if neither of paragraphs (a) and (c) apply; or

(c) the person's basic tax rate for the income year in which the person derives the multi-year support payment, if that basic tax rate is less than the average basic tax rate.

Formula for average basic tax rate

(4) The person's average basic tax rate for this section is calculated over the period of the 4 income years (the **rate averaging period**) ending before the income

year in which the person derives the multi-year support payment using the formula—

total basic rates ÷ number of income years.

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **total basic rates** is the sum of the person's basic tax rate calculated under schedule 1, part A, clause 1 for each of the income years in the rate averaging period for which that rate is known by the Commissioner:

(b) **number of income years** is the number of income years within the rate averaging period for which the person's basic tax rate is known by the Commissioner and included in the total basic rates.

Withholding from payment

(6) For the purposes of section RA 5 (Tax obligations for employment-related taxes), if the multi-year support payment is an accident compensation earnings-related payment, the person making the payment must withhold an amount of tax from the payment at the rate given by subsection (7).

Rate of withholding

(7) The rate referred to in subsection (6) is,—

(a) if the person's average basic tax rate is less than 10.5%, 10.5%; or

(b) in any other case, the person's average basic tax rate.

Defined in this Act: accident compensation earnings-related payment, amount, amount of tax, basic tax rate, Commissioner, income year, pay, personal service rehabilitation payment, reimbursement payment

Section RD 20B: inserted, on 1 April 2024, by section 116(1) (and see section 116(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RD 20B heading: replaced (with effect on 1 April 2024), on 29 March 2025, by section 123(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 20B(1): amended (with effect on 1 April 2024), on 29 March 2025, by section 123(2)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 20B(1)(b): amended (with effect on 1 April 2024), on 29 March 2025, by section 123(2)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 20B(1)(c): inserted (with effect on 1 April 2024), on 29 March 2025, by section 123(2)(c) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 20B(2): amended (with effect on 1 April 2024), on 29 March 2025, by section 123(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 20B(3)(c): amended (with effect on 1 April 2024), on 29 March 2025, by section 123(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 20B(4): amended (with effect on 1 April 2024), on 29 March 2025, by section 123(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RD 20B(6): amended (with effect on 1 April 2024), on 29 March 2025, by section 123(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

RD 20C Payments of recalculated main benefit

What this section applies to

(1) This section applies to a person for a payment (the **recalculated main benefit payment**) that is made in a lump sum in an income year and arises from a recalculation of the amount of main benefit payable to the person for 1 or more earlier income years.

Tax rate for payment

(2) The rate of income tax given by subsection (3) applies to the recalculated main benefit payment for the income year in which the person derives the payment.

Formula for tax rate

(3) The rate of income tax referred to in subsection (2) is the rate calculated using the formula—

tax deduction ÷ (received amount + tax deduction).

Definition of items in formula

(4) In the formula in subsection (3),—

(a) **tax deduction** is the amount paid to the Commissioner by the department of State responsible for the administration of the Social Security Act 2018 (the **MSD**) as the amount for income tax payable on the recalculated main benefit payment:

(b) **received amount** is the amount paid to the person by the MSD as the amount of the recalculated main benefit payment after the withholding of income tax.

Defined in this Act: amount, Commissioner, income tax, income year, main benefit, pay

Section RD 20C: inserted, on 1 April 2024, by section 116(1) (and see section 116(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Paying amounts of tax

RD 21 When amounts of tax not withheld or payment insufficient

Employees' obligations

(1) If, for any reason, some or all of the amount of tax for a PAYE income payment is not withheld at the time it is paid to an employee, the employee must—

(a) provide the relevant employment income information under section 23I of the Tax Administration Act 1994 to the Commissioner; and

(b) pay the amount of the deficiency.

When person exempt or not liable to pay

(2) Subsection (1)(b) does not apply if the employee is exempt from paying the amount or is not liable for the amount of tax.

When payment less than amount of tax

(3) If the amount of money included in a PAYE income payment is less than the amount of tax for the payment, the employee must pay the amount of the deficiency to their employer or PAYE intermediary. If the employee does not pay the amount of the deficiency to their employer or PAYE intermediary, they must pay the amount to the Commissioner under section RD 4(4).

Defined in this Act: amount, amount of tax, Commissioner, employee, employer, employment income information, pay, PAYE intermediary, PAYE income payment

Compare: 2004 No 35 s NC 5

Section RD 21(1)(a): replaced, on 1 April 2019, by section 207(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 21(3): amended, on 1 April 2019, by section 207(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 21(3): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 263(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 21 list of defined terms **employer monthly schedule**: repealed, on 1 April 2019, by section 207(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 21 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 207(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 22 Providing employment income information to Commissioner

Employment income information

(1) An employer or PAYE intermediary who withholds an amount of tax for a PAYE income payment must provide the relevant employment income information to the Commissioner under sections 23E to 23H and 23J of the Tax Administration Act 1994 by the dates set out in those provisions.

Tailored tax code or rates of tax

(2) Subsection (1) also applies to require an employer or PAYE intermediary to deliver employment income information in relation to an employee who has—

(a) a tailored tax code of zero provided by the Commissioner under section 24D of the Tax Administration Act 1994:

(b) a special tax rate of zero provided by the Commissioner under section 24G of that Act.

Benefits under employee share schemes

(3) For a benefit that an employee or former employee of an employer receives under an employee share scheme, the employer or PAYE intermediary must

provide the relevant employment income information to the Commissioner under sections 23E to 23H of that Act as modified by section 23K of that Act.

Exception

(4) Subsection (3) does not apply—

(a) when the employee share scheme beneficiary is a former employee for whom the employer has not chosen under section RD 7B to withhold an amount of tax:

(b) to a benefit under an exempt ESS.

Defined in this Act: amount of tax, Commissioner, employee share scheme, employee share scheme beneficiary, employer, employment income information, exempt ESS, pay, PAYE income payment, PAYE intermediary

Section RD 22: replaced, on 1 April 2019, by section 208 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 22(1): amended, on 1 April 2019, by section 257(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 22(2) heading: amended, on 1 April 2019, by section 257(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 22(2)(a): amended, on 1 April 2019, by section 257(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RD 23 Bonds given by employers of certain non-resident employees

[Repealed]

Section RD 23: repealed, on 1 April 2024, by section 103 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

RD 24 Exemptions for non-resident contractors

When this section applies

(1) This section applies when—

(a) a non-resident contractor derives an amount from a contract activity or service that is not assessable income, whether because of a double tax agreement or for another reason; or

(b) *[Repealed]*

(c) the contractor has in the period of 24 months before the date of the application referred to in subsection (2) paid all income tax payable by them and complied with their obligations under the Inland Revenue Acts, and the Commissioner is satisfied that the contractor will continue to do this.

Exemptions

(2) The non-resident contractor may apply to the Commissioner to provide them with an exemption under section 24H of the Tax Administration Act 1994 for a contract payment made to them or another person acting on their behalf in

relation to a contract activity or service set out in the certificate for which no amount of tax is to be withheld.

Defined in this Act: amount, amount of tax, apply, assessable income, Commissioner, contract activity or service, contract payment, double tax agreement, income tax, Inland Revenue Acts, non-resident contractor, pay

Compare: 2004 No 35 s NC 18(1), Income Tax (Withholding Payments) Regulations 1979, regulation 5(3)

Section RD 24 heading: amended, on 1 April 2019, by section 210(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 24(1)(a): amended, on 30 March 2021, by section 130(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 24(1)(b): repealed, on 1 April 2024, by section 104 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RD 24(2) heading: replaced, on 1 April 2019, by section 210(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 24(2): amended, on 1 April 2019, by section 210(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 24 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 24 list of defined terms **assessable income**: inserted, on 30 March 2021, by section 130(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RD 24 list of defined terms **exemption certificate**: repealed, on 1 April 2019, by section 210(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 24 list of defined terms **income**: repealed, on 30 March 2021, by section 130(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Fringe benefit tax (FBT) rules and fringe benefits

Introductory provisions

RD 25 FBT rules and their application

Meaning

(1) The **FBT rules** means—

(a) sections CX 2 to CX 38 (which relate to fringe benefits); and

(b) sections GA 2, GB 31, and GB 32 (which relate to FBT); and

(c) sections RD 26 to RD 63; and

(d) schedules 1, part C (Basic tax rates: income tax, ESCT, RWT, and attributed fringe benefits) and 5 (Fringe benefit values for motor vehicles); and

(e) sections 46B to 46E, 93, Part 7, and section 139B of the Tax Administration Act 1994.

Application

(2) The FBT rules apply to an employer who provides a fringe benefit to their employee in connection with their employment.

Defined in this Act: employee, employer, employment, FBT, FBT rules, fringe benefit

Compare: 2004 No 35 s OB 1 "FBT rules"

RD 26 Liability for FBT

Liability

(1) An employer who provides a fringe benefit to an employee is liable to pay FBT under sections RD 27 to RD 57, choosing a method of payment described in subsection (2).

Payment options

(2) An employer must choose 1 of the following options for the payment of FBT:

(a) the single rate option, *see* section RD 58; or

(b) the alternate rate option, *see* section RD 59; or

(c) if eligible, the close company option, *see* section RD 60; or

(d) if eligible, the small business option, *see* section RD 61.

Election

(3) An employer may make an election under subsection (2)(a) or (b) by providing a return setting out the rate chosen.

Defined in this Act: business, close company, employee, employer, FBT, fringe benefit, pay

Compare: 2004 No 35 s ND 1(1)–(3)

Value of fringe benefits

RD 27 Determining fringe benefit values

What sections RD 28 to RD 53 do

(1) Sections RD 28 to RD 53 set out the rules for determining the value of a fringe benefit provided by an employer to an employee in connection with their employment. The taxable value of a fringe benefit when an employee pays an amount for receiving the benefit is dealt with in sections RD 54 to RD 57.

When value cannot be ascertained

(2) If, under sections RD 28, RD 29, and RD 33 to RD 41, the value of a fringe benefit cannot be ascertained, the value is the market value or otherwise as the Commissioner determines.

Meaning of market value

(3) In subsection (2), **market value** means the price normally paid, at the time when the fringe benefit is received by the employee, for the fringe benefit in a sale—

(a) in the open market; and

(b) freely offered; and

(c) made on ordinary trade terms; and

(d) to a member of the public at arm's length.

Defined in this Act: amount, Commissioner, employee, employer, employment, fringe benefit, market value, New Zealand, pay

Compare: 2004 No 35 ss ND 1A(1), ND 1L

Section RD 27(3): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 224(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RD 28 Private use of motor vehicle: calculation methods

What this section does

(1) This section limits the way an employer may use a method for calculating the value of the benefit that they provide to an employee by making a motor vehicle available for the employee's private use.

Choosing method in first return

(2) When a person first files a return relating to a vehicle for the purposes of this section, they may calculate the value of the benefit using either of the valuation methods set out in schedule 5 (Fringe benefit values for motor vehicles).

Using method in first return

(3) The person must use the method chosen in the first return referred to in subsection (2) in calculating the value of the benefit for the length of time—

(a) starting after the end of the period of the first return; and

(b) continuing to the earliest of the following dates:

(i) the date of the disposal of the vehicle:

(ii) the date on which the vehicle ceases to be leased by the employer or an associated person without a consecutive or successive lease of the vehicle by them:

(iii) the date that is 5 years after start of the period of the first return.

Returns after 5 years

(4) In a return relating to the vehicle for a period beginning 5 years or more after the start of the period of the first return, the person may calculate the value of the benefit using either of the valuation methods set out in schedule 5.

Cost price valuation method

(5) Despite subsections (3) and (4), the person must apply schedule 5, clause 1 or 2, using the cost price valuation method if—

(a) the vehicle is owned, leased, or rented by the employer or an associated person; and

(b) the employer or the associated person owned, leased, or rented the vehicle—

(i) during the period of the first return, if the period begins before 1 April 2006:

(ii) before 1 April 2006.

Exception: vehicle not subject to arrangement

(6) Subsection (5) does not apply if a first return for the vehicle is for a period that starts on or after 1 April 2006 and the vehicle is not the subject of an agreement or arrangement referred to in section CX 7 (Employer or associated person treated as having right to use vehicle under arrangement).

Exception: 5 years after first return

(7) Subsection (5) does not apply if the person owns the vehicle and a period of 5 years or more since the start of the period of the first return has elapsed.

Defined in this Act: arrangement, associated person, employee, employer, lease, motor vehicle, private use

Compare: 2004 No 35 s ND 1A(1)–(1D)

RD 29 Private use of motor vehicle: formulas

What this section does

(1) This section sets out the formulas for calculating the value of the benefit that an employer provides to an employee by making a motor vehicle available for their private use.

Quarterly payment

(2) If FBT is paid quarterly, the value of the benefit is calculated using the formula—

$$\text{days} \times \text{schedule 5 amount} \div 90.$$

Annual payment

(3) If FBT is paid on an annual basis, the value of the benefit is the total of the amounts calculated under subsection (2) for the 4 quarters in the applicable tax year.

Payment by income year

(4) If FBT is paid on an income year basis, the value of the benefit is calculated using the formula—

$$\text{days} \times \text{schedule 5 amount} \div 365.$$

Definition of items in formulas

(5) In the formula,—

(a) in subsection (2), **days** refers to the number of days in the quarter on which the vehicle is made available for private use, reduced by the number of days on which the vehicle was a work-related vehicle, or 90, whichever is less:

(b) in subsection (4), **days** refers to the number of days in the income year on which the vehicle is made available for private use, reduced by the number of days on which the vehicle was a work-related vehicle:

(c) in subsections (2) and (4), **schedule 5 amount** refers to the amount calculated under schedule 5 (Fringe benefit values for motor vehicles) as the value of the benefit that would have been received for unlimited private use of the vehicle in that quarter or income year, as applicable.

Test period

(6) To calculate the value of the benefit, an employer may choose to use a test period under section RD 31 to establish private use.

Defined in this Act: amount, employee, employer, FBT, income year, motor vehicle, private use, quarter, tax year, work-related vehicle

Compare: 2004 No 35 s ND 1A(2)–(6)

RD 30 Private use of motor vehicle: 24-hour period

When this section applies

(1) This section applies for the purposes of a calculation of the value of a benefit under section RD 29.

Meaning of day

(2) In section RD 29(5)(a) and (b), in relation to a motor vehicle and the item **days** in the formulas, a **day** is—

(a) a 24-hour period starting from a time in a day that a person who owns or leases the vehicle chooses; or

(b) a 24-hour period starting at midnight if paragraph (a) does not apply.

Choosing starting point and notifying Commissioner

(3) For the purposes of subsection (2)(a), the person must—

(a) choose a starting point for the day that is a whole number of an hour after midnight; and

(b) notify the Commissioner of their election when filing the next return relating to the vehicle.

Elections

(4) An election under subsection (2)(a)—

(a) is effective from the start of the quarter, income year, or tax year to which a return relates; and

(b) applies to all vehicles in relation to which the person files a return.

Hour applying for 2 income years

(5) If the person chooses under subsection (3)(a) a particular hour in the 24-hour period as the starting point of the day, that hour continues to apply to the use

of the vehicle from the start of the relevant quarter, income year, or tax year, as applicable, for a minimum period of 2 income years.

When circumstances change

(6) An employer may apply to the Commissioner to amend the starting point of the 24-hour period, or to treat the election as revoked, if the employer's circumstances have changed in a way that—

(a) is more than minor; and

(b) makes the starting point no longer relevant to the employer's business.

Defined in this Act: apply, business, Commissioner, day, employer, income year, motor vehicle, notify, quarter, tax year

Compare: 2004 No 35 s ND 1AB

Section RD 30(6): amended, on 2 June 2016, by section 58(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 30 list of defined terms **apply**: inserted, on 2 June 2016, by section 58(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RD 31 Motor vehicle test period

Recording details for test period

(1) To establish the value of the benefit provided through a motor vehicle being made available to an employee for their private use, an employer may choose to record the details of the use of the vehicle by the employee for a test period.

Number used in calculations

(2) The number of days on which a vehicle is available for an employee's private use that is ascertained in the test period is the number used in the calculation in section RD 29(2). For the calculation in section RD 29(4), the relevant number is the number of days ascertained in the test period multiplied by 4.

Quarter or 3 months for test period

(3) If FBT is paid quarterly or annually, the test period is a quarter. If FBT is paid on an income year basis, the test period is 3 consecutive months of an income year.

Period showing pattern of use

(4) The employer must—

(a) choose a test period that shows, or is likely to show, a pattern of use of the motor vehicle by the employee that fairly represents the use of the vehicle by the employee over the whole of the applicable term; and

(b) keep a record of the test period, including accurate details of the days in the period on which the vehicle is available for the employee's private use.

Work-related vehicles

(5) In subsection (4), a day on which the vehicle is a work-related vehicle is treated as a day on which the vehicle is not available for private use.

Term of 3 years

(6) The number of days of availability for private use ascertained in the test period applies for a term of 3 years. The term starts, as applicable, as follows:

(a) if FBT is paid quarterly, on the first day of the test period:

(b) if FBT is paid on an annual basis, on the first day of the tax year in which the test period occurs:

(c) if FBT is paid on an income year basis, on the first day of the income year in which the test period occurs.

Reduction of term

(7) The term referred to in subsection (6) is reduced if the number of days of actual private use of the motor vehicle is 20%, or more than 20%, higher than the number ascertained in the test period. In this case, the term ends on the last day of the applicable quarter, year, or income year. If the employer chooses to start another test period, the existing term ends just before the start of the new term.

When test period no longer representative

(8) If the Commissioner considers that the result ascertained in the test period does not, or does no longer, fairly represent the actual private use of the motor vehicle by the employee, the Commissioner may notify the employer that the term will end on a particular date. Following notification, the employer must not use that result again.

Defined in this Act: Commissioner, employee, employer, FBT, income year, motor vehicle, notify, private use, quarter, tax year, work-related vehicle

Compare: 2004 No 35 s ND 1B(1)–(6)

RD 32 Replacement motor vehicles

For the purposes of section RD 31, a replacement motor vehicle is treated in the same way as the vehicle it replaces if the result ascertained in the test period is likely to be fairly representative of the average availability for the private use of the vehicle during the term.

Defined in this Act: motor vehicle, private use

Compare: 2004 No 35 s ND 1B(7)

RD 33 Subsidised transport

Percentage of highest public fare

(1) The value of a benefit that an employer provides to their employee in subsidised transport is 25% of the highest fare the employer charges the public for the equivalent transport in terms of class, extent, and occasion. This subsection is overridden by subsection (2).

When benefit provided under arrangement

(2) Despite section CX 2(2) (Meaning of fringe benefit), if the fringe benefit is provided under an arrangement with a third person, the value of the benefit is determined under subsection (3).

Percentage or actual payment

(3) If a third person provides the employee with subsidised transport under an arrangement with their employer, the value of the benefit is the greatest of—

(a) 25% of the highest fare the employer charges the public for the equivalent transport in terms of class, extent, and occasion; and

(b) 25% of the highest fare the third person charges the public for the equivalent transport in terms of class, extent, and occasion, if the third person is a company in the same group of companies as the employer; and

(c) the amount that the employer has paid or is liable to pay the person for the benefit provided.

GST

(4) In this section, for a registered person who may claim input tax for subsidised transport, **amount** means the GST-inclusive amount.

Defined in this Act: amount, arrangement, company, employee, employer, fringe benefit, group of companies, GST, input tax, pay, subsidised transport

Compare: 2004 No 35 s ND 1C

RD 34 Employment-related loans: value using prescribed interest rates

When this section applies

(1) This section applies when an employer provides a benefit to their employee in an employment-related loan and the employer does not choose to determine the value of the benefit under section RD 35.

Amount of interest or amount under financial arrangement

(2) The value of the benefit in a period is the amount by which the prescribed interest on the loan is more than—

(a) the amount of interest that accrued on the loan in the period; or

(b) when the loan is a financial arrangement and it is appropriate for the nature of the loan, the income that would have accrued to the employer's benefit in the period as calculated under the yield to maturity method.

Meaning of prescribed interest

(3) For the purposes of this section, **prescribed interest** means,—

(a) except as provided in paragraph (b), the amount of interest that would have accrued on the loan during the quarter or tax year had the interest been calculated on the daily balance of that loan at the prescribed rate of interest:

(b) for loans made on or before 31 March 1985, the interest on which is not subject to review, the amount of interest that would have accrued on the loan during the quarter or tax year had the interest been calculated on the daily balance of the loan at the non-concessionary rate of interest for—

(i) the tax year in which the agreement to make the loan was signed; or

(ii) if the agreement was not in writing, the year in which the loan was agreed to by all parties.

Defined in this Act: amount, employee, employer, employment-related loan, financial arrangement, income, interest, non-concessionary rate of interest, prescribed interest, quarter, tax year

Compare: 2004 No 35 ss ND 1D,ND 1G

RD 35 Employment-related loans: value using market interest rates

Choosing to use market interest rate

(1) An employer may choose to value a benefit provided to their employee in an employment-related loan using the market interest on the loan if—

(a) the employer is in the business of lending money to the public:

(b) the employer is in a group of companies that has a member which is in the business of lending money to the public.

Value of benefit

(2) The value of the benefit referred to in subsection (1) in a period is the amount by which the market interest on the loan is more than—

(a) the amount of interest that accrued on the loan in the period; or

(b) when the loan is a financial arrangement and it is appropriate having regard to the nature of the loan, the income that would have accrued to the employer's benefit in the period as calculated under the yield to maturity method.

Using method for 2 income years

(3) Having made an election under subsection (1), the employer must use the method for the income year to which the election relates and for the next income year.

Notifying Commissioner of change to method

(4) An employer may not change the method of calculating the value of the benefit for an income year, other than from a method given by a paragraph of subsection (5) to the method given by the other paragraph of subsection (5), unless the employer notifies the Commissioner of the proposed change at least 1 year before the start of the income year in which the change is to occur.

Effectiveness of election in some cases

(4B) Despite subsections (3) and (4), the method chosen by an employer described in subsection (1)(b) takes effect for the first quarter beginning after the Commissioner receives the election, if the employer—

(a) is not in the business of lending money; and

(b) does not pay FBT on an income year basis under section RD 60; and

(c) does not pay FBT on an annual basis under section RD 61; and

(d) notifies the Commissioner of the proposed change before 1 April 2016.

Minimum period of use for method in some cases

(4C) Despite subsections (3) and (4), if subsection (4B) applies to the employer's chosen method, the employer must use the method for a period beginning with the start of the first quarter to which the election applies under subsection (4B) and ending with the finish of the income year following the income year that includes the start of the first quarter.

Market interest

(5) In this section, **market interest** means the amount of interest calculated at the rate of interest that—

(a) would apply to a borrower belonging to a group of persons to whom a loan of the kind provided to the employee is offered when—

(i) the group has a comparable credit risk to the group to which the employee belongs; and

(ii) membership of the group arises from a factor or factors that do not include a connection between a member and the employer; and

(iii) the group is sufficient in number to ensure a transaction on an arm's length basis; or

(b) is the lowest rate of interest for a loan, of the kind provided to the employee, that is provided by the lender—

(i) to customers for which the characteristics that are treated by the lender as relevant to the rate of interest for a loan are similar to those of the employee; and

(ii) in the ordinary course of business; and

(iii) during the quarter (the **loan quarter**) in which the loan is provided to the employee, or during the preceding quarter if calculating the rate for the loan quarter is impracticable.

Calculating amount of interest

(6) For the purposes of subsection (5), the amount of interest is the amount accrued on the loan during the quarter or tax year calculated on the daily balance of the loan at the rate referred to in the subsection.

Defined in this Act: amount, business, Commissioner, employee, employer, employment-related loan, financial arrangement, group of companies, group of persons, income, income year, interest, market interest, notify, quarter, tax year, year

Compare: 2004 No 35 s ND 1DB

Section RD 35(1): replaced, on 24 February 2016, by section 225(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 35(4): amended, on 1 April 2019, by section 258(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 35(4B) heading: inserted, on 24 February 2016, by section 225(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 35(4B): inserted, on 24 February 2016, by section 225(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 35(4C) heading: inserted, on 24 February 2016, by section 225(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 35(4C): inserted, on 24 February 2016, by section 225(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 35(5): replaced, on 1 April 2019, by section 258(2) (and see section 258(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RD 35 list of defined terms **group of companies**: inserted, on 24 February 2016, by section 225(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 35 list of defined terms **year**: inserted, on 24 February 2016, by section 225(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RD 36 Repayment of employment-related loans

Repayment at start of tax year

(1) For the purposes of sections RD 34 and RD 35, an amount of income of an employee applied in an income year to repay an employment-related loan provided to the employee is treated as applied towards repayment on the first day of the income year or, if the date of the advance of the loan falls after that day, the later date.

Limitation

(2) Subsection (1) applies only when an employee derives an amount that—

(a) is salary or wages, an extra pay, a dividend, or interest; and

(b) is payable by the relevant employer without any amount of tax being withheld and paid under the PAYE rules, the RWT rules, or the NRWT rules, or is a fully imputed dividend; and

(c) is income of the employee in the tax year in which it is applied to repay the loan, or in an earlier income year.

Amounts derived and applied in different tax years

(3) Subsection (4) applies when an employee derives income that—

(a) is applied to repay an employment-related loan; and

(b) relates to an income year after the income year in which it is applied to repay the loan.

Treatment of amount

(4) The employee may treat the amount as derived in the earlier income year, but must notify the Commissioner of their decision within the time allowed to the employer for providing a return of income for the income year, or a longer time if the Commissioner allows.

Defined in this Act: amount, amount of tax, Commissioner, dividend, employee, employer, employment-related loan, extra pay, fully-imputed dividend, income, income year, interest, notify, NRWT rules, pay, PAYE rules, return of income, RWT rules, salary or wages, tax year

Compare: 2004 No 35 s ND 1E

Section RD 36(2): amended, on 29 March 2018, by section 211(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 36(2)(b): replaced, on 29 March 2018, by section 211(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 36 list of defined terms **amount of tax**: inserted (with effect on 1 April 2008), on 21 December 2010, by section 128(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RD 36 list of defined terms **fully-imputed dividend**: inserted (with effect on 1 April 2008), on 30 March 2017, by section 264(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RD 36 list of defined terms **non-resident passive income**: amended (with effect on 1 April 2008), on 21 December 2010, by section 128(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RD 36 list of defined terms **NRWT rules**: inserted (with effect on 1 April 2008), on 21 December 2010, by section 128(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RD 36 list of defined terms **resident passive income**: amended (with effect on 1 April 2008), on 21 December 2010, by section 128(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RD 36 list of defined terms **RWT rules**: inserted (with effect on 1 April 2008), on 21 December 2010, by section 128(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

RD 37 Contributions to superannuation schemes

Amount of contribution

(1) The value of a benefit that an employer provides in contributing to a superannuation scheme for an employee is the amount of the contribution made by the employer.

GST

(2) In this section, for a registered person who may claim input tax for a contribution to a superannuation scheme, **amount** means the GST-inclusive amount.

Defined in this Act: amount, contribution, GST, employee, employer, input tax, superannuation scheme

Compare: 2004 No 35 s ND 1H

RD 38 Contributions to funds, trusts, and insurance premiums

Sickness, accident, or death benefit fund

(1) The value of the benefit that an employer provides in contributing to a sickness, accident, or death benefit fund for an employee is the amount of the contribution made by the employer.

Funeral trust

(2) The value of the benefit that an employer provides in contributing to a funeral trust for an employee is the amount of the contribution made by the employer.

Specified insurance premium

(3) The value of the benefit that an employer provides in paying an insurance premium described in section CX 16 (Contributions to life or health insurance) for an employee is the amount of the premium paid by the employer.

Insurance fund of friendly society

(4) The value of the benefit that an employer provides in contributing to an insurance fund of a friendly society for an employee is the amount of the contribution made by the employer.

Defined in this Act: amount, contribution, employee, employer, friendly society, sickness, accident, or death benefit fund, specified insurance premium

Compare: 2004 No 35 s ND 1I

RD 39 Benefits provided by charitable organisations

Value of benefit

(1) The value of a benefit under section CX 25(2) (Benefits provided by charitable organisations) that a charitable organisation provides in a short-term charge facility is the sum of—

(a) the amount that the organisation pays for or towards buying or hiring the goods and services obtained by the employee under the short-term charge facility:

(ab) the amount that the organisation pays for or towards consideration, other than money or money's worth, for goods and services obtained by the employee under the short-term charge facility:

(b) any interest incurred in relation to buying or hiring the goods and services or obtaining other consideration for the goods and services:

(c) when the short-term charge facility is a credit card or charge card provided for an employee's use solely for purposes unconnected with the organisation or its operations, the associated account or service fee.

When subsections (3) and (4) apply

(2) Subsections (3) and (4) apply in a tax year to an employer that is a charitable organisation when—

(a) the employer provides a benefit to their employee in a short-term charge facility that is a fringe benefit under section CX 25(1); and

(b) the employer is required to pay FBT for the tax year on a quarterly basis; and

(c) the value of the benefit in the short-term charge facility in the first quarter of the tax year is no more than the lesser of $1,200 and 5% of the employee's salary or wages for the tax year.

Employer's liability

(3) The employer's liability to pay FBT on a benefit provided in a quarter of the tax year depends on whether the taxable value of all the benefits (the **accumulated value**) that the employer provides to the employee in the period from the start of the tax year to the end of the quarter is more than the lesser of $1,200 and 5% of the employee's salary or wages for the tax year (the **threshold value**).

Calculation of liability

(4) The employer is liable to pay FBT for a quarter of a tax year on the following amounts:

(a) zero, if the accumulated value for the quarter is no more than the threshold value:

(b) the accumulated value if the quarter is the first in the tax year for which the accumulated value is more than the threshold value:

(c) the taxable value of all the benefits provided in the quarter, if neither of paragraph (a) and (b) applies.

Defined in this Act: amount, charitable organisation, employee, employer, FBT, fringe benefit, interest, quarter, salary or wages, short-term charge facility, tax year

Compare: 2004 No 35 ss ND 1IB, ND 8B

Section RD 39(1)(ab): inserted, on 1 April 2014, by section 84(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RD 39(1)(b): amended, on 1 April 2014, by section 84(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RD 39(2)(c): amended, on 1 April 2014, by section 84(3) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RD 39(3): amended, on 1 April 2014, by section 84(4) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RD 39(4)(c): amended, on 1 April 2014, by section 84(5) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

RD 40 Goods

Market value or cost

(1) The value of a fringe benefit that an employer provides to an employee in goods is determined as follows:

(a) when the person providing the goods manufactured, produced, or processed them, their market value:

(b) when the person providing the goods otherwise acquired them, or paid for them to be acquired, dealing at arm's length with the supplier of the goods, the cost of the goods to the person:

(c) if the person providing the goods is a company included in a group of companies, then, as the person chooses, the value of the benefit under either paragraph (a) or (b), applying the provisions as if the group of companies were 1 company.

Sale in open market

(2) Despite subsection (1), if the value of the fringe benefit as determined under that subsection would be more than the amount that would have been paid to the employer for the purchase of the goods in a sale described in paragraphs (a) to (d), then the value is treated as that amount. The sale must be—

(a) at retail in the open market in New Zealand; and

(b) freely offered; and

(c) made on ordinary trade terms; and

(d) to a member of the public with whom the employer is at arm's length.

Some definitions

(3) In this section,—

cost, for a registered person who may claim input tax for the goods, means the GST-inclusive cost of the goods bought or the amount that the person paid for the goods

market value means the lowest price, at the time at which the goods were provided to the employee, for which identical goods were sold by the same person to an arm's length buyer, whether wholesaler, retailer, or the public, in the open market in New Zealand in a sale freely offered and made on ordinary trade terms

price, for a registered person who may claim input tax for goods that they manufacture, produce, or process, means the GST-inclusive price of those goods to that person.

Defined in this Act: amount, company, cost, employee, employer, group of companies, GST, identical goods, input tax, market value, New Zealand, pay, price, registered person

Compare: 2004 No 35 s ND 1J

Section RD 40(1)(b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RD 41 Services

Price, amount paid, or fee

(1) The value of a fringe benefit that an employer provides to an employee in services is,—

(a) when an employer normally provides the services as part of their business, the price charged by the employer—

(i) at the time they provided the services; and

(ii) for the same or similar services to the public in the open market in New Zealand; and

(iii) on ordinary trade or professional terms between buyers and sellers independent of each other:

(b) when an employer pays for the services to be provided, dealing at arm's length with the supplier of the services, the amount paid or payable:

(c) if neither paragraph (a) nor (b) applies, the price or fee that the employer or supplier providing the services would at that time have charged the public, had they provided the same or similar services to the public in the open market in New Zealand on ordinary trade or professional terms.

Exclusions

(2) This section does not apply to a service that consists of making available a motor vehicle for private use, providing an employment-related loan, or providing subsidised transport.

Services provided to group of employees

(3) For the purposes of this section, a person who provides services to an employee belonging to a group of employees is treated as providing the same or similar services to the public in the open market in New Zealand on ordinary trade or professional terms if the person provides the same or similar services to a group of persons that—

(a) negotiates the transaction on an arm's-length basis; and

(b) is comparable in number to the group of employees.

Some definitions

(4) In this section,—

amount, for a registered person who may claim input tax for that service, means the GST-inclusive amount

fee and **price**, for a registered person who may claim input tax for that service, means the GST-inclusive fee or price.

Defined in this Act: amount, business, employee, employer, employment-related loan, fee, fringe benefit, GST, input tax, motor vehicle, New Zealand, pay, price, private use, registered person, subsidised transport

Compare: 2004 No 35 s ND 1K

RD 42 Goods at staff discount

Goods discounted for employees

(1) This section applies when an employer disposes of goods in the normal course of their business to an employee when all the following apply:

(a) the retail price of identical goods is $200 or less to an arm's length buyer in the open market in New Zealand in a sale freely offered and made on ordinary trade terms; and

(b) the price of the goods to the employee is lower than their cost to the employer, the difference resulting from a staff discount that the employer normally provides to employees; and

(c) at the time of the disposal, the staff discount is no more than 5% of the price of identical goods in the circumstances referred to in paragraph (a).

Cost of goods

(2) The goods are treated as having been sold at a price equal to the cost of the goods to the employer.

Defined in this Act: business, cost, employee, employer, identical goods, New Zealand, price

Compare: 2004 No 35 s ND 1N

Section RD 42(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 42(1)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RD 43 Goods on special with staff discount

Sale of identical goods

(1) This section applies when an employer disposes of goods to an employee on a day when the employer is offering identical goods for sale or other disposal in the normal course of their business at a special price and when all the following apply:

(a) the price of the identical goods is $200 or less to an arm's length buyer in the open market in New Zealand in a sale freely offered and made on ordinary trade terms; and

(b) the price of the goods to the employee is lower than their cost to the employer, the difference resulting from a staff discount that the employer offers to the employee in addition to any other discount; and

(c) just before or after the disposal to the employee, a reasonable quantity of the identical goods is available in the open market in New Zealand; and

(d) the price is at least 95% of the cost of the goods to the employer, or at least 95% of the price on the day of the disposal of the identical goods to the public in the open market in New Zealand, whichever is less.

Cost of goods

(2) The goods are treated as having been sold at a price equal to the cost of the goods to the employer.

Defined in this Act: business, cost, employee, employer, identical goods, New Zealand, price

Compare: 2004 No 35 s ND 1O

Section RD 43(1): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 43(1)(c): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 43(1)(d): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RD 44 Goods disposed of by group companies

For the purposes of sections RD 42 and RD 43, if a company that is included in a group of companies disposes of goods to an employee of another company in the group, the disposal is treated as if it were made directly from employer to employee.

Defined in this Act: company, employee, employer, group of companies

Compare: 2004 No 35 s ND 1P(2)

Section RD 44 heading: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 44: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RD 45 Unclassified benefits

Liability limited

(1) An employer is liable to pay FBT on an unclassified benefit only within the limits described in this section.

Quarterly payment

(2) When FBT is paid quarterly, an employer is liable for FBT on an unclassified benefit provided to an employee in a quarter only if—

(a) the total taxable value of all unclassified benefits provided in the quarter to the employee by the employer, or by persons associated, at any time in the quarter, with the employer, is more than $300; or

(b) the total taxable value of all unclassified benefits in the categories described in subsection (4) provided in the last 4 quarters including the current quarter, whether accounted for on a quarterly or an income year basis, is more than $22,500.

Yearly payment

(3) When FBT is paid on either an annual basis or an income year basis, except when subsection (5) applies, an employer is liable for FBT on unclassified benefits provided to an employee in the tax year or income year only if—

(a) the total taxable value of all unclassified benefits provided in the tax year or income year to the employee by the employer, or by persons associated, at any time in the tax year or income year, with the employer, is more than $1,200; or

(b) the total taxable value of all unclassified benefits in the categories described in subsection (4) provided in the tax year or income year is more than $22,500.

Categories

(4) The categories, for an employer, are—

(a) unclassified benefits provided by the employer to their employees:

(b) unclassified benefits provided by persons associated, at any time in the relevant period, with the employer to employees of the employer:

(c) unclassified benefits provided by the employer to employees of persons associated, at any time in the relevant period, with the employer:

(d) if the employer is a company, unclassified benefits provided by other companies that are part of the same group of companies as the employer, at any time in the relevant period, to employees of those other companies.

Period longer or shorter than income year

(5) When an employer accounts for FBT on an income year basis, and the period for which they have accounted under section RD 60 differs from an income year for the reasons described in subsection (6), an employer is liable for FBT on unclassified benefits provided in the period only if—

(a) the total taxable value of all unclassified benefits provided in the period to an employee by the employer, or by persons associated, at any time in the quarter, with the employer, is more than the figure that is the same fraction or multiple of $1,200 as the number of days in the period is a fraction or multiple of 365; or

(b) the total taxable value of all unclassified benefits in the categories described in subsection (4) provided in the period is more than the figure that is the same fraction or multiple of $22,500 as the number of days in the period is a fraction or multiple of 365.

Reasons for difference

(6) In subsection (5), the income year for which the employer has accounted may be longer or shorter than the normal income year because the employer has either—

(a) started or ceased business during that income year; or

(b) chosen, with the agreement of the Commissioner, to file a return under this subpart for the income year ending with the date of the annual balance of their accounts.

Defined in this Act: associated person, balance date, business, Commissioner, company, employee, employer, FBT, group of companies, income year, pay, quarter, return of income, tax year, unclassified benefit

Section RD 45: replaced, on 1 April 2022, by section 154(1) (and see section 154(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

RD 46 Adjustments for unclassified benefits on amalgamation

When employer ceases to exist

(1) This section applies when a company that is an employer ends its existence on amalgamation or when a new company is established on amalgamation. An adjustment is allowed for unclassified benefits in the period in which the amalgamation occurs.

Quarterly payment

(2) If the amalgamating company pays FBT quarterly, an adjustment must be made in the quarter in which the amalgamation occurs reducing the figure of $22,500 referred to in section RD 45(2)(b) by an amount calculated using the formula—

$$\$22{,}500 \times \text{number of days in the quarter after amalgamation} \div \text{days in the quarter.}$$

Adjustment in quarter of amalgamation

(3) If the amalgamated company pays FBT quarterly, and the amalgamated company is a new company established on amalgamation, an adjustment must be made in the quarter in which the amalgamation occurs reducing the figure of $22,500 referred to in section RD 45(2)(b) by an amount calculated using the formula—

$$\$22{,}500 \times \text{number of days in the quarter before amalgamation} \div \text{days in the quarter.}$$

Annual payment

(4) If the amalgamating company pays FBT annually, an adjustment must be made for the year in which the amalgamation occurs reducing the figure of $22,500 referred to in section RD 45(2)(b) by an amount calculated using the formula—

$$\$22{,}500 \times \text{number of days in the year after amalgamation} \div 365.$$

Adjustment in year of amalgamation

(5) If the amalgamated company pays FBT annually, and the amalgamated company is a new company established on amalgamation, an adjustment must be made for the year in which the amalgamation occurs reducing the figure of $22,500 referred to in section RD 45(2)(b) by an amount calculated using the formula—

$22,500 × number of days in the year before amalgamation ÷ 365.

Defined in this Act: amount, amalgamated company, amalgamating company, amalgamation, company, employer, FBT, pay, quarter, unclassified benefit, year

Compare: 2004 No 35 s ND 1R

Section RD 46(2): amended, on 1 April 2009, by section 17(a) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 46(2) formula: amended, on 1 April 2009, by section 17(a) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 46(3): amended, on 1 April 2009, by section 17(b) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 46(3) formula: amended, on 1 April 2009, by section 17(b) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 46(4): amended, on 1 April 2009, by section 17(c) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 46(4) formula: amended, on 1 April 2009, by section 17(c) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 46(5): amended, on 1 April 2009, by section 17(d) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 46(5) formula: amended, on 1 April 2009, by section 17(d) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Attributing fringe benefits to employees

RD 47 Attribution of certain fringe benefits

What this section applies to

(1) This section applies when an employer provides a fringe benefit by—

(a) making available a motor vehicle for an employee's private use under section CX 6 (Private use of motor vehicle):

(b) providing an employment-related loan to an employee under section CX 10 (Employment-related loans) but not a loan by a life insurer under section CX 11 (Employment-related loans: loans by life insurers):

(c) providing to an employee a benefit with a taxable value of $1,000 or more in a year for each of the following categories:

(i) subsidised transport under section CX 9 (Subsidised transport):

(ii) a contribution to a superannuation scheme under section CX 13 (Contributions to superannuation schemes):

(iii) a contribution to a sickness, accident, or death benefit fund under section CX 14 (Contributions to sickness, accident, or death benefit funds):

(iv) a contribution to a funeral trust under section CX 15 (Contributions to funeral trusts):

(v) the payment of a specified insurance premium or a contribution to an insurance fund of a friendly society under section CX 16 (Contributions to life or health insurance):

(d) providing unclassified benefits to an employee under section CX 2(1)(b)(ii) (Meaning of fringe benefit) with a total taxable value of $2,000 or more in a year.

Attributing fringe benefit to employee

(2) The employer must attribute the fringe benefit to the employee, calculating the FBT liability under section RD 50.

Defined in this Act: employee, employer, employment-related loan, FBT, friendly society, fringe benefit, life insurer, loan, motor vehicle, pay, private use, sickness, accident, or death benefit fund, specified insurance premium, subsidised transport, superannuation scheme, unclassified benefit

Compare: 2004 No 35 s ND 3(1), (1A)

RD 48 When attributed benefits provided to more than 1 employee

If an employer provides a fringe benefit to which section RD 47 applies to more than 1 employee, the employer must attribute the benefit to the employee who mainly uses or receives it in a quarter or income year, as applicable. If the employer cannot determine which employee mainly uses or receives the benefit, they must pool the benefit under section RD 53.

Defined in this Act: contribution, employee, employer, fringe benefit, income year, quarter

Compare: 2004 No 35 s ND 3(2)

RD 49 Application of thresholds to attributed benefits

When this section applies

(1) This section applies when the value of a fringe benefit described in section RD 47 is above or below the threshold referred to in that section.

Below threshold

(2) If the taxable value of a benefit under section RD 47(1)(c) and (d) is under the relevant threshold, the employer must either—

(a) attribute all fringe benefits with an annual taxable value under the relevant threshold that fall within the particular category; or

(b) pool the value of the benefit under section RD 53.

Exception for subsidised transport

(3) Despite section RD 47(1)(c)(i), if the employer provides subsidised transport under section CX 9 (Subsidised transport) with a taxable value over the thresh-

old, they may pool the value of the benefit under section RD 53 if all their employees have the same or a similar entitlement to the fringe benefit.

Amending thresholds

(4) The Governor-General by Order in Council may determine the amount of the thresholds referred to in section RD 47, setting out the first tax year in which the threshold is to apply.

Secondary legislation

(5) An Order in Council under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Defined in this Act: amount, employee, employer, fringe benefit, subsidised transport, tax year

Compare: 2004 No 35 ss ND 3(4)–(7), ND 4, ND 16

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section RD 49(5) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section RD 49(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

RD 50 Employer's liability for attributed benefits

When this section applies

(1) This section applies when an employer is required to attribute the value of a fringe benefit to an employee under sections RD 47 and RD 49.

Tax liability

(2) The employer's FBT liability in relation to the employee is the amount calculated using the formula—

tax on all-inclusive pay − FBT on net cash pay.

Definition of items in formula in subsection (2)

(3) In the formula in subsection (2),—

(a) **tax on all-inclusive pay** is the amount determined at the rate set out in schedule 1, part C, table 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) on the amount of the employee's all-inclusive pay calculated using the formula in section RD 51(2):

(b) **FBT on net cash pay** is the amount determined at the rate set out in schedule 1, part C, table 1 on the amount of the employee's net cash pay calculated using the formula in subsection (3B).

Net cash pay

(3B) For the purposes of subsection (3)(b), the employee's **net cash pay** is the amount calculated using the formula—

cash pay − tax on cash pay.

Definition of items in formula in subsection (3B)

(3C) In the formula in subsection (3B),—

(a) **cash pay** is the amount calculated under section RD 51(3)(a) or (4)(a):

(b) **tax on cash pay** is the amount calculated under section RD 51(3)(b) or (4)(b).

Exception for shareholder-employees and persons with attributed income

(4) If the employer has an exception for an employee under section RD 52 in a tax year, and the employer pays FBT at the rate of 49.25% of the taxable value of the attributed fringe benefits under section RD 52(3)(a), the employer must deduct the FBT payable in the tax year from the result of the formula in subsection (2).

Further options

(5) Instead of calculating FBT under subsections (2) and (4), an employer may choose to—

(a) pay FBT, for each employee to whom they are required to attribute the value of a fringe benefit under sections RD 47 and RD 49, at the rate of 63.93% on the taxable value of the fringe benefits attributed to the employee; or

(b) apply subsection (6).

Requirements for employers who make election referred to in subsection (5)(b)

(6) An employer who makes an election under subsection (5) to apply this subsection must—

(a) pay FBT at the rate of 49.25% on the taxable value of the fringe benefits attributed to the employee, for each employee to whom all of the following apply:

(i) the employee is an employee to whom the employer is required to attribute the value of a fringe benefit under sections RD 47 and RD 49; and

(ii) the taxable value of all fringe benefits for the employee, as determined under section RD 51, is $13,400 or less; and

(iii) the cash pay of the employee, as determined under that section, is $160,000 or less; and

(b) for each other employee to whom the employer is required to attribute the value of a fringe benefit under sections RD 47 and RD 49,—

(i) pay FBT at the rate of 63.93% on the taxable value of the fringe benefits attributed to the employee, if subparagraph (ii) does not apply; or

(ii) pay FBT at the rate of 49.25% on the taxable value of the fringe benefits attributed to the employee, if the employee's all-inclusive pay, calculated using the formula in section RD 51(2), is less than $129,681 and the employer chooses 49.25%.

Defined in this Act: amount, employee, employer, FBT, fringe benefit, pay, tax year

Compare: 2004 No 35 s ND 5(3)–(6)

Section RD 50(2) heading: replaced (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(2): replaced (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(3) heading: replaced (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(3): replaced (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(3B) heading: inserted (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(3B): inserted (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(3C) heading: inserted (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(3C): inserted (with effect on 1 April 2024), on 4 June 2024, by section 6(1) (and see section 6(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RD 50(4): amended, on 1 April 2021, by section 7(1) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 50(5) heading: replaced (with effect on 1 April 2021), on 30 March 2022, by section 155(1) (and see section 155(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RD 50(5): replaced (with effect on 1 April 2021), on 30 March 2022, by section 155(1) (and see section 155(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RD 50(6) heading: inserted (with effect on 1 April 2021), on 30 March 2022, by section 155(1) (and see section 155(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RD 50(6): inserted (with effect on 1 April 2021), on 30 March 2022, by section 155(1) (and see section 155(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

RD 51 Calculation of all-inclusive pay

When this section applies

(1) This section applies to determine the amount of an employee's all-inclusive pay for the purposes of section RD 50.

Calculation

(2) The amount of an employee's all-inclusive pay is calculated using the formula—

cash pay − tax on cash pay + taxable value of all fringe benefits.

Definition of items in formula for major shareholder

(3) If the employee is a major shareholder, the items in the formula are—

(a) **cash pay** is the cash pay of the employee for the income year in which the fringe benefit is attributed that is paid to the employee by the employer or a related employer, and includes—

(i) a dividend and interest derived by the employee from their employer; and

(ii) a dividend and interest derived by the employee from a related employer:

(b) **tax on cash pay** is the tax on the cash pay of the employee calculated using the basic rate of income tax set out in schedule 1, part A, clause 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits),—

(i) treating the cash pay as if it were the only taxable income of the employee:

(ii) *[Repealed]*

(c) **taxable value of all fringe benefits** is—

(i) the taxable value of all fringe benefits attributed to the employee in the tax year; and

(ii) the taxable value of all fringe benefits attributed to a person associated with the employee in the income year if the person does not receive the fringe benefits as an employee of the employer.

Definition of items in formula for person who is not major shareholder

(4) If the employee is not a major shareholder, the items in the formula are—

(a) **cash pay** is the cash pay of the employee for the tax year in which the fringe benefit is attributed that is paid to the employee by the employer or a related employer:

(b) **tax on cash pay** is the tax on the cash pay of the employee calculated using the basic rate of income tax set out in schedule 1, part A, clause 1,—

(i) treating the cash pay as if it were the only taxable income of the employee:

(ii) *[Repealed]*

(c) **taxable value of all fringe benefits** is the taxable value of all fringe benefits attributed to the employee in the tax year.

Timing of amounts

(5) In this section, the cash pay of a shareholder-employee who derives an amount of pay referred to in paragraph (b) or (c) of the definition of **pay** in subsection (6) is treated as derived in the income year following the income year in which it was received or attributed.

Some definitions

(6) In this section,—

pay means—

(a) salary or wages; and

(b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies; and

(c) an amount attributed under section GB 29 (Attribution rule: calculation); and

(d) an extra pay; and

(e) a schedular payment

related employer means a branch or division of an employer, or a person associated with the employer.

Defined in this Act: amount, associated person, dividend, employee, employer, extra pay, FBT, fringe benefit, income, income tax, income year, interest, major shareholder, pay, related employer, resident in New Zealand, salary or wages, schedular payment, shareholder-employee, tax, tax credit, tax year, taxable income

Compare: 2004 No 35 ss ND 5(1), (2), ND 7, ND 7A

Section RD 51(3)(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 515 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 51(3)(b): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RD 51(3)(b)(i): amended (with effect from 1 April 2008), on 29 May 2008, by section 43(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RD 51(3)(b)(ii): repealed, on 1 April 2008, by section 43(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RD 51(4)(b)(i): amended (with effect from 1 April 2008), on 29 May 2008, by section 43(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RD 51(4)(b)(ii): repealed, on 1 April 2008, by section 43(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RD 51(6) **pay** paragraph (b): replaced, on 29 March 2018 (with effect on 30 March 2017), by section 212 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 52 Calculation for certain employees when information lacking

When this section applies

(1) This section applies in relation to the following persons when an employer does not have sufficient information to complete a calculation under section RD 50 or RD 51:

(a) a shareholder-employee who derives salary or wages, or income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies; or

(b) an employee receiving attributed income under section GB 29 (Attribution rule: calculation) from a company or trust that is their employer.

Calculations under sections RD 50 and RD 51 not required

(2) Sections RD 50 and RD 51 do not apply in the tax year or income year, as applicable, in which the employer is required to attribute a fringe benefit to the employee.

Alternative rates

(3) The employer must either—

(a) pay FBT at the rate of 49.25% of the taxable value of the fringe benefits attributed for the tax year, and apply sections RD 50 and RD 51 to the benefits in the next tax year; or

(b) pay FBT at the rate of 63.93% of the taxable value of the fringe benefits attributed for the tax year.

Defined in this Act: company, employee, employer, FBT, fringe benefit, income, income year, pay, salary or wages, shareholder-employee, tax year

Compare: 2004 No 35 s ND 5A

Section RD 52(1)(a): amended, on 29 March 2018 (with effect on 30 March 2017), by section 213 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 52(3)(a): amended, on 1 April 2021, by section 8(1) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 52(3)(b): amended, on 1 April 2021, by section 8(2) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

RD 53 Pooling non-attributed benefits

When this section applies

(1) This section applies in a tax year when an employer provides a fringe benefit that is—

(a) a benefit provided to a former employee; or

(b) an employment-related loan provided by a life insurer under section CX 11 (Employment-related loans: loans by life insurers); or

(c) a benefit to which section RD 48 applies that cannot be attributed to a particular employee; or

(d) an attributed benefit to which section RD 49(2) applies; or

(e) subsidised transport to which section RD 49(3) applies.

Pooling value

(2) The employer must pool the value of the benefits.

Final quarter pooling

(3) For the final quarter of the tax year, the employer must create 2 pools, 1 for each of the following groups of persons:

(a) the first pool is for an employee who is a major shareholder, or a person associated with an employee who is a major shareholder (unless that person receives the fringe benefit as an employee of the employer):

(b) the second pool is for all other employees.

Final quarter calculation

(4) The employer must calculate FBT for the final quarter of the tax year on the annual taxable value of the pooled fringe benefits—

(a) at the rate of 63.93% for the first pool; and

(b) at the rate of 49.25% for the second pool.

Defined in this Act: associated person, employee, employer, employment-related loan, FBT, fringe benefit, group of persons, life insurer, major shareholder, quarter, subsidised transport, tax year

Compare: 2004 No 35 s ND 6

Section RD 53(4)(a): amended, on 1 April 2021, by section 9(1) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 53(4)(b): amended, on 1 April 2021, by section 9(2) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Taxable value of fringe benefits

RD 54 Value of and payments towards fringe benefits

Value of benefit

(1) The taxable value of a fringe benefit is the value of the benefit. Subsection (2) overrides this subsection.

Reduction for payment by employee

(2) If an employee pays an amount for receiving a fringe benefit, the value of the benefit is reduced by the lesser of the value of the benefit and the amount paid.

When associate pays amount

(3) If section GB 32 (Benefits provided to employee's associates) applies, the value of the benefit is reduced when a person associated with the employee pays an amount for the benefit.

Exclusions

(4) This section does not apply to—

(a) an employment-related loan:

(b) a payment to acquire or improve an asset if receiving or using the asset does not constitute a fringe benefit.

Defined in this Act: amount, associated person, employee, employment-related loan, fringe benefit, pay

Compare: 2004 No 35 ss GC 15(3), (4), ND 1S

Section RD 54(2): amended, on 1 April 2014, by section 85 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RD 54 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 516 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RD 55 Private use of motor vehicle: taxable value in cases of part ownership

If a fringe benefit is provided by making available a motor vehicle to an employee for their private use, and the vehicle is owned in part by the employee (or, if section GB 32 (Benefits provided to employee's associates) applies, a person associated with the employee), the taxable value of the fringe benefit is determined under section RD 56 or RD 57.

Defined in this Act: associated person, employee, fringe benefit, motor vehicle, private use

Compare: 2004 No 35 s ND 1T

RD 56 Private use of motor vehicle: when schedular value not used

When this section applies

(1) This section applies when the employer has not valued the motor vehicle using schedule 5, clause 9 (Fringe benefit values for motor vehicles).

Reduction

(2) In the calculation of the taxable value of the fringe benefit, the value of the benefit determined under sections RD 28 to RD 30 is reduced by an amount that is the applicable percentage of the cost (determined including GST under schedule 5, clause 8(a)) of the motor vehicle to the employee or the associated person as follows:

(a) if FBT is paid quarterly, 2.5%:

(b) if FBT is paid on an annual basis, 2.5% for each quarter in which the vehicle was part-owned by the employee or the associated person:

(c) if FBT is paid on an income year basis, 10%.

When period longer or shorter than income year

(3) In subsection (2)(c) and section RD 57(2)(c) and (3), if the period for which the employer accounts for FBT differs from a normal income year for the reasons described in subsection (4), the amount by which the taxable value of the fringe benefit is reduced is a percentage of the cost (determined including GST under schedule 5, clause 8(a)) of the motor vehicle to the employer or the associated person equal to the amount calculated using the formula—

$$10\% \times \text{number of days in period} \div 365.$$

Reasons for difference

(4) The period for which the employer has accounted may be longer or shorter than the normal income year because the employer has either—

(a) started or ceased business during that income year; or

(b) chosen, with the agreement of the Commissioner, to provide a fringe benefit return for the income year ending with the date of the annual balance of their accounts.

When vehicle owned less than whole year

(5) If an employee has not been part-owner of the motor vehicle for the whole of the income year, or the period referred to in subsection (4), a reduction under this section is reduced by the proportion of the number of days of the income year or period for which the employee was not a part-owner to the total number of days of that income year or period.

Defined in this Act: amount, associated person, business, Commissioner, employee, employer, FBT, fringe benefit, GST, income year, motor vehicle, pay, quarter

Compare: 2004 No 35 s ND 1U

Section RD 56(1): amended, on 1 April 2008, by section 540(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RD 56(2): amended, on 1 April 2008, by section 540(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RD 56(3): amended, on 1 April 2008, by section 540(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RD 57 Private use of motor vehicle: when schedular value used

When this section applies

(1) This section applies when an employer has valued the motor vehicle using schedule 5, clause 9 (Fringe benefit values for motor vehicles).

Reduction

(2) In the calculation of the taxable value of the fringe benefit, the value of the benefit determined under sections RD 28 to RD 30 is reduced by an amount that is the applicable percentage of the cost, determined excluding GST, under schedule 5, clause 6(a) in the following way:

(a) when FBT is paid quarterly, by a percentage calculated using the formula—

$$2.5 + (2.5 \times \text{schedule 5 rate}):$$

(b) when FBT is paid on an annual basis, by a percentage for each quarter in which the vehicle was part-owned by the employee or associated person calculated using the formula—

$$2.5 + (2.5 \times \text{schedule 5 rate}):$$

(c) when FBT is paid on an income year basis, by a percentage calculated using the formula—

10 + (10 × schedule 5 rate).

Schedule 5 rate

(3) In the formulas, **schedule 5 rate** is the rate of GST specified in schedule 5, clause 10(b) to (e) for the employer and the relevant quarter and relevant income year, as applicable.

Defined in this Act: amount, associated person, employee, employer, FBT, fringe benefit, GST, income year, motor vehicle, pay, quarter

Compare: 2004 No 35 s ND 1V

Section RD 57(1): amended, on 1 April 2008, by section 541 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RD 57(3): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 214(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Options for payment of FBT

RD 58 Single rate option

Rate for all quarters

(1) An employer who chooses to pay their FBT liability under the single rate option must pay FBT at the rate of 63.93% of the taxable value of a fringe benefit for each of the 4 quarters of a tax year.

Replacing final quarter calculation

(2) Despite subsection (1), an employer may ask the Commissioner to replace the FBT liability determined for the final quarter under this section with an amount calculated under section RD 59(4). The employer must provide the information necessary for the calculation.

Defined in this Act: amount, ask, Commissioner, employer, FBT, fringe benefit, pay, quarter, tax year

Compare: 2004 No 35 ss ND 1(2)(b), (4), ND 2(2)

Section RD 58(1): substituted, on 1 April 2011 (applying for the 2011–12 income year and later income years), by section 67(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RD 58(1): amended, on 1 April 2021, by section 10 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 58 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RD 59 Alternate rate option

Election

(1) This section applies when an employer chooses to pay their FBT liability under the alternate rate option.

First three quarters

(2) The employer may pay FBT for any or all of the first 3 quarters of a tax year at 49.25% of the taxable value of a fringe benefit.

Alternate rate

(3) The employer must pay FBT at the rate of 63.93% of the taxable value of a fringe benefit for any of the first 3 quarters of a tax year for which they do not pay at the rate of 49.25% under subsection (2).

Final quarter

(4) For the final quarter of the tax year, the employer must calculate the total FBT payable for each employee under sections RD 50 and RD 53 for the tax year and subtract the amount of FBT payable for the previous 3 quarters of the tax year.

Decision irrevocable

(5) The decision to use the alternate rate option cannot be changed after the return is filed.

Defined in this Act: amount, employee, employer, FBT, fringe benefit, pay, quarter, tax year

Compare: 2004 No 35 ss ND 1(2)(a), ND 2(1)–(4), ND 10(1)

Section RD 59(2): amended, on 1 April 2021, by section 11(1) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 59(2): amended, on 1 April 2011 (applying for the 2011–12 income year and later income years), by section 68(2)(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RD 59(3): substituted, on 1 April 2011 (applying for the 2011–12 income year and later income years), by section 68(2)(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section RD 59(3): amended, on 1 April 2021, by section 11(2)(a) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 59(3): amended, on 1 April 2021, by section 11(2)(b) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 59(4): amended, on 2 November 2012, by section 138 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

RD 60 Close company option

When this section applies

(1) This section applies in an income year when an employer that is a close company provides a fringe benefit to a shareholder-employee if, in the preceding income year,—

(a) the gross amounts of tax for both PAYE income payments and employer's superannuation cash contributions withheld under section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes) for the tax year, as modified by section RA 20(2) (Amalgamation of companies), were no more than $1,000,000; or

(b) the only benefit provided by the employer was a fringe benefit—

(i) arising under section CX 6(1) (Private use of motor vehicle); and

(ii) limited to making available to shareholder-employees 1 vehicle or 2 vehicles for their private use; or

(c) the employer did not employ any employees.

Income year basis

(2) The employer may choose to pay their FBT liability on an income year basis, informing the Commissioner of their decision no later than—

(a) the last day of the first quarter of the relevant income year; or

(b) the last day of the quarter in which the employer first starts employing employees, if subsection (1)(c) applies.

Rate or calculation

(3) The employer must pay FBT on the taxable value of fringe benefits in the income year in which they make their election and in later income years either—

(a) at the rate of 63.93% of the taxable value of a fringe benefit; or

(b) by calculating for the relevant income year their FBT liability under sections RD 50 and RD 53.

Replacing rate with calculated liability

(4) Despite subsection (3), the employer may ask the Commissioner to replace the FBT liability determined under subsection (3)(a) with a calculation under subsection (3)(b). The employer must provide the information necessary for the calculation.

Part-periods

(5) If an income year for which an employer chooses to pay FBT on an income year basis does not start on the same day as the first day of a quarter, the employer must treat the period between the first day of the quarter in which the first day of the income year falls and the first day of the income year as if it were a quarter.

More than 1 business

(6) If an employer ceases business and starts a new business, or operates 2 or more businesses at the same time, the total of all amounts of tax withheld under section RA 5(1)(a) and (c) must be aggregated.

Defined in this Act: amount of tax, ask, business, close company, Commissioner, employee, employer, employer's superannuation cash contribution, FBT, fringe benefit, gross, income year, inform, pay, PAYE income payment, quarter, shareholder-employee, tax year

Compare: 2004 No 35 ss ND 1(2)(c), (5), ND 14, ND 15(7), (8)

Section RD 60(1): substituted, on 1 April 2009, by section 18(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 60(1)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 517(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 60(1)(a): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 93(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 60(1)(a): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 17 July 2013, by section 86(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RD 60(2): amended, on 2 June 2016, by section 59(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 60(2)(b): amended, on 1 April 2009, by section 18(2) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section RD 60(3)(a): amended, on 1 April 2021, by section 12 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 60(3)(b): amended (with effect on 1 April 2021), on 30 March 2022, by section 156(1) (and see section 156(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RD 60(6): amended (with effect on 1 April 2008), on 6 October 2009, by section 517(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 60 list of defined terms **ask**: inserted, on 2 June 2016, by section 59(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 60 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 517(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 60 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 517(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 60 list of defined terms **inform**: inserted, on 2 June 2016, by section 59(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RD 61 Small business option

When this section applies

(1) This section applies when an employer provides a fringe benefit to an employee who is not a shareholder-employee in a tax year if, for the preceding tax year,—

(a) the gross amounts of tax for both PAYE income payments and employer's superannuation cash contributions withheld under section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes) for the tax year were no more than $1,000,000; or

(b) the employer did not employ any employees.

Annual basis

(2) The employer may choose to pay their FBT liability on an annual basis, informing the Commissioner of their decision no later than—

(a) 30 June in the relevant tax year; or

(b) the last day of the quarter in which the employer first starts employing employees, if subsection (1)(b) applies.

Rate or calculation

(3) The employer must pay FBT on the taxable value of fringe benefits in the tax year in which they make their election and in later tax years either—

(a) at the rate of 63.93% of the taxable value of a fringe benefit; or

(b) by calculating for the relevant tax year their FBT liability under sections RD 50 and RD 53.

Replacing rate with calculated amount

(4) Despite subsection (3), the employer may ask the Commissioner to replace the FBT liability determined under subsection (3)(a) with a calculation under subsection (3)(b). The employer must provide the information necessary for the calculation.

Quarters in year

(5) For the purposes of subsection (3), the tax year is treated as if it were 4 consecutive quarters.

More than 1 business

(6) If an employer ceases business and starts a new business, or operates 2 or more businesses at the same time, the total of all amounts of tax withheld under section RA 5(1)(a) and (c) must be aggregated.

Defined in this Act: amount of tax, ask, business, Commissioner, employee, employer, employer's superannuation cash contribution, employer's superannuation contribution, FBT, fringe benefit, gross, inform, pay, PAYE income payment, quarter, shareholder-employee, tax year

Compare: 2004 No 35 ss ND 1(2)(c), (4), (5), ND 13

Section RD 61(1)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 518(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 61(1)(a): amended, on 1 April 2017 (applying for the 2017–18 and later income years), by section 94(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RD 61(2): amended, on 2 June 2016, by section 60(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 61(3)(a): amended, on 1 April 2021, by section 13 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RD 61(3)(b): amended (with effect on 1 April 2021), on 30 March 2022, by section 157 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RD 61(6): amended (with effect on 1 April 2008), on 6 October 2009, by section 518(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 61 list of defined terms **ask**: inserted, on 2 June 2016, by section 60(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 61 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 518(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 61 list of defined terms **inform**: inserted, on 2 June 2016, by section 60(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RD 62 Changes in payment periods

No changes for simple or alternate rate options

(1) An employer's decision to pay FBT on a quarterly basis under the single rate option or the alternate rate option cannot be changed.

When requirements for yearly basis no longer met

(2) If an employer who has chosen for a tax year to pay FBT on an income year basis or on an annual basis no longer meets the relevant requirements of section RD 60(1) or RD 61(1), the employer must pay their FBT liability for fringe benefits provided to employees on or after the first day of the tax year under the single rate option or the alternate rate option.

Choosing to change to quarterly basis

(3) An employer who has chosen for a tax year to pay FBT on an income year basis or on an annual basis, may choose at any time to pay FBT on a quarterly basis.

When change takes effect

(4) An employer who chooses to change their payment period under subsection (3) must pay their FBT liability on a quarterly basis for a fringe benefit provided from—

(a) the first day of the next tax year, if the employer previously paid on an annual basis; or

(b) the first day of the next income year of the employer, if the employer previously paid on an income year basis; or

(c) another date agreed by the employer and the Commissioner.

Choosing to change to income year basis

(5) If an employer who is eligible to use the close company option has been paying FBT on a quarterly basis, and chooses to change to payment on an income year basis, a calculation must be made under section RD 59 for the period—

(a) beginning immediately after the end of the last full tax year for which the employer pays FBT on a quarterly basis:

(b) ending immediately before the start of the first income year for which the election applies.

Part-periods

(6) If an employer changes their payment period from an income year to a quarter, and the day referred to in subsection (4)(b) is not the same day as the first day of a quarter, then for the purposes of the payment of FBT, the employer must treat the period between that day and the first day of the next quarter as if it were a quarter.

Defined in this Act: close company, Commissioner, employee, employer, FBT, income year, pay, quarter, tax year

Compare: 2004 No 35 ss ND 2(4), ND 14(2B), ND 15

RD 62B Obligations of cross-border employees when FBT liability not paid

When this section applies

(1) This section applies when a cross-border employee receives a fringe benefit in relation to a period when they are providing employment services in New Zealand.

Employees' obligations

(2) If the employer and employee agree and record in a document that the employee is liable for employment-related tax obligations, the employee must—

(a) treat the value of the fringe benefit as a PAYE income payment and withhold and pay tax as if an employer; and

(b) provide the relevant information required under section 23I of the Tax Administration Act 1994. The employer must provide the employee with the relevant information that the employee does not have.

When person exempt

(3) Subsection (2)(a) does not apply if the employee is exempt from paying the amount of the liability.

Defined in this Act: amount, Commissioner, cross-border employee, fringe benefit, New Zealand, pay

Section RD 62B: inserted, on 1 April 2023, by section 105 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

RD 63 When employer stops employing staff

Who this section applies to

(1) This section applies in a tax year to an employer who stops employing staff and does not intend to replace them. But this section does not apply to an employer who continues to provide a fringe benefit to a former employee.

Treated as final quarter

(2) The employer must pay FBT under section RD 59, treating the quarter of the tax year in which the employment ended as if it were the final quarter.

Single rate option

(3) As an alternative to the application of sections RD 50 and RD 53, the employer may choose to pay FBT under the single rate option—

(a) making the calculation in relation to the period from the start of the tax year to the date on which the employer stops employing staff; and

(b) taking into account any earlier payments of FBT made in relation to an employee.

Defined in this Act: employee, employer, FBT, fringe benefit, pay, quarter, tax year

Compare: 2004 No 35 s ND 8

Section RD 63(3): amended (with effect on 1 April 2021), on 30 March 2022, by section 158 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Employer's superannuation contribution tax (ESCT) rules and employer's superannuation contributions

Introductory provisions

RD 64 ESCT rules and their application

Meaning

(1) The **ESCT rules** means—

(a) section CX 49 (Employer's superannuation contributions); and

(b) sections RD 65 to RD 71; and

(c) subparts 3C and 3D, sections 22AA, 47, 124H to 124K, 124O to 124Q, Part 9, and schedules 4 and 5 of the Tax Administration Act 1994.

Application

(2) The ESCT rules apply to an employer or a person who makes an employer's superannuation cash contribution.

Defined in this Act: employer, employer's superannuation cash contribution, ESCT rules

Compare: 2004 No 35 ss NE 1, OB 1 "SSCWT rules"

Section RD 64(1)(c): replaced (with effect on 1 April 2019), on 26 June 2019, by section 75(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RD 64(1)(c): amended, on 1 April 2020, by section 75(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RD 64(2): amended (with effect on 1 April 2008), on 2 November 2012, by section 139(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 64 list of defined terms **employer's superannuation contribution**: repealed, on 2 November 2012, by section 139(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 64 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 2 November 2012, by section 139(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

RD 65 Employer's superannuation cash contributions

Contribution in money for benefit of employees or past employees

(1) An **employer's superannuation cash contribution** means a superannuation contribution that is an employer's superannuation contribution or made by a person for the benefit of 1 or more of their past employees, if the contribution is paid in money—

(a) to a superannuation fund:

(b) by an employer of a cross-border employee to a foreign superannuation scheme and the employer chooses to apply this subsection to the contribution:

(c) under the KiwiSaver Act 2006 to the Commissioner for later payment to a superannuation fund.

Determining amount of contribution

(2) The amount of an employer's superannuation cash contribution is the sum of—

(a) the amount of the contribution received by the superannuation fund or, for a contribution paid to the Commissioner under the KiwiSaver Act 2006, received by the Commissioner for payment to the superannuation fund; and

(b) the amount of tax withheld for the employer's superannuation contribution.

Payment of amount of tax

(3) An employer or person who makes an employer's superannuation cash contribution on behalf of an employee or past employee must pay to the Commissioner the amount of tax for the contribution. The amount is payable in 2 payment periods in a month as set out in section RA 15 (Payment dates for interim and other tax payments) unless they are an employer to whom RD 4(2) applies.

Contributions to KiwiSaver schemes and complying superannuation funds

[Repealed]

(4) *[Repealed]*

Formula: subsection (4)(b)(i)

[Repealed]

(5) *[Repealed]*

Formula: subsection (4)(b)(ii)

[Repealed]

(6) *[Repealed]*

Definition of items in formulas

[Repealed]

(7) *[Repealed]*

Contributions to complying superannuation funds

[Repealed]

(8) *[Repealed]*

Formula: subsection (8)(c)(i)

[Repealed]

(9) *[Repealed]*

Formula: subsection (8)(c)(ii)

[Repealed]

(10) *[Repealed]*

Definition of items in formulas

[Repealed]

(11) *[Repealed]*

When contribution paid

[Repealed]

(12) *[Repealed]*

Some definitions

[Repealed]

(13) *[Repealed]*

Defined in this Act: amount, amount of tax, Commissioner, cross-border employee, employee, employer, employer's superannuation cash contribution, ESCT, foreign superannuation scheme, pay, superannuation fund

Compare: 2004 No 35 ss NE 2(2), NE 3, NE 3B, NE 6, OB 1 "employer's superannuation contribution", "specified superannuation contribution"

Section RD 65(1) heading: replaced (with effect on 1 April 2008), on 2 November 2012, by section 140(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 65(1): replaced, on 1 April 2024, by section 106(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RD 65(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 519(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 65(2)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 519(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 65(3): amended, on 1 April 2019, by section 216 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RD 65(3): amended (with effect on 1 April 2008), on 2 November 2012, by section 140(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 65(3): amended (with effect on 1 April 2012), on 2 November 2012, by section 140(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 65(4) heading: repealed, on 1 April 2012, pursuant to section 9(1) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65(4): repealed, on 1 April 2012, by section 9(1) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65(5) heading: repealed, on 1 April 2009, pursuant to section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(5): repealed, on 1 April 2009, by section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(6) heading: repealed, on 1 April 2009, pursuant to section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(6): repealed, on 1 April 2009, by section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(7) heading: repealed, on 1 April 2009, pursuant to section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(7): repealed, on 1 April 2009, by section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(8) heading: repealed, on 1 April 2009, pursuant to section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(8): repealed, on 1 April 2009, by section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(9) heading: repealed, on 1 April 2009, pursuant to section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(9): repealed, on 1 April 2009, by section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(10) heading: repealed, on 1 April 2009, pursuant to section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(10): repealed, on 1 April 2009, by section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(11) heading: repealed, on 1 April 2009, pursuant to section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(11): repealed, on 1 April 2009, by section 55(b) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RD 65(12) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 519(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 65(12): repealed (with effect on 1 April 2008), on 6 October 2009, by section 519(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 65(13) heading: repealed, on 1 April 2012, pursuant to section 9(2) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65(13): repealed, on 1 April 2012, by section 9(2) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **complying fund calculation period**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **complying fund rules**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **complying superannuation fund**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **compulsory employer contribution**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **cross-border employee**: inserted, on 1 April 2024, by section 106(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RD 65 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 519(12) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 65 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 519(12) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 65 list of defined terms **foreign superannuation scheme**: inserted, on 1 April 2024, by section 106(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RD 65 list of defined terms **KiwiSaver calculation period**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **KiwiSaver contribution**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **KiwiSaver scheme**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section RD 65 list of defined terms **salary or wages**: repealed, on 1 April 2012, by section 9(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

RD 66 Complying fund rules

[Repealed]

Section RD 66: repealed, on 1 April 2012, by section 10 of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Calculating amounts of tax

RD 67 Calculating amounts of tax for employer's superannuation cash contributions

The amount of tax for an employer's superannuation cash contribution is—

(a) the amount determined under schedule 1, part D, clause 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits), unless paragraph (b) or (c) applies; or

(b) 33% of the employer's superannuation cash contribution, if the contribution is made by a person for the benefit of 1 or more of their past employees and paragraph (c) does not apply; or

(c) 39% of the employer's superannuation cash contribution, if an employer chooses 39% and the contribution is to a defined benefit fund.

Defined in this Act: amount, amount of tax, defined benefit fund, employer, employer's superannuation cash contribution

Section RD 67: replaced (with effect on 1 April 2021), on 30 March 2022, by section 159 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

RD 67B Calculating amounts of tax following changes to rates or thresholds

When a change occurs to a rate or threshold in this Act or the Tax Administration Act 1994 affecting the amount of tax for an employer's superannuation cash contribution, the calculation of the amount of tax must be made using the rate applying on—

(a) the day on which the PAYE income payment to which the contribution relates is paid or is otherwise under this Act treated as paid; or

(b) for a contribution that is not tied to a particular PAYE income payment, the day on which the contribution is paid.

Defined in this Act: amount of tax, employer's superannuation cash contribution, pay, PAYE income payment

Section RD 67B: inserted, on 1 April 2018, by section 217 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RD 68 Choosing to have amount treated as salary or wages

Amount treated as salary or wages

(1) With the agreement of their employer who makes an employer's superannuation cash contribution on their behalf, an employee may choose to have some or all of an employer's superannuation cash contribution made on their behalf treated as salary or wages under the PAYE rules.

Revoking election

(2) The employee's election is valid until they notify their employer of its revocation.

Defined in this Act: employee, employer, employer's superannuation cash contribution, notify, PAYE rules, salary or wages

Compare: 2004 No 35 s NE 2A(1), (2)

Section RD 68(1) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 521(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 68(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 521(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 68(2) heading: added (with effect on 1 April 2008), on 6 October 2009, by section 521(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 68(2): added (with effect on 1 April 2008), on 6 October 2009, by section 521(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 68(2): amended, on 2 June 2016, by section 61(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RD 68 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 521(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 68 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 521(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 68 list of defined terms **notify**: inserted, on 2 June 2016, by section 61(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RD 69 Choosing different rates for employer's superannuation cash contributions

[Repealed]

Section RD 69: repealed, on 1 April 2012, by section 12 of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

RD 70 Calculating amounts of tax on failure to withhold

When this section applies

(1) This section applies when an employer, person, or PAYE intermediary does not withhold under section RD 65(3) an amount of tax for an employer's superannuation cash contribution.

Calculation of amount of tax

(2) The amount of tax is calculated using the formula—

(tax rate ÷ (1 − tax rate) × contribution to fund) − tax already paid.

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) at the time the contribution was made:

(b) **contribution to fund** is the amount of the contribution received by the superannuation fund excluding the amount of tax:

(c) **tax already paid** is any amount of tax for the contribution that has already been paid.

Defined in this Act: amount, amount of tax, employer, employer's superannuation cash contribution, pay, PAYE intermediary, superannuation fund

Compare: 2004 No 35 s NE 5

Section RD 70(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 523(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 70(1): amended (with effect on 1 April 2008), on 2 November 2012, by section 144(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 70(3)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RD 70 list of defined terms **basic rate**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RD 70 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 523(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 70 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 523(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RD 71 Amounts of tax treated as paid to and received by superannuation funds

In determining whether an employer or a person has met their obligation to pay a contribution to a superannuation fund—

(a) the employer, the person, or their PAYE intermediary is treated as having paid to the superannuation fund an amount of tax withheld under the ESCT rules or the PAYE rules, if applicable; and

(b) the fund is treated as having received the amount referred to under paragraph (a); and

(c) the payment referred to in paragraph (a) and the receipt referred to in paragraph (b) are treated as having occurred when the superannuation fund received the employer's superannuation cash contribution.

Defined in this Act: amount of tax, employer, employer's superannuation cash contribution, ESCT rules, pay, PAYE intermediary, PAYE rules, superannuation fund

Compare: 2004 No 35 s NE 6

Section RD 71: amended (with effect on 1 April 2008), on 2 November 2012, by section 145(1)(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 71(a): amended (with effect on 1 April 2008), on 2 November 2012, by section 145(1)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RD 71(a): amended (with effect on 1 April 2008), on 6 October 2009, by section 524(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 71(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 524(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 71 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 524(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RD 71 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 524(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RD 71B Obligations of cross-border employees when amounts of tax not paid

When this section applies

(1) This section applies when an employer or person makes an employer's superannuation cash contribution or an employer's contribution to a foreign superannuation scheme for a cross-border employee that relates to a period during which the employee is providing employment services in New Zealand.

Employees' obligations

(2) If the employer and employee agree and record in a document that the employee is liable for employment-related tax obligations, then the employee must—

(a) provide the relevant information required under section 23I of the Tax Administration Act 1994. The employer must provide the employee with the relevant information that the employee does not have; and

(b) pay the amount of the tax, as if an employer.

When person exempt

(3) Subsection (2)(b) does not apply if the employee is exempt from paying the amount of tax.

Defined in this Act: amount of tax, Commissioner, cross-border employee, employer's superannuation cash contribution, foreign superannuation scheme, New Zealand, pay

Section RD 71B: inserted, on 1 April 2023, by section 107 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Tax on certain withdrawals from superannuation funds

[Repealed]

Heading: repealed, on 1 April 2011, by section 114 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

RD 72 Recovery of tax paid by superannuation funds

[Repealed]

Section RD 72: repealed, on 1 April 2011, by section 114 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Subpart RE—Withholding tax on resident passive income (RWT)

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Introductory provisions

RE 1 RWT rules and their application

Meaning

(1) The **RWT rules** means—

(a) this subpart; and

(b) sections LA 4, LA 6, and LB 3 (which relate to tax credits for RWT); and

(c) subpart 3E, sections 26B, 26C, 27, 28, 28B, 54B to 54E, 55, 55B, 78D, 99, and 124ZF, Part 9, sections 170 to 172, and 185 of the Tax Administration Act 1994.

Application

(2) The RWT rules apply to a person who pays an amount of resident passive income.

Defined in this Act: amount, pay, resident passive income, RWT rules

Compare: 2004 No 35 s OB 1 "RWT rules"

Section RE 1(1)(c): amended, on 1 April 2020, by section 260(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RE 1(1)(c): amended, on 18 March 2019, by section 260(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RE 2 Resident passive income

Interest, dividends, and certain distributions

(1) **Resident passive income** means an amount paid to a person to the extent to which it consists of—

(a) interest:

(b) a dividend:

(c) a taxable Maori authority distribution other than a retirement scheme contribution:

(d) a replacement payment paid to a person under a share-lending arrangement.

Exclusions and inclusions

(2) Subsections (3) to (5) override subsection (1).

Exclusions from interest

(3) The following amounts are excluded from interest under this section:

(a) exempt interest:

(b) interest derived by a person who has RWT-exempt status under section RE 27:

(c) interest that is non-resident passive income:

(d) interest derived from outside New Zealand by a non-resident:

(e) interest that is exempt income under section CW 27 (Certain income derived by transitional resident):

(f) interest paid by a company and derived by another company when both companies are part of the same group of companies at the time of the payment:

(g) interest paid to an intermediary—

(i) by a client in relation to the operation of a tax pooling account; or

(ii) by the Commissioner under section RP 18 (Deposits in tax pooling accounts):

(h) interest payable under section 120D or Part 7 of the Tax Administration Act 1994:

(i) interest arising because section EI 2 (Interest from inflation-indexed instruments) applies to an inflation-indexed instrument.

Inclusions in interest

(4) For the purposes of this section, the following amounts are treated as interest and not as a dividend:

(a) a dividend that a building society pays to a member in relation to a withdrawable share in the society:

(b) a dividend that a friendly society pays to its member in relation to a share in the society.

Exclusions from dividends

(5) The following amounts are excluded from a dividend under this section:

(a) a dividend that is exempt income—

(i) through the application of section CW 9, CW 10, or CW 10B (which relate to income from equity); or

(ii) under section CW 27 (Certain income derived by transitional resident); or

(iib) under section CW 39 (Local authorities):

(iii) *[Repealed]*

(b) an amount—

(i) of an association rebate that is excluded from being a dividend by section CB 34(5)(a) (Amounts derived by members from mutual associations); or

(ii) that is payable to a person by a company and is treated as being a dividend by sections GB 23 to GB 25 (which relate to excessive remuneration):

(bb) a dividend from a portfolio investment entity:

(c) *[Repealed]*

(d) a dividend derived by a person who has RWT-exempt status under section RE 27:

(e) a dividend that is non-resident passive income:

(f) a dividend derived by a non-resident other than a dividend that has a source in New Zealand:

(fb) a dividend paid by a company and derived by another company, if the dividend is fully imputed and the paying company chooses to exclude the dividend from being resident passive income:

(g) a dividend paid by a company and derived by another company when both are part of the same group of companies at the time of the payment:

(gb) an amount treated as a dividend under section CB 32C (Dividend income for first year of look-through company):

(h) a dividend that is excluded income under section CX 50B (Contributions to retirement savings schemes) or would be excluded income under that section in the absence of subsection (2)(a) and (b):

(i) a dividend other than a non-cash dividend that—

(i) has an imputation ratio of 30/70 or more; and

(ii) is paid by a unit trust or group investment fund (or RWT proxy on their behalf) that has not withheld RWT from any earlier dividend:

(j) a dividend treated as derived by a person under section GB 1(3) (Arrangements involving dividend stripping).

Beneficiary income

(6) If a person derives an amount described in this section in their capacity as trustee and the amount is beneficiary income, the amount is treated as not derived by the trustee.

Trustees' RWT substitution payment

(7) A trustee may pay an amount of money (the **RWT substitution payment**) to the relevant beneficiary that is equal to or less than the amount of RWT withheld for an amount to which subsection (6) applies (the **RPI beneficiary income**).

Effect of RWT substitution payment

(8) The RWT substitution payment is treated as an amount of resident passive income that is beneficiary income, with the same nature as the RPI beneficiary income. There is no liability or obligation to withhold RWT in relation to the RWT substitution payment.

Defined in this Act: amount, association rebate, beneficiary, beneficiary income, building society, Commissioner, company, dividend, excluded income, exempt income, exempt interest, friendly society, fully imputed, group investment fund, group of companies, imputation ratio, inflation-indexed instrument, interest, New Zealand, non-cash dividend, non-resident, non-resident passive income, pay, portfolio investment entity, replacement payment, resident passive income, RWT, RWT-exempt status, RWT proxy, RWT substitution payment, share, share-lending arrangement, source in New Zealand, tax pooling account, taxable Maori authority distribution, trustee, unit trust, withdrawable share

Compare: 2004 No 35 s NF 1(2), (4), (5)

Section RE 2(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 525(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 2(1)(c): amended, on 1 April 2008, by section 542(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2(3)(b): amended, on 1 April 2020, by section 218(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 2(3)(c): amended (with effect on 1 April 2008), on 6 October 2009, by section 525(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 2(3)(h): amended, on 30 June 2014, by section 140(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RE 2(3)(i): inserted, on 30 June 2014, by section 140(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RE 2(5)(a)(i): amended, on 1 April 2022, by section 160(1) (and see section 160(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RE 2(5)(a)(ii): amended, on 1 April 2022, by section 160(2) (and see section 160(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RE 2(5)(a)(iib): inserted, on 1 April 2022, by section 160(3) (and see section 160(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RE 2(5)(a)(iii): repealed, on 1 April 2020, by section 218(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 2(5)(b): replaced (with effect on 1 April 2008), on 30 March 2021, by section 131(1) (and see section 131(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RE 2(5)(bb): inserted (with effect from 1 April 2008), on 29 May 2008, by section 44(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RE 2(5)(c): repealed (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 146(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 2(5)(d): amended, on 1 April 2020, by section 218(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 2(5)(f): amended, on 21 December 2010, by section 129(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RE 2(5)(fb): inserted, on 1 April 2017, by section 265(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 2(5)(g): amended, on 1 April 2022, by section 160(4) (and see section 160(5) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RE 2(5)(g): amended, on 1 April 2019, by section 218(4) (and see section 218(6) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 2(5)(gb): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 265(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 2(5)(h): added, on 1 April 2008, by section 542(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2(5)(i): added, on 1 April 2008, by section 542(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2(5)(i)(i): replaced, on 1 April 2017, by section 265(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 2(5)(j): added (with effect on 1 April 2008), on 7 December 2009, by section 106(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 2(7) heading: added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years if the trustee has taken a tax position in a tax return that is consistent with subsection (1)), by section 124(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RE 2(7): added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years if the trustee has taken a tax position in a tax return that is consistent with subsection (1)), by section 124(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RE 2(8) heading: added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years if the trustee has taken a tax position in a tax return that is consistent with subsection (1)), by section 124(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RE 2(8): added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years if the trustee has taken a tax position in a tax return that is consistent with

subsection (1)), by section 124(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RE 2 list of defined terms **association rebate**: inserted (with effect on 1 April 2008), on 30 March 2021, by section 131(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RE 2 list of defined terms **attributed repatriation**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RE 2 list of defined terms **beneficiary**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 124(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RE 2 list of defined terms **combined imputation and FDP ratio**: repealed, on 1 April 2017, by section 265(4)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 2 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 129(2)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RE 2 list of defined terms **excluded income**: inserted, on 1 April 2008, by section 542(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2 list of defined terms **FDP ratio**: repealed, on 1 April 2017, by section 265(4)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 2 list of defined terms **fully imputed**: inserted, on 1 April 2017, by section 265(4)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 2 list of defined terms **group investment fund**: inserted, on 1 April 2008, by section 542(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2 list of defined terms **imputation ratio**: inserted, on 1 April 2008, by section 542(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2 list of defined terms **inflation-indexed instrument**: inserted, on 30 June 2014, by section 140(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RE 2 list of defined terms **non-cash dividend**: inserted, on 1 April 2008, by section 542(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2 list of defined terms **portfolio investment entity**: inserted (with effect from 1 April 2008), on 29 May 2008, by section 44(2) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RE 2 list of defined terms **resident in New Zealand**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 525(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 2 list of defined terms **RWT**: inserted, on 1 April 2008, by section 542(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2 list of defined terms **RWT-exempt status**: inserted, on 29 March 2018, by section 218(5)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 2 list of defined terms **RWT exemption certificate**: repealed, on 29 March 2018, by section 218(5)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 2 list of defined terms **RWT proxy**: inserted, on 1 April 2008, by section 542(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 2 list of defined terms **RWT substitution payment**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 124(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RE 2 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 129(2)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RE 2 list of defined terms **unit trust**: inserted, on 1 April 2008, by section 542(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Withholding obligations

RE 3 Obligation to withhold RWT

Obligation to withhold and pay

(1) A person to whom section RE 1(2) applies is liable to withhold resident withholding tax (RWT) and pay the amount to the Commissioner if they make the payment and—

(a) they have an obligation to withhold an amount of tax under section RE 4 and are not excluded under sections RE 5 and RE 6 from meeting the obligation:

(b) *[Repealed]*

(c) they are an RWT proxy in relation to the payment.

Non-cash dividends

(2) For the purposes of subsection (1), if the payment is a non-cash dividend, the person must calculate the amount of tax under section RE 14 and pay the amount to the Commissioner.

Defined in this Act: amount, amount of tax, Commissioner, non-cash dividend, pay, RWT, RWT proxy

Compare: 2004 No 35 s NF 2(1A), (1AB)

Section RE 3(1)(a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 526(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 3(1)(b): repealed (with effect on 1 April 2008), on 6 October 2009, by section 526(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RE 4 Persons who have withholding obligations

Requirements

(1) A person referred to in section RE 3(1)(a) meets the requirements of this section for an obligation to withhold an amount of tax if they meet at least 1 requirement of each of subsections (2) and (3) in relation to a payment of resident passive income.

Requirement for person

(2) The person must be, at the time the payment is made,—

(a) resident in New Zealand; or

(b) if not resident in New Zealand,—

(i) carrying on a taxable activity in New Zealand through a fixed establishment in New Zealand; and

(ii) not excluded under subsection (4).

Requirements for person and payment

(3) In addition to meeting a requirement of subsection (2), 1 of the following requirements must be met at the time the payment is made:

(a) the person has RWT-exempt status under section RE 27:

(b) the payment is made in whole or in part in carrying on a taxable activity, whether or not the person acts as agent or trustee for another person:

(c) the payment is a dividend:

(d) the payment is a taxable Maori authority distribution:

(e) the payment is a replacement payment under a share-lending arrangement:

(f) the person is a custodial institution that pays on or transfers an amount of investment income to an end investor, *see* section RE 10C.

When person not treated as resident or carrying on taxable activity

(4) For the purposes of subsection (2), a person who is not resident in New Zealand and is carrying on a taxable activity in New Zealand through a fixed establishment in New Zealand, is treated as not meeting the requirements of the subsection if they establish that, at the time the payment is made,—

(a) for an amount payable in relation to money lent or to shares issued by another person,—

(i) the payment is attributable to or effectively connected with a fixed establishment of the person outside New Zealand; and

(ii) all amounts payable in relation to the money lent or to the shares are payable in a currency other than New Zealand currency:

(b) for dividends payable in relation to shares issued by the person, the person is not required by generally accepted accounting practice to express its financial statements in New Zealand currency.

Currency conversion

(5) A person who is required to withhold RWT in relation to a payment of resident passive income that is in a currency other than New Zealand currency may withhold and pay the amount of the RWT in the foreign currency.

Conversion rates: credit

(6) For the purposes of subsection (5), in the calculation of the amount of RWT to be credited against income tax, the amount must be converted to New Zealand currency at the option of the person deriving the resident passive income at either—

(a) the close of trading spot exchange rate on the day the RWT is paid; or

(b) an exchange rate specified by the Commissioner for this purpose in relation to the month in which the RWT is paid.

Conversion rates: payment

(7) For the purposes of subsection (5), in the calculation of the amount of RWT to be paid to the Commissioner, the amount must be converted to New Zealand currency either at—

(a) the close of trading spot exchange rate on the first working day of the month after the month in which the day the RWT is withheld; or

(b) a conversion rate applying under section OB 60(6) (Imputation credits attached to dividends) if the resident passive income is a dividend and the person required to withhold RWT under subsection (5) is an Australian ICA company that chooses to use that rate; or

(c) the exchange rate on the date on which the payment of income is received.

Defined in this Act: amount, Australian ICA company, close of trading spot exchange rate, Commissioner, company, custodial institution, dividend, end investor, fixed establishment, income tax, investment income, interest, money lent, New Zealand, pay, replacement payment, resident in New Zealand, resident passive income, RWT, RWT-exempt status, share, share-lending arrangement, taxable activity, taxable Maori authority distribution, trustee, working day

Compare: 2004 No 35 s NF 2(3), (4)

Section RE 4(1): amended (with effect on 1 April 2008), on 27 February 2014, by section 125(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section RE 4(3)(a): amended, on 1 April 2020, by section 219(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 4(3)(f): inserted, on 1 April 2020, by section 180(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RE 4(4)(a): replaced (with effect on 1 April 2008), on 27 February 2014, by section 125(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section RE 4(4)(b): replaced (with effect on 1 April 2008), on 27 February 2014, by section 125(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section RE 4(6): amended (with effect on 30 June 2009), on 6 October 2009, by section 527(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 4(7)(b): amended, on 1 April 2020, by section 180(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RE 4(7)(c): inserted, on 1 April 2020, by section 180(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RE 4 list of defined terms **custodial institution**: inserted, on 1 April 2020, by section 180(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RE 4 list of defined terms **end investor**: inserted, on 1 April 2020, by section 180(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RE 4 list of defined terms **FDP**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 527(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 4 list of defined terms **investment income**: inserted, on 1 April 2020, by section 180(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RE 4 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 219(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 4 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 219(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 5 No withholding obligation in certain circumstances

When this section applies

(1) This section applies when a person (**person A**)—

(a) pays an amount to another person (**person B**); or

(b) receives a payment while acting as agent or bare trustee for person B.

No obligation if person B exempt

(2) For the purposes of determining whether person A is required under section RE 4 to withhold RWT, the payment is treated as not consisting of resident passive income if person A has established that person B has RWT-exempt status under section RE 27.

No obligation in relation to non-cash dividends

(2B) Section RE 4 does not apply in relation to a dividend referred to in section RE 14C.

No obligation if person B transitional resident

(3) If person A receives an amount of resident passive income while acting as agent or bare trustee for person B, they are not required to withhold RWT in relation to the amount when—

(a) person B notifies person A that—

(i) they are a transitional resident for a period; and

(ii) an amount paid during the period from a particular source is exempt income of person B under section CW 27 (Certain income derived by transitional resident); and

(b) person A receives the payment during the period from the particular source; and

(c) person A has no reasonable grounds for believing that the payment is not exempt income of person B under section CW 27.

Defined in this Act: amount, dividend, exempt income, notify, pay, resident passive income, RWT, RWT-exempt status, transitional resident, trustee

Compare: 2004 No 35 s NF 2(7), (7B)

Section RE 5(2): amended, on 1 April 2020, by section 220(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 5(2B) heading: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 220(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 5(2B): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 220(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 5 list of defined terms **dividend**: inserted, on 29 March 2018 (with effect on 1 April 2017), by section 220(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 5 list of defined terms **RWT-exempt status**: inserted, on 29 March 2018, by section 220(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 5 list of defined terms **RWT exemption certificate**: repealed, on 29 March 2018, by section 220(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 6 When obligation to withhold unreasonable

When this section applies

(1) This section applies when a person (**person A**) who is a person listed in a paragraph in section 32E(2)(a) to (h) of the Tax Administration Act 1994—

(a) receives an amount from another person (**person B**); or

(b) makes a payment at person B's request.

No obligation if unreasonable

(2) For the purposes of determining whether person A is required under section RE 4 to withhold RWT, the payment is treated as not consisting of resident passive income of person B to the extent to which—

(a) person A could not reasonably be expected to be aware that the payment was resident passive income; or

(b) for an amount that is a redemption payment, person A could not reasonably be expected to be aware of the amount that consisted of resident passive income.

Defined in this Act: amount, pay, redemption payment, request, resident passive income, RWT

Compare: 2004 No 35 s NF 2(8)

Section RE 6 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RE 7 When resident passive income paid to trustees

Who this section applies to

(1) This section applies when—

(a) an amount is paid to a person (**person A**) who is acting as trustee for another person (**person B**) at the time; and

(b) some or all of the amount is resident passive income other than a replacement payment under a share-lending arrangement; and

(c) person A—

(i) does not have RWT-exempt status under section RE 27 at the time of the payment; and

(ii) is paid the amount in the conduct of a taxable activity carried on by them; and

(iii) is not a nominee to whom section RE 8 applies.

Obligation to withhold

(2) At the time the payment is made and to the extent to which it has not already been withheld, person A must withhold RWT for the payment and pay it to the Commissioner.

Relationship with section RE 9

(3) Section RE 9 overrides this section.

Defined in this Act: amount, Commissioner, nominee, pay, replacement payment, resident passive income, RWT, RWT-exempt status, share-lending arrangement, taxable activity, trustee

Compare: 2004 No 35 s NF 3(1), (2)

Section RE 7(1)(c)(i): amended, on 1 April 2020, by section 221(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 7 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 221(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 7 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 221(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 8 When resident passive income paid to nominees

Who this section applies to

(1) This section applies when—

(a) an amount is paid to a person (**person A**) who is a nominee for another person (**person B**) at the time; and

(b) some or all of the amount is resident passive income; and

(c) person A—

(i) has RWT-exempt status under section RE 27 at the time of the payment; or

(ii) is paid the amount in the conduct of a taxable activity carried on by them.

Obligation to withhold

(2) At the time the payment is received and to the extent to which it has not already been withheld, person A must withhold RWT for the payment and pay it to the Commissioner.

Relationship with section RE 9

(3) Section RE 9 overrides this section.

Defined in this Act: amount, Commissioner, nominee, pay, resident passive income, RWT, RWT-exempt status, taxable activity

Compare: 2004 No 35 s NF 3(1)

Section RE 8(1)(c)(i): amended, on 1 April 2020, by section 222(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 8 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 222(2)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 8 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 222(2)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 9 Agents' or trustees' obligations in relation to certain dividends

When this section applies

(1) This section applies when an agent or trustee is required to withhold RWT from certain dividends.

Dividends other than those having the nature of interest

(2) To the extent to which the resident passive income consists of a dividend other than a dividend treated as interest, an amount of tax that must be withheld under section RE 3 is treated as an amount to which the RWT rules apply.

Non-cash dividends

(3) To the extent to which the resident passive income consists of a non-cash dividend, the trustee or agent must pay to the Commissioner an amount equal to the amount of tax for the dividend as if it were the amount of tax required to be withheld and paid under the RWT rules.

Obligation of person paying not overridden

(4) This section does not override the obligation of the person who pays the resident passive income to the agent or trustee to withhold RWT for the payment under section RE 4.

Defined in this Act: amount, amount of tax, Commissioner, dividend, dividend treated as interest, non-cash dividend, pay, resident passive income, RWT, RWT rules, trustee

Compare: 2004 No 35 s NF 3(3)–(5)

Section RE 9(2): substituted (with effect on 30 June 2009), on 6 October 2009, by section 528(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 9 list of defined terms **FDP rules**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 528(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RE 10 Special rule relating to payments of interest

Threshold for amounts of interest

(1) This section applies to a person who—

(a) pays resident passive income consisting of interest; and

(b) either does not have RWT-exempt status under section RE 27 at the time of the payment or is a person described in section 32E(2)(k) or (l) of the Tax Administration Act 1994 or is a person with RWT-exempt status under section 32I of that Act; and

(c) has paid an amount of resident passive income consisting of interest that is equal to or less than $5,000 in the tax year before the tax year in which the payment is made; and

(d) would be liable to withhold RWT for the resident passive income in the absence of this section.

Minimum amount

(2) Despite section RE 4(3), the person is required to withhold the amount of tax for the payment only if the total resident passive income consisting of interest paid by the person in the tax year in which the payment is made is more than $5,000.

Interest payments made in relation to taxable activities

(3) For the purposes of subsection (2), and despite section RE 4(3)(b), a person who pays an amount of resident passive income consisting of interest in relation to the carrying on of a taxable activity in a tax year is required to withhold RWT for the resident passive income only if the amount that relates to the taxable activity is more than $5,000 for the tax year. This subsection does not apply in relation to a person referred to in subsection (1)(b) other than a person who does not have RWT-exempt status.

Defined in this Act: amount, amount of tax, interest, pay, resident passive income, RWT, RWT-exempt status, tax year, taxable activity

Compare: 2004 No 35 s NF 2(5)

Section RE 10(1)(b): replaced, on 1 April 2020, by section 223(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 10(1)(c): replaced, on 1 April 2020, by section 223(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 10(3) heading: inserted, on 1 April 2020, by section 223(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 10(3): inserted, on 1 April 2020, by section 223(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 10 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 223(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 10 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 223(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 10 list of defined terms **taxable activity**: inserted, on 1 April 2020, by section 223(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

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

When this section applies

(1) This section applies when—

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

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

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

Treatment of amount

(2) The amount withheld is treated as—

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

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

Treatment of distribution

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

Refunds

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

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

Section RE 10B: inserted (with effect on 1 April 2008), on 7 December 2009, by section 107(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 10B list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RE 10C Obligations of custodial institutions in relation to certain payments of investment income

When this section applies

(1) This section applies for the purposes of sections RE 4 and RF 4 (Non-resident passive income received by agents and others) when—

(a) a person who is a custodial institution receives a payment of investment income; and

(b) the institution has RWT-exempt status; and

(c) the institution pays on or transfers the amount received to an end investor.

When this section does not apply

(2) This section does not apply to a custodial institution that is the specified operator of a designated FMI to the extent that the designated FMI is a settlement system. The exclusion extends to a nominee or agent of the specified operator.

Meaning of settlement system and other terms

(2B) For the purposes of subsection (2) and this subsection,—

(a) **FMI settlement** means a settlement within the meaning of section 5 of the Financial Market Infrastructures Act 2021:

(b) **settlement system**—

(i) means a system or arrangement for effecting FMI settlements or processing settlement instructions in accordance with rules; and

(ii) includes a payment system:

(c) **designated FMI**, **rules**, **settlement instruction**, and **specified operator** have the same meanings as in section 5 of the Financial Market Infrastructures Act 2021.

Obligation to withhold

(3) At the time the payment or transfer is made and to the extent to which the amount of tax has not already been withheld, the custodial institution that makes the payment to the end investor must withhold the amount of tax for the payment and pay it to the Commissioner.

Agreements to transfer withholding obligations: outsourcing withholding

(4) A custodial institution that is required to withhold an amount of tax for a payment may, before the date on which the payment is received by the institution, enter into an agreement with another person (**person B**) for person B to withhold the amount of tax and pay it to the Commissioner. However, if person B does not withhold the amount of tax and pay it to the Commissioner, the withholding obligation remains with the custodial institution.

Agreements to transfer withholding obligations: passing obligation to other custodial institutions

(5) When a payment of investment income is paid on or transferred through interposed custodial institutions before being paid to an end investor, the custodial institution that is last in the chain may enter into an agreement with another custodial institution that precedes them in the chain, for the latter institution to withhold the amount of tax for the payment and pay it to the Commissioner. In this case, the withholding obligation passes to the latter institution, and the final custodial institution's obligation is discharged.

Meaning of custodial institution

(6) For the purposes of this section and sections RE 4 and RF 4, a **custodial institution** means an entity—

(a) that holds financial assets or financial instruments as a bare trustee on account for another person; and

(b) whose activities are supervised or regulated under the Financial Markets Conduct Act 2013, the Financial Market Infrastructures Act 2021, the Financial Markets Authority Act 2011, the Financial Advisers Act 2008, or the Banking (Prudential Supervision) Act 1989, or are supervised or regulated under corresponding legislation in another jurisdiction.

Meaning of end investor

(7) For the purposes of this section and sections RE 4 and RF 4, an **end investor**—

(a) means an investor to whom a payment of investment income is made who is—

(i) a direct investor, whether resident or non-resident, who is the beneficial owner of the investment:

(ii) a custodial institution that is not resident in New Zealand; and

(b) includes a trustee, PIE, or PIE proxy if the person or entity has an obligation to provide investment income information to the Commissioner.

When branches located in New Zealand

(7B) For the purposes of subsection (7)(a)(ii), if the non-resident custodial institution has a branch located in New Zealand that receives a payment of investment income, the branch is treated as the person who must withhold the amount of tax for the payment under subsection (3).

Meaning of investment income

(8) For the purposes of this section, and sections RE 4 and RF 4, **investment income** means—

(a) resident passive income under section RE 2(1)(a) to (c) subject to the withholding obligations set out in sections RE 3 and RE 4:

(b) non-resident passive income under section RF 2(1) (Non-resident passive income) subject to the withholding obligations set out in section RF 3 (Obligation to withhold amounts of tax for non-resident passive income):

(c) attributed income of investors in portfolio investment entities under sections CP 1, CX 56, and CX 56B (which relate to attributed PIE income).

Relationship with sections RE 7 and RE 8

(9) This section overrides sections RE 7 and RE 8 (which relate to amounts paid to trustees and nominees).

Defined in this Act: amount, amount of tax, attributed PIE income, business, Commissioner, custodial institution, designated FMI, end investor, fixed establishment, FMI settlement, investment income, New Zealand, non-resident, non-resident passive income, pay, portfolio investment entity, resident, resident passive income, rules, RWT, RWT-exempt status, settlement instruction, settlement system, specified operator

Section RE 10C: inserted, on 1 April 2020, by section 181 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RE 10C(2): replaced, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C(2B) heading: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C(2B): inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C(3): amended (with effect on 1 April 2020), on 30 March 2021, by section 132(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RE 10C(6)(b): replaced (with effect on 1 April 2020), on 30 March 2021, by section 132(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RE 10C(6)(b): amended, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C(6)(b): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section RE 10C(7)(a)(ii): replaced (with effect on 1 April 2020), on 30 March 2022, by section 161(1) (and see section 161(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RE 10C(7B) heading: inserted (with effect on 1 April 2020), on 30 March 2022, by section 161(2) (and see section 161(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RE 10C(7B): inserted (with effect on 1 April 2020), on 30 March 2022, by section 161(2) (and see section 161(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RE 10C list of defined terms **designated FMI**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C list of defined terms **FMI settlement**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C list of defined terms **rules**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C list of defined terms **settlement instruction**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C list of defined terms **settlement system**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section RE 10C list of defined terms **specified operator**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

RE 11 Notification by companies

When this section applies

(1) This section applies when a company that is not a Maori authority is entitled to receive a payment of resident passive income other than a replacement payment under a share-lending arrangement.

Notification required

(2) The company must notify the person making the payment that they are a company.

Withholding rate

(3) The person making the payment must withhold RWT for the payment at the relevant rate set out in schedule 1, part D, clause 4 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for a payment made on or after the date of notification.

Consequence of failure to notify

(4) If the company does not notify the person making the payment, the person must apply the higher withholding rate set out in section RE 19(3).

Defined in this Act: company, Maori authority, notify, pay, replacement payment, resident passive income, RWT, share-lending arrangement

Compare: 2004 No 35 s NF 2B

Section RE 11(1): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 11(3): amended (with effect on 1 April 2008), on 6 October 2009, by section 529(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 11(3): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 11 list of defined terms **trustee**: repealed, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Calculating amounts of tax

RE 12 Interest

When this section applies

(1) This section applies when a person makes a payment of resident passive income that consists of interest.

Calculation of amount of tax

(2) The amount of tax for the payment that the person must withhold and pay to the Commissioner is calculated using the formula—

(tax rate × (interest paid + foreign withholding tax)) − foreign withholding tax.

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 3 or 4 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **interest paid** is the interest paid before the amount of tax is determined:

(c) **foreign withholding tax** is the amount of foreign withholding tax paid or payable on the interest paid.

Modification for 2009–10

(4) Despite subsection (3)(a), the amount of tax that the person must withhold and pay may, if the person chooses, be calculated, under subsection (3), using a **tax rate** of 0.38 if—

(a) the payment of resident passive income is made in the 2009–10 tax year; and

(b) the tax rate under subsection (3)(a) would be 0.39 in the absence of this subsection.

Modification for companies and portfolio investment entities for 2010–11 tax year

(5) Despite subsection (3)(a), the amount of tax that the person must withhold and pay may, if the person chooses, be calculated under subsection (3) using a **tax rate** of 0.30 if—

(a) the payment of resident passive income that consists of interest is made in the 2010–11 tax year to—

(i) a portfolio investment entity; or

(ii) a company that is not a Maori authority; and

(b) the tax rate under subsection (3)(a) would be 0.33 in the absence of this subsection.

Defined in this Act: amount of tax, Commissioner, company, foreign withholding tax, income year, interest, Maori authority, pay, portfolio investment entity, resident passive income

Compare: 2004 No 35 s NF 2(1)(a)

Section RE 12(3)(a) **tax rate**: amended (with effect on 1 April 2008), on 6 October 2009, by section 530(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RE 12(3)(a) **tax rate**: amended (with effect from 1 April 2008), on 15 December 2008, by section 33(1) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RE 12(3)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 12(4) heading: added, on 1 April 2009, by section 33(2) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RE 12(4): added, on 1 April 2009, by section 33(2) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section RE 12(5) heading: added, on 1 April 2010 (applying for the 2010–11 income year), by section 108(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 12(5) heading: amended (with effect on 1 April 2010), on 7 September 2010, by section 115(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section RE 12(5): added, on 1 April 2010 (applying for the 2010–11 income year), by section 108(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 12(5)(a): substituted (with effect on 1 April 2010), on 7 September 2010, by section 115(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section RE 12(5)(a)(ii): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 12 list of defined terms **company**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 12 list of defined terms **income year**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 12 list of defined terms **Maori authority**: inserted (with effect on 1 April 2010), on 7 September 2010, by section 115(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section RE 12 list of defined terms **portfolio investment entity**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 12 list of defined terms **trustee**: repealed, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 13 Dividends other than non-cash dividends

When this section applies

(1) This section applies when a person makes a payment of resident passive income that consists of a dividend other than a non-cash dividend.

When this section does not apply

(1B) This section does not apply if,—

(a) at the same time as making a payment of a dividend other than a non-cash dividend, the person also makes a payment of a non-cash dividend; and

(b) they choose to apply section RE 14B; and

(c) the requirements of section RE 14B are met.

Calculation of amount of tax

(2) The amount of tax for the payment that the person must withhold and pay to the Commissioner is calculated using the formula—

$$(\text{tax rate} \times (\text{dividend paid} + \text{tax paid or credit attached})) - \text{tax paid or credit attached.}$$

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 5 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **dividend paid** is the amount of the dividend paid before the amount of tax is determined:

(c) **tax paid or credit attached** is the total of the following amounts:

(i) if the dividend is paid in relation to shares issued by an imputation credit account (ICA) company, the amount of an imputation credit attached to the dividend:

(ii) if the dividend is paid in relation to shares issued by a company not resident in New Zealand, the amount of foreign withholding tax paid or payable on the amount of dividend.

(iii) *[Repealed]*

Defined in this Act: amount, amount of tax, Commissioner, company, dividend, foreign withholding tax, ICA company, imputation credit, non-cash dividend, pay, resident in New Zealand, resident passive income, share

Compare: 2004 No 35 s NF 2(1)(b)

Section RE 13(1B) heading: inserted, on 1 April 2017, by section 266(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 13(1B): inserted, on 1 April 2017, by section 266(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 13(3)(a) **tax rate**: amended (with effect from 1 April 2008), on 29 May 2008, by section 45 of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RE 13(3)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 13(3)(c)(ii): amended, on 1 April 2017, by section 266(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 13(3)(c)(iii): repealed, on 1 April 2017, by section 266(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 13 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 266(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RE 14 Non-cash dividends other than certain share issues

When this section applies

(1) This section applies when a person makes a payment of resident passive income that consists of a non-cash dividend other than—

(a) a bonus issue in lieu:

(b) a share issued under a profit distribution plan:

(c) a dividend referred to in section RE 14C.

When this section does not apply

(1B) This section does not apply if,—

(a) at the same time as making a payment of a relevant non-cash dividend the person also makes a payment of a dividend other than a non-cash dividend; and

(b) they choose to apply section RE 14B; and

(c) the requirements of section RE 14B are met.

Calculation of amount of tax

(2) The amount of tax for the payment that the person must pay under subsection (4) to the Commissioner is calculated using the formula—

(tax rate × dividend paid ÷ (1 − tax rate)) − tax paid or credit attached.

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 5 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **dividend paid** is the amount of the dividend paid before the amount of tax is determined:

(c) **tax paid or credit attached** is the total of the following amounts:

(i) if the dividend is paid in relation to shares issued by an ICA company, the amount of an imputation credit attached to the dividend:

(ii) if the dividend is paid in relation to shares issued by a company not resident in New Zealand, the amount of foreign withholding tax paid or payable on the amount of dividend.

(iii) *[Repealed]*

Treatment as if amount of tax withheld

(4) For the purposes of subsection (2), the person must pay to the Commissioner the amount calculated as if it were the amount of tax required to be withheld and paid under the RWT rules.

Defined in this Act: amount, amount of tax, bonus issue in lieu, Commissioner, company, foreign withholding tax, ICA company, imputation credit, non-cash dividend, pay, profit distribution plan, resident in New Zealand, resident passive income, RWT rules, share

Compare: 2004 No 35 s NF 2(1)(c), (2)

Section RE 14 heading: replaced (with effect on 1 October 2012), on 2 November 2012, by section 147(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 14(1): replaced (with effect on 1 October 2012), on 2 November 2012, by section 147(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 14(1)(c): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 224(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 14(1B) heading: inserted, on 1 April 2017, by section 267(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 14(1B): inserted, on 1 April 2017, by section 267(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 14(2) formula: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 June 2014, by section 141(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RE 14(3)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 14(3)(c)(ii): amended, on 1 April 2017, by section 267(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 14(3)(c)(iii): repealed, on 1 April 2017, by section 267(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 14 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 267(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 14 list of defined terms **profit distribution plan**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 147(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

RE 14B Combined cash and non-cash dividends

When this section applies

(1) This section applies when a person has made an election in accordance with sections RE 13(1B) and RE 14(1B) and the amount of the cash dividend paid at the same time as the non-cash dividend is equal to or greater than the amount calculated by the formula in subsection (2).

Calculation of amount of tax

(2) The amount of tax for the payment of the cash dividend and the non-cash dividend that the person must withhold and pay to the Commissioner is calculated using the formula—

$$(\text{tax rate} \times (\text{dividends} + \text{tax paid or credit attached})) - \text{tax paid or credit attached}.$$

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 5 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **dividends** is the total amount of the cash dividend and the non-cash dividend paid before the amount of tax is determined:

(c) **tax paid or credit attached** is the total of the following amounts:

(i) if a dividend is paid in relation to shares issued by an ICA company, the total amount of imputation credits attached to the dividends:

(ii) if a dividend is paid in relation to shares issued by a company not resident in New Zealand, the amount of foreign withholding tax paid or payable on the total amount of the dividends.

Treatment as if amount of tax withheld for 1 combined dividend

(4) The total amount of the cash dividend and the non-cash dividend is treated as 1 payment of 1 dividend (the **combined dividend**), and the amount calculated under the formula in subsection (2) is the amount that is required to be withheld from the combined dividend and paid under the RWT rules.

Section RE 14B: inserted, on 1 April 2017, by section 268 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RE 14C Non-cash dividends distributed through intermediaries

Sections RE 4 and RE 14 do not apply in relation to a non-cash dividend when—

(a) a company or trustee of a trust—

(i) receives the dividend from a foreign company; and

(ii) attributes or distributes the dividend to a shareholder in the foreign company or to a beneficiary of the trust, as applicable, who is in either case a natural person; and

(iii) acts as an intermediary in relation to the attribution or distribution of the dividend; and

(b) the attribution or distribution is made in the same income year in which the dividend is received.

Defined in this Act: company, foreign company, income year, non-cash dividend, shareholder, trustee

Section RE 14C: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 225(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 14C: amended (with effect on 1 April 2017), on 28 March 2024, by section 117(1) (and see section 117(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RE 14C paragraph (a)(i): amended (with effect on 1 April 2017), on 28 March 2024, by section 117(2) (and see section 117(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RE 14C paragraph (a)(ii): amended (with effect on 1 April 2017), on 28 March 2024, by section 117(3) (and see section 117(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RE 14C paragraph (a)(iii): amended (with effect on 1 April 2017), on 28 March 2024, by section 117(4) (and see section 117(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RE 14C paragraph (b): amended (with effect on 1 April 2017), on 28 March 2024, by section 117(5) (and see section 117(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

RE 15 Bonus issues in lieu and shares issued under profit distribution plans

When this section applies

(1) This section applies when a person makes a payment of resident passive income that consists of a dividend that is—

(a) a bonus issue in lieu:

(b) a share issued under a profit distribution plan.

Calculation of amount of tax

(2) The amount of tax for the payment is calculated using the formula—

$$(\text{tax rate} \times (\text{alternative amount} + \text{tax paid or credit attached})) - \text{tax paid or credit attached}.$$

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 5 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **alternative amount** is, as applicable,—

(i) the net amount of money offered as an alternative to the bonus issue before the amount of tax is determined; or

(ii) for a share issued under a profit distribution plan, the net amount offered by the company for the reacquisition of the share before the amount of tax is determined:

(c) **tax paid or credit attached** is the total of the following amounts:

(i) if the dividend is paid in relation to shares issued by an ICA company, the amount of an imputation credit attached to the dividend:

(ii) if the dividend is paid in relation to shares issued by a company not resident in New Zealand, the amount of foreign withholding tax paid or payable on the amount of dividend.

(iii) *[Repealed]*

Defined in this Act: amount, amount of tax, bonus issue in lieu, Commissioner, company, dividend, foreign withholding tax, ICA company, imputation credit, pay, profit distribution plan, RWT rules, resident in New Zealand, resident passive income, share

Compare: 2004 No 35 s NF 2(1)(d)

Section RE 15 heading: replaced (with effect on 1 October 2012), on 2 November 2012, by section 148(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 15(1): replaced (with effect on 1 October 2012), on 2 November 2012, by section 148(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 15(3)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 15(3)(b) **alternative amount**: replaced (with effect on 1 October 2012), on 2 November 2012, by section 148(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 15(3)(b)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RE 15(3)(c)(ii): amended, on 1 April 2017, by section 269(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 15(3)(c)(iii): repealed, on 1 April 2017, by section 269(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 15 list of defined terms **Commissioner**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 148(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 15 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 269(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 15 list of defined terms **profit distribution plan**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 148(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RE 15 list of defined terms **RWT rules**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 148(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

RE 16 Taxable Maori authority distributions

When this section applies

(1) This section applies when a Maori authority makes a payment of resident passive income that consists of a taxable Maori authority distribution in the form of a sum of money or an amount of a credit in the balance of an account with the Maori authority.

Calculation of amount of tax

(2) The amount of tax for the payment that the Maori authority must withhold and pay to the Commissioner is calculated using the formula—

(tax rate × (distribution amount + credit attached)) − credit attached.

Non-cash amounts

(3) Despite subsection (2), if the resident passive income is not paid in cash, the amount of tax for the payment that the Maori authority must pay to the Commissioner is calculated using the formula—

(tax rate × distribution amount ÷ (1 − tax rate)) − credit attached.

Definition of items in formulas

(4) In the formulas in subsections (2) and (3),—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 6 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **distribution amount** is the amount of the distribution before the amount of tax is determined:

(c) **credit attached** is the amount of the Maori authority credit attached to the distribution.

Defined in this Act: amount, amount of tax, Commissioner, Maori authority, Maori authority credit, pay, resident passive income, taxable Maori authority distribution

Compare: 2004 No 35 s NF 2(1)(e), (f)

Section RE 16(4)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RE 17 Replacement payments under share-lending arrangements

When this section applies

(1) This section applies when a person makes a payment of resident passive income that consists of a replacement payment under a share-lending arrangement.

Calculation of amount of tax

(2) The amount of tax for the payment is calculated using the formula—

(tax rate × payment ÷ (1 − tax rate)) − credit attached − credit transferred.

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 5 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **payment** is the amount of the replacement payment excluding an imputation credit attached under section OB 64 (Replacement payments):

(c) **credit attached** is the amount of an imputation credit attached to the replacement payment under section OB 64:

(d) **credit transferred** is the amount of an imputation credit shown in a credit transfer notice relating to the replacement payment.

(e) *[Repealed]*

Defined in this Act: amount, amount of tax, credit transfer notice, imputation credit, pay, replacement payment, resident passive income, share-lending arrangement

Compare: 2004 No 35 s NF 2(1)(g)

Section RE 17(2) formula: replaced, on 1 April 2017, by section 270(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 17(3)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 17(3)(d): amended, on 1 April 2017, by section 270(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 17(3)(e): repealed, on 1 April 2017, by section 270(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RE 17 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 270(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RE 18 Payments made by RWT proxies

Calculation of amount of tax

(1) A person who is an RWT proxy for a person paying resident passive income that consists of a dividend must withhold an amount of tax for the payment calculated using the formula—

tax rate × amount paid ÷ (1 − tax rate).

Definition of items in formula

(2) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 3 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **amount paid** is the amount of the dividend paid.

Defined in this Act: amount, amount of tax, dividend, pay, resident passive income, RWT proxy

Compare: 2004 No 35 s NF 2(1B)

Section RE 18(2)(a) **tax rate**: amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 116(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section RE 18(2)(a) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RE 18B Capital value increase under inflation-indexed instruments: RWT cap

Calculation of amount of tax

(1) For an interest payment under an inflation-indexed instrument, the payer is obliged, in addition to withholding under section RE 12, to withhold and pay to the Commissioner the lesser of the following amounts of tax:

(a) the net amount of the interest payment (the **current coupon payment**) remaining after the withholding of RWT under section RE 12:

(b) the amount given by the formula in subsection (2).

Formula for subsection (1)(b)

(2) The formula for the purposes of subsection (1)(b) is:

CV increase × tax rate.

Definition of items in formula in subsection (2)

(3) In the formula in subsection (2),—

(a) **CV increase** is the amount calculated under the formula in subsection (4), if it is positive:

(b) **tax rate** is the basic rate set out in schedule 1, part D, clause 3 or 4 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Formula for subsection (3)(a)

(4) The formula for the purposes of subsection (3)(a) is:

CV current coupon payment − CV previous coupon payment.

Definition of items in formula in subsection (4)

(5) In the formula in subsection (4),—

(a) **CV current coupon payment** is an amount that is or will be payable for the money lent under the instrument, to the extent to which the amount has accrued at the time of the current coupon payment and the amount is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand:

(b) **CV previous coupon payment** is—

(i) an amount that is or will be payable for the money lent under the instrument, to the extent to which the amount has accrued at the

time of the interest payment before the current coupon payment and the amount is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand; or

(ii) the face value of the instrument, if there has been no interest payment before the current coupon payment.

Defined in this Act: amount, inflation-indexed instrument, interest, money lent, pay

Section RE 18B: inserted, on 30 June 2014, by section 142 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RE 18B(1) heading: inserted (with effect on 30 June 2014), on 24 February 2016, by section 226 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RE 19 Choosing other rates

When this section applies

(1) This section applies when a person (**person A**) is entitled to receive resident passive income other than a replacement payment under a share-lending arrangement.

Person choosing rate

(2) Person A may notify the person who is required to withhold the amount of tax for the payment to use 1 of the rates set out in schedule 1, part D, clause 3 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Company choosing rate

(3) Despite subsection (1), if person A is a company, they may notify the person making the payment to withhold the amount of tax for the payment at the rate set out in schedule 1, part D, clause 4.

Application of rate

(4) The rate chosen under subsection (2) or (3) applies to amounts of tax withheld from the date on which notice is given.

Defined in this Act: amount of tax, company, notice, notify, pay, replacement payment, resident passive income, share-lending arrangement, tax withheld

Compare: 2004 No 35 ss NF 2A(1), (3), NF 2D(1), (3)

Section RE 19 heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 109(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 19(2): amended (with effect from 1 April 2008), on 29 May 2008, by section 46(a) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RE 19(2): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RE 19(3): amended (with effect from 1 April 2008), on 29 May 2008, by section 46(b) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section RE 19 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Paying amounts of tax

RE 20 Paying RWT

A person who is required under the RWT rules to withhold RWT must pay the amount of tax to the Commissioner under sections RA 15 and RA 16 (which relate to payment dates and the basis on which the payment dates are set).

Defined in this Act: amount of tax, Commissioner, pay, RWT, RWT rules

Compare: 2004 No 35 s NF 4(1), (2)

RE 21 Basis for payment of RWT

When this section applies

(1) Subsections (2) to (5) apply for the purposes of section RA 6(1) (Withholding and payment obligations for passive income) to a person who is required under the RWT rules to withhold RWT for resident passive income consisting of interest.

RWT of $500 or more in total

(2) If the person estimates for a tax year that they will be required to withhold $500 or more in total for each month of the tax year, they must pay the amount of tax to the Commissioner on a monthly basis.

RWT of less than $500 in total

(3) If the person estimates for a tax year that they will be required to withhold less than $500 in total for each month of the tax year, they may pay the amount of tax to the Commissioner in 2 instalments as described in section RA 15 (Payment dates for interim and other tax payments).

When subsection (5) applies

(4) Subsection (5) applies when the person has withheld more than $500 in total amounts of tax for a 2 month-period from the start of 1 month in a tax year to the end of the month following that month.

Total in 2-month period

(5) Despite subsections (2) and (3), the person must pay the total amount of tax to the Commissioner for the 2-month period by the 20th day of the month following the end of the period.

When subsection (7) applies

(6) Subsection (7) applies for the purposes of section RA 6(1) to a person who is required under the RWT rules to withhold RWT for resident passive income consisting of a dividend, a replacement payment, or a taxable Maori authority distribution.

Dividends, replacement payments, and taxable Maori authority distributions

(7) The person must pay the amount of tax to the Commissioner on a monthly basis.

Defined in this Act: amount of tax, Commissioner, dividend, interest, pay, replacement payment, resident passive income, RWT, RWT rules, tax year, taxable Maori authority distribution

Compare: 2004 No 35 s NF 4(1)–(5), (7), (8)

Section RE 21(2) heading: amended (with effect on 1 April 2008), on 26 June 2019, by section 76(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RE 21(2): amended (with effect on 1 April 2008), on 26 June 2019, by section 76(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RE 21(3) heading: amended (with effect on 1 April 2008), on 26 June 2019, by section 76(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RE 21(3): amended, on 30 March 2022, by section 162 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

RE 22 When payment treated as non-resident passive income

When this section applies

(1) This section applies when—

(a) a person (**person A**) is required to pay an amount that would be treated as resident passive income in the absence of this section to another person (**person B**); and

(b) person A receives resident passive income as agent or trustee for person B.

No liability

(2) If person A concludes on reasonable grounds after making reasonable inquiries that an amount is non-resident passive income derived by person B, and person A has complied with their obligations under this Act and the Tax Administration Act 1994 in relation to paying non-resident withholding tax (NRWT) to the Commissioner, they have no liability under the RWT rules in relation to the amount.

Payment derived by non-resident

(3) For the purposes of determining person A's liability under the RWT rules, the amount is treated as derived by a non-resident.

Defined in this Act: amount, Commissioner, pay, non-resident, non-resident passive income, NRWT, resident passive income, RWT rules, trustee

Compare: 2004 No 35 s NF 5

Section RE 22(1)(a): substituted (with effect on 1 April 2008), on 7 December 2009, by section 110(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RE 22 list of defined terms **resident in New Zealand**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

RE 23 When amount of tax treated as FDP credit

[Repealed]

Section RE 23: repealed, on 1 April 2017, by section 271 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RE 24 When amount of tax treated as Maori authority credit

When this section applies

(1) This section applies when a Maori authority withholds an amount of tax for a taxable Maori authority distribution.

Maori authority credit

(2) The amount is treated as a Maori authority credit attached to the distribution by the Maori authority for the purposes of sections LO 1 to LO 4, OK 16, OK 19, and OK 20 (which relate to the amount and treatment of Maori authority credits).

Defined in this Act: amount of tax, Maori authority, Maori authority credit, taxable Maori authority distribution

Compare: 2004 No 35 s NF 8A(1)

RE 25 When amount of tax treated as imputation credit

When this section applies

(1) This section applies when a share user under a share-lending arrangement withholds under the RWT rules an amount of tax for a replacement payment.

Imputation credit

(2) The amount of tax withheld—

(a) is treated for the share supplier as an imputation credit attached to the replacement payment in addition to an imputation credit that the share user attached to the payment under section OB 64 (Replacement payments); and

(b) does not give rise under section LB 3 (Tax credits for resident withholding tax) to a tax credit or refund for the share supplier.

Defined in this Act: amount of tax, imputation credit, replacement payment, RWT rules, share-lending arrangement, share supplier, share user, tax credit

Compare: 2004 No 35 s NF 8B

RE 26 Payment by proxy

An RWT proxy who is required to withhold RWT in relation to a payment of resident passive income is treated as having withheld the amount from the payment at the time the payment is made.

Defined in this Act: amount, pay, resident passive income, RWT, RWT proxy

Compare: 2004 No 35 s NF 4(9)

Persons with RWT-exempt status

Heading: replaced, on 1 April 2020, by section 226(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 27 RWT-exempt status

Application

(1) A person may apply to the Commissioner for RWT-exempt status if they are a person listed in section 32E(2) of the Tax Administration Act 1994.

When status ends

(2) A person ceases to have RWT-exempt status if—

(a) they no longer meet the requirements in subsection (1); or

(b) the Commissioner revokes the status under section 32L of the Tax Administration Act 1994.

Notifying Commissioner

(3) If a person who has RWT-exempt status becomes aware they no longer meet the requirements, they must notify the Commissioner under section 32K of the Tax Administration Act 1994.

Notifying investment providers

(4) A person who has RWT-exempt status must notify their investment provider of their status and of a change in their status. For a list of investment providers, *see* section 25E(1) of the Tax Administration Act 1994.

Defined in this Act: apply, Commissioner, notify, RWT-exempt status

Compare: 2004 No 35 ss NF 9(1), NF 11(1), (2)

Section RE 27 heading: replaced, on 1 April 2020, by section 226(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27(1): replaced, on 1 April 2020, by section 226(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27(2) heading: replaced, on 1 April 2020, by section 226(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27(2): replaced, on 1 April 2020, by section 226(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27(3): amended, on 1 April 2020, by section 226(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27(4) heading: inserted, on 1 April 2020, by section 226(6) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27(4): inserted, on 1 April 2020, by section 226(6) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RE 27 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 226(7)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 27 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 226(7)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 28 When RWT-exempt status ends

When this section applies

(1) This section applies in a month when a person's RWT-exempt status ends. But the section does not apply if the person continues to be required to withhold RWT in the course of carrying out a taxable activity.

Payment of outstanding amounts of tax

(2) The person must pay to the Commissioner all amounts of RWT withheld and not paid to the Commissioner by the 20th day of the month following the month in which the status ends.

Defined in this Act: amount, Commissioner, pay, RWT, RWT-exempt status, taxable activity

Compare: 2004 No 35 s NF 4(6)

Section RE 28 heading: replaced, on 1 April 2020, by section 227(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 28(1): amended, on 1 April 2020, by section 227(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 28(2): amended, on 1 April 2020, by section 227(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 28 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 227(4)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 28 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 227(4)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 29 Establishing whether persons have RWT-exempt status

(1) This section applies for the purposes of section RE 5(2) to set out the ways for person A to establish—

(a) whether person B is a person who has RWT-exempt status; and

(b) that the status has not ended.

(2) Person A may establish that—

(a) they have made a search of the electronic register that the Commissioner provides on which the details of persons with RWT-exempt status are listed; or

(b) they have taken reasonable steps to confirm that person B is a person listed in section 32E(2)(a) to (h) of the Tax Administration Act 1994; or

(c) except in relation to a person listed in section 32E(2)(k) or (l) of that Act or to whom the Commissioner has provided RWT-exempt status under section 32I of that Act, they have been given person B's tax file number and have been notified that person B has RWT-exempt status.

Defined in this Act: Commissioner, notify, RWT-exempt status, tax file number

Section RE 29: replaced, on 1 April 2020, by section 228 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 30 When unincorporated bodies have RWT-exempt status

When this section applies

(1) This section applies when—

(a) an unincorporated body that is carrying on a taxable activity has RWT-exempt status; and

(b) the exemption relates to the carrying on of the taxable activity.

When this section does not apply

(1B) This section does not apply to a limited partnership.

Treatment of payments made by unincorporated bodies

(2) For the purposes of the RWT rules, a payment that the body makes in the course of carrying on the taxable activity is treated as a payment made by the body and not by a member of the body. This subsection overrides subsection (7).

Treatment of payments to members of unincorporated bodies

(3) For the purposes of the RWT rules, a payment made to a member of the body in their capacity as a member and in the course of carrying on the taxable activity of the body is treated as a payment made to the body and not to the member.

Joint and several liability for amounts of tax

(4) A person is jointly and severally liable for the RWT that the body is required to pay if the person was a member of the body when the body incurred the RWT liability.

Natural persons, partnerships, joint ventures, trustees

(5) For the purposes of subsection (4),—

(a) if the member is a natural person, their estate is liable after their death for an amount payable that remains unpaid:

(b) if the body is a partnership, joint venture, or the trustees of a trust, a member continues as a member until the date the Commissioner is notified of a change of membership.

Members and committees

(6) Subsection (7) applies to an unincorporated body other than a partnership, joint venture, or the trustees of a trust, when the business of the body is managed by the members or a committee of its members.

Responsibility of committee officers and members

(7) If something is required to be done under the RWT rules by or on behalf of the body, each member holding office as president, chair, treasurer, secretary, or a similar office is jointly and severally responsible. In default, each member holding office bears the responsibility. Action taken by 1 officer or committee member is sufficient.

Joint and several liability for actions required

(8) If something is required to be done under the RWT rules by or on behalf of the body, each member is jointly and severally liable to do it. However, action taken by 1 member is sufficient. Subsection (7) overrides this subsection.

Changes in membership

(9) A change in membership of the unincorporated body has no effect for the purposes of the RWT rules. Subsection (5)(b) overrides this subsection.

Some definitions

(10) In this section,—

member means a partner, joint venturer, a trustee, or a member of a body.

Defined in this Act: amount, limited partnership, member, notify, partner, partnership, pay, RWT, RWT-exempt status, RWT rules, taxable activity, trustee

Compare: 2004 No 35 s NF 10

Section RE 30 heading: amended, on 1 April 2020, by section 229(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 30(1)(a): amended, on 1 April 2020, by section 229(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 30(1B) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 124(1) (and see section 124(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RE 30(1B): inserted (with effect on 1 April 2008), on 29 March 2025, by section 124(1) (and see section 124(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RE 30(4): replaced, on 30 March 2025, by section 124(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RE 30(10) **partnership** and **partner**: repealed, on 1 April 2008, by section 22(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section RE 30 list of defined terms **limited partnership**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 124(3) (and see section 124(4) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RE 30 list of defined terms **notify**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RE 30 list of defined terms **RWT-exempt status**: inserted, on 1 April 2020, by section 229(3)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RE 30 list of defined terms **RWT exemption certificate**: repealed, on 1 April 2020, by section 229(3)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RE 31 When limited partnerships have RWT-exempt status

When this section applies

(1) This section applies when a limited partnership has RWT-exempt status.

Treatment of payments made by limited partnerships

(2) For the purposes of the RWT rules, a payment that the limited partnership makes is treated as a payment made by the partnership and not by a limited partner of the partnership.

Treatment of payments to partners of limited partnerships

(3) For the purposes of the RWT rules, a payment made to a limited partner of the limited partnership in their capacity as a partner is treated as a payment made to the partnership and not to the partner.

Joint and several liability for amounts of tax

(4) A general partner is jointly and severally liable for the RWT that the limited partnership is required to pay if the general partner was a partner in the partnership when the partnership incurred the RWT liability.

General partner

(5) For the purposes of subsection (4), a general partner continues as a partner until the date the Commissioner is notified that they are no longer a partner.

Defined in this Act: Commissioner, general partner, limited partner, limited partnership, notify, pay, RWT, RWT-exempt status, RWT rules

Section RE 31: inserted (with effect on 1 April 2008), on 29 March 2025, by section 125(1) (and see section 125(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Subpart RF—Withholding tax on non-resident passive income (NRWT)

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Introductory provisions

RF 1 NRWT rules and their application

Meaning

(1) The **NRWT rules** means—

(a) this subpart; and

(ab) subpart FG (Treatment of notional loans to New Zealand branches of foreign banks); and

(b) section LB 5 (Tax credits for non-resident withholding tax); and

(c) sections LJ 1 to LJ 3, LJ 6, and LJ 7 (which relate to tax credits for foreign income tax); and

(d) sections LK 1 to LK 5, and LK 7 (which relate to tax credits related to attributed CFC income); and

(db) section RZ 13 (Treatment of prepayments); and

(dc) section YD 5(1)(d), and (4) to (9) (Apportionment of income derived partly in New Zealand); and

(e) sections 32M, 49, 100, Part 9, and sections 165B and 185 of the Tax Administration Act 1994.

Application

(2) The NRWT rules apply to a person who makes a payment that consists of non-resident passive income.

What this section does not apply to

(3) This section does not apply to an amount referred to in section CC 1(2)(a) to (d) (Land) to which section CC 9 (Royalties) applies.

Exception: certain income from land

(4) Despite subsection (3), this section does apply to non-resident passive income that is an amount paid for—

(a) the exploitation of, or right to exploit, plant material or a naturally occurring material or mineral arising in or on the land:

(b) the removal of, or right to remove, plant material or a naturally occurring material or mineral arising in or on the land.

Defined in this Act: amount, non-resident passive income, NRWT rules, pay

Compare: 2004 No 35 s OB 1 "NRWT rules"

Section RF 1(1)(ab): inserted, on 30 March 2017, by section 272(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 1(1)(db): inserted, on 30 March 2017, by section 272(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 1(1)(dc): inserted, on 30 March 2017, by section 272(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 1(3) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 111(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 1(3): added (with effect on 1 April 2008), on 7 December 2009, by section 111(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 1(4) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 111(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 1(4): added (with effect on 1 April 2008), on 7 December 2009, by section 111(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 1 list of defined terms **amount**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

RF 2 Non-resident passive income

Interest, certain dividends, and royalties

(1) **Non-resident passive income** means income having a source in New Zealand that—

(a) a non-resident derives and that consists of—

(i) a dividend other than an investment society dividend:

(ii) a royalty:

(iii) an investment society dividend when the non-resident is not engaged in business in New Zealand through a fixed establishment in New Zealand:

(iv) interest, other than interest derived in the circumstances set out in subsection (2B):

(v) non-resident financial arrangement income; or

(b) a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand derives and that is a dividend other than an investment society dividend.

Inclusion: Capital value increase under inflation-indexed instruments

(1B) **Non-resident passive income** includes an amount, arising at the time of a relevant coupon payment (the **current coupon payment**) equal to the amount given by the formula in section RE 18B(4) (Capital value increase under inflation-indexed instruments: RWT cap) in relation to the current coupon payment, if that current coupon payment is—

(a) non-resident passive income under subsection (1); and

(b) in relation to an inflation-indexed instrument.

Exclusions: non-residents

(2) The following amounts derived by a non-resident are excluded from non-resident passive income:

(a) an amount of exempt income:

(b) interest arising because section EI 2 (Interest from inflation-indexed instruments) applies to an inflation-indexed instrument:

(c) an amount of excluded income under sections CX 56B and CX 56C (which relate to attributed PIE income), as applicable:

(d) an amount derived by a trustee of a trust after the effective date of an election under section HC 33(1) (Choosing to satisfy income tax liability of trustee) for the trust.

Exclusions: dual resident companies

(2BA) The following amounts derived by a New Zealand resident company that is treated under a double tax agreement as not being resident in New Zealand are excluded from non-resident passive income:

(a) an amount of exempt income:

(b) an amount of excluded income under sections CX 56B and CX 56C, as applicable:

(c) an amount derived by a trustee of a trust after the effective date of an election under section HC 33(1) for the trust.

Interest exceptions

(2B) Subsection (1)(a)(iv) does not include interest derived from money lent by a non-resident—

(a) for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand; or

(b) when the non-resident is—

(i) a registered bank engaged in business in New Zealand through a fixed establishment in New Zealand; and

(ii) not associated with the person to whom the money is lent; or

(c) that has given rise to non-resident financial arrangement income under section RF 12E(1).

When subsection (4) applies

(3) Subsection (4) applies in an income year when a person derives non-resident passive income consisting of—

(a) a dividend other than an investment society dividend:

(b) a royalty for the use, production, or reproduction of, or for the right to use, produce, or reproduce, a literary, dramatic, musical, or artistic work in which copyright subsists:

(c) interest or a royalty derived by a life insurer from a company resident in New Zealand when the interest or royalty is treated as arising as a result of the life insurer's election under section EY 49 (Non-resident life insurer becoming resident):

(d) interest or an investment society dividend when the person paying and the person deriving the interest or dividend are not associated persons:

(e) interest when the person paying the interest is a member of a New Zealand banking group.

Final withholding

(4) If the person is a filing taxpayer, the schedular income tax liability for the corresponding tax year under section BC 7 (Income tax liability of person with schedular income) for non-resident passive income referred to in subsection (3) is determined by the amount of tax required to be withheld under this Part.

Exception: minimum amount

(5) Despite subsection (4), if a person derives non-resident passive income consisting of interest, investment society dividends, or a royalty other than those described in subsection (3), the person's income tax liability for the corresponding tax year is the greater of—

(a) the sum of the total non-resident withholding tax (NRWT) for which they are liable and the amount that would be their income tax liability for the tax year if they had not derived non-resident passive income in the tax year:

(b) the amount that would be their income tax liability in the absence of this subsection.

Company deriving minimum amount

(6) For the purposes of subsection (5) for a company, if the total amount of non-resident passive income and other income derived by the company in the corresponding tax year is not more than $1,000, the income tax liability of the company for the tax year is the sum referred to in subsection (5)(a).

Application of financial arrangements rules

(7) The financial arrangements rules do not apply to the calculation of an amount of non-resident passive income except to the extent to which the amount is non-resident financial arrangement income or an amount to which subpart FG (Treatment of notional loans to New Zealand branches of foreign banks) applies.

Interest payable by Commissioner

(8) For interest payable under Part 7 of the Tax Administration Act 1994, NRWT withheld by the Commissioner is treated as paid on the date it is withheld. Section 100 and Part 9 of that Act do not apply to the Commissioner and that interest, but the other provisions of the NRWT rules do apply.

Defined in this Act: amount, amount of tax, associated person, business, Commissioner, company, dividend, double tax agreement, excluded income, exempt income, filing taxpayer, financial arrangements rules, fixed establishment, income, income tax liability, income year, inflation-indexed instrument, interest, investment society dividend, life insurer, money lent, New Zealand, New Zealand banking group, New Zealand resident, non-resident, non-resident financial arrangement income, non-resident passive income, NRWT, NRWT rules, pay, registered bank, resident in New Zealand, royalty, schedular income, schedular income tax liability, source in New Zealand, tax year

Compare: 2004 No 35 ss NG 1(2)–(4), NG 3, NG 4

Section RF 2(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 531(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 2(1): replaced (with effect on 30 August 2022), on 31 March 2023, by section 108(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2(1B) heading: inserted, on 30 June 2014, by section 143(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RF 2(1B): inserted, on 30 June 2014, by section 143(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RF 2(2) heading: replaced (with effect on 30 August 2022), on 31 March 2023, by section 108(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2(2)(b): replaced, on 30 June 2014, by section 143(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RF 2(2)(c): added (with effect on 1 April 2008), on 6 October 2009, by section 531(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 2(2)(c): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 130(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RF 2(2)(c): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 531(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 2(2)(d): inserted, on 23 March 2020, by section 182 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 2(2BA) heading: inserted (with effect on 30 August 2022), on 31 March 2023, by section 108(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2(2BA): inserted (with effect on 30 August 2022), on 31 March 2023, by section 108(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2(2B) heading: inserted, on 30 March 2017, by section 273(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2(2B): inserted, on 30 March 2017, by section 273(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2(2B): amended (with effect on 30 August 2022), on 31 March 2023, by section 108(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2(3)(e): inserted, on 30 March 2017, by section 273(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2(4): amended, on 30 March 2017, by section 273(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2(5): amended (with effect on 1 April 2008), on 6 October 2009, by section 531(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 2(7): amended, on 30 March 2017, by section 273(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2(8): amended (with effect on 1 April 2008), on 24 February 2016, by section 227 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RF 2 list of defined terms **derived from New Zealand**: repealed, on 21 December 2010, by section 130(3)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RF 2 list of defined terms **double tax agreement**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 108(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2 list of defined terms **excluded income**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 531(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 2 list of defined terms **income year**: inserted, on 30 March 2017, by section 273(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2 list of defined terms **inflation-indexed instrument**: inserted, on 30 June 2014, by section 143(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section RF 2 list of defined terms **money lent**: inserted, on 30 March 2017, by section 273(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2 list of defined terms **New Zealand banking group**: inserted, on 30 March 2017, by section 273(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2 list of defined terms **New Zealand resident**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 108(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2 list of defined terms **non-resident financial arrangement income**: inserted, on 30 March 2017, by section 273(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2 list of defined terms **registered bank**: inserted, on 30 March 2017, by section 273(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2 list of defined terms **source in New Zealand**: inserted, on 21 December 2010, by section 130(3)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

RF 2B Non-resident financial arrangement income: outline and concepts

What this section does

(1) This section applies for the purposes of sections RF 2C and RF 12D to RF 12J to provide an outline of the provisions relating to the taxation of non-resident financial arrangement income and to describe the key terms used in the provisions. This section—

(a) operates only as an aid to understanding; and

(b) does not override the definition of any term used in this Act; and

(c) does not prevail in any case where a conflict arises between this section and another provision of this Act.

Purpose

(2) The purpose of the rules for non-resident financial arrangement income is to ensure that the payment of NRWT on interest derived by a related-party lender is aligned with deductions for expenditure that a borrower has under the financial arrangements rules.

Key concepts

(3) The following are the key concepts:

(a) non-resident financial arrangement income, which is the equivalent of interest derived by a lender, *see* section RF 2C:

(b) related-party debt which is a financial arrangement between associated persons, or persons who are regarded as associated, that provides funds to a borrower who is allowed a deduction for expenditure under the arrangement, *see* section RF 12H (Meaning of related-party debt):

(c) indirect associated funding which is an arrangement involving some form of back-to-back lending, *see* section RF 12I (Concepts used for definition of related-party debt).

When does a lender derive non-resident financial arrangement income?

(4) An offshore lender will derive non-resident financial arrangement income when—

(a) they are associated with or related to a borrower who is resident in New Zealand; and

(b) the funding is provided through a financial arrangement that is a related-party debt; and

(c) interest payments on the arrangement are deferred when compared to interest deductions by the borrower; and

(d) the borrower's expenditure on related-party debt is more than a de minimis amount.

How is the income calculated?

(5) The non-resident financial arrangement income of a lender is aligned with the amount of the expenditure incurred by the borrower on related-party debt, *see* section RF 12D.

What are first year adjustments?

(6) An adjustment is made for the first year in which a lender derives non-resident financial arrangement income. The lender is treated as having derived an additional amount that is sufficient to reverse the deferral described in subsection (4)(c), *see* section RF 12F.

How is the income taxed?

(7) The lender's income is non-resident passive income from which NRWT must be withheld, *see* section RF 2.

Defined in this Act: amount, associated person, deduction, financial arrangement, financial arrangements rules, interest, non-resident financial arrangement income, non-resident passive income, NRWT, pay, related-party debt, resident in New Zealand

Section RF 2B: inserted, on 30 March 2017, by section 274 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2B(1): amended, on 29 March 2018 (with effect on 30 March 2017), by section 230 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RF 2B list of defined terms **approved issuer**: repealed, on 18 March 2019, by section 261 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RF 2C Meaning of non-resident financial arrangement income

When this section applies

(1) This section, and sections RF 12D to RF 12J, apply for the purposes of the NRWT rules when—

(a) a person (the **borrower**) is—

(i) resident in New Zealand; or

(ii) a non-resident carrying on a business in New Zealand through a fixed establishment in New Zealand; and

(b) the borrower is party to a financial arrangement with a non-resident (the **lender**) through which funding is provided to the borrower, other than funding provided by the lender through a fixed establishment in New Zealand; and

(c) the financial arrangement—

(i) gives rise to non-resident passive income under section RF 2(1)(a)(iv); or

(ii) would give rise to income referred to in subparagraph (i) in the absence of section RF 2(2B)(c).

Meaning of non-resident financial arrangement income

(2) **Non-resident financial arrangement income**, for a financial arrangement and an income year, means an amount having a source in New Zealand that is accrued on a related-party debt and derived by a lender in the income year when—

(a) non-resident financial arrangement income was derived in relation to the arrangement by a lender in an earlier income year; or

(b) the following requirements are met for the income year:

(i) the total expenditure incurred by the borrower on related-party debt is more than the de minimis set out in subsection (3); and

(ii) in relation to the financial arrangement, the deferral calculation set out in subsection (4) is less than 90%.

Related-party de minimis

(3) The de minimis applies when the total expenditure on all related-party debt incurred in the previous income year under the financial arrangements rules by the borrower, and all companies that are in the same group of companies as the borrower, is $40,000 or less.

Deferral calculation

(4) Subject to subsection (6), the deferral calculation referred to in subsection (2)(b)(ii) is the percentage calculated using the formula—

accumulated payments ÷ (accumulated accruals − hybrid deductions).

Definition of items in formula

(5) In the formula,—

(a) **accumulated payments** for the income year is the total interest paid in relation to the financial arrangement by the borrower for the period that—

(i) starts on the day on which the financial arrangement first meets the requirements for a related-party debt; and

(ii) ends on the NRFAI due date for the borrower's income year:

(b) **accumulated accruals** is an amount equal to the total expenditure that the borrower incurs under the arrangement when the arrangement is a related-party debt for the period that—

(i) starts on the day on which the financial arrangement first meets the requirements for a related-party debt; and

(ii) ends on the last day of the income year before the income year referred to in paragraph (a)(ii):

(c) **hybrid deductions** is an amount equal to the part of the expenditure that the borrower incurs under the arrangement in the period given by paragraph (b) that has been denied as a deduction under subpart FH (Hybrid and branch mismatches of deductions and income from multi-jurisdictional arrangements) when the expenditure is incurred and is not allowed as a deduction under the subpart in that period, on the date referred to in paragraph (b)(ii).

When calculation treated as more than 90%

(6) For the purposes of the calculation in subsection (4), the result of the formula is treated as more than 90% if—

(a) the item **accumulated accruals** is equal to the item **hybrid deductions**:

(b) the date in subsection (5)(b)(ii) occurs before the date in subsection (5)(b)(i).

NRFAI due date

(7) The **NRFAI due date**, for a financial arrangement, is the due date for the payment of NRWT for the period that ends on the last day of the second month following the end of an income year.

Foreign exchange movements

(8) For the purposes of subsections (4) and (5), the calculation of total interest and total expenditure must be made in the currency of the financial arrangement.

Choosing to disregard de minimis and deferral calculation

(9) See section RF 12G for elections to disregard the related-party de minimis and the deferral calculation.

Example

Three years ago, NZ Sub A Ltd (A) borrowed NZ$1m from a non-resident associate (Foreign Lender Ltd). A's financial arrangement expenditure on this arrangement for each year has been $42,000, $50,000 and $53,000. For the same 3-year period, A has paid interest of $19,000, $20,000 and $21,000. At the end of the second year, the deferral calculation is ($19,000 + $20,000) ÷ $42,000 = 92.9%, so no NRFAI arises. However, at the end of the third year the deferral calculation is ($19,000 + $20,000 + $21,000) ÷ ($42,000 + $50,000) = 65.2%. As this is below 90%, NRFAI arises for the first time in the third year. The NRFAI will be treated as paid under section RF 12E on the last day of the second month after A's balance date.

Defined in this Act: amount, amount of tax, arrangement, associated person, company, financial arrangement, financial arrangements rules, fixed establishment, income year, interest, money lent, non-resident, non-resident financial arrangement income, non-resident passive income, New Zealand, New Zealand banking group, NRFAI due date, NRWT, NRWT rules, pay, related-party debt, resident in New Zealand, ring-fenced tax loss, source in New Zealand

Section RF 2C: inserted, on 30 March 2017, by section 274 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 2C(1)(c)(i): amended (with effect on 30 August 2022), on 31 March 2023, by section 109 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 2C(4) formula: amended, on 1 July 2018, by section 46(1) (and see section 46(4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section RF 2C(5)(c): inserted, on 1 July 2018, by section 46(2) (and see section 46(4) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section RF 2C(6)(a): replaced (with effect on 1 July 2018), on 30 March 2021, by section 133(1) (and see section 133(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section RF 2C list of defined terms **approved issuer**: repealed, on 18 March 2019, by section 262 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RF 2C list of defined terms **arrangement**: inserted, on 1 July 2018, by section 46(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section RF 2C list of defined terms **ring-fenced tax loss**: inserted, on 1 July 2018, by section 46(3) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Withholding obligations

RF 3 Obligation to withhold amounts of tax for non-resident passive income

Withholding amount of tax

(1) A person who makes a payment of non-resident passive income must withhold the amount of tax for the payment and pay it to the Commissioner. The obligation to withhold arises under section RA 6(2) (Withholding and payment obligations for passive income) at the time of payment.

Payments derived by non-resident partners

(1B) For the purposes of subsection (1), when a payment of non-resident passive income, being interest that has a New Zealand source, is derived by a non-resident as a limited partner in a limited partnership, the limited partnership may choose to be treated as the person who makes the payment of that non-resident passive income to the extent of that payment.

Payments made by limited partners

(1C) For the purposes of subsection (1), when a person makes a payment of non-resident passive income that consists of interest as a limited partner in a limited partnership, the limited partnership may choose to be treated as the person who makes the payment of that non-resident passive income to the extent of that payment.

Election by limited partnerships

(1D) A limited partnership is treated as having made an election under subsection (1B) or (1C) if the limited partnership withholds and pays the tax to the Commissioner under subsection (1) in relation to that payment.

Election before payment made

(1E) Despite subsection (1D), a limited partnership is also treated as having made an election under subsection (1B) if the limited partnership notifies the Commissioner before a payment of non-resident passive income referred to in that subsection is made that the limited partnership chooses to be treated as the person who makes that payment.

Exclusion

(2) Despite subsection (1), no obligation to withhold NRWT arises in relation to an amount treated as a dividend under section GB 1(3) (Arrangements involving dividend stripping).

Defined in this Act: amount, amount of tax, Commissioner, dividend, interest, limited partner, limited partnership, New Zealand, non-resident, non-resident passive income, NRWT, pay

Compare: 2004 No 35 s NG 8(1)

Section RF 3(1) heading: inserted (with effect on 1 April 2008), on 7 December 2009, by section 112(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 3(1B) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(1B): inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(1C) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(1C): inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(1D) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(1D): inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(1E) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(1E): inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(1) (and see section 126(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3(2) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 112(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 3(2): added (with effect on 1 April 2008), on 7 December 2009, by section 112(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 3 list of defined terms **amount**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 3 list of defined terms **dividend**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 3 list of defined terms **interest**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3 list of defined terms **limited partner**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3 list of defined terms **limited partnership**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3 list of defined terms **New Zealand**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3 list of defined terms **non-resident**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 126(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 3 list of defined terms **NRWT**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

RF 4 Non-resident passive income received by agents and others

When this section applies

(1) This section applies when—

(a) an agent, custodial institution, or other person in New Zealand receives a payment of non-resident passive income on behalf of a person entitled to the payment; and

(b) some or all of the amount of tax for the payment has not been withheld.

Obligation to withhold: agent, custodial institution, or other person

(2) The agent, custodial institution, or other person must withhold the amount of tax referred to in subsection (1)(b) for the payment and pay it to the Commissioner. The obligation to withhold arises at the time of receipt.

Notifying agent, custodial institution, or other person

(3) If, in the circumstances described in subsection (1)(a), the person paying the non-resident passive income has withheld the amount of tax for the payment, they must notify the agent, custodial institution, or other person of the amount withheld. Notification must be made at the time the payment is made.

Agreements to transfer withholding obligations: outsourcing withholding

(4) A custodial institution that is required to withhold an amount of tax for a payment may, before the date on which the payment is received by the institution, enter into an agreement with another person (**person B**) for person B to withhold the amount of tax and pay it to the Commissioner. However, if person B does not withhold the amount of tax and pay it to the Commissioner, the withholding obligation remains with the custodial institution.

Agreements to transfer withholding obligations: passing obligation to other custodial institutions

(5) When a payment of investment income is paid on or transferred through interposed custodial institutions before being paid to an end investor, the custodial institution that is last in the chain may enter into an agreement with another custodial institution that precedes them in the chain, for the latter institution to withhold the amount of tax for the payment and pay it to the Commissioner. In this case, the withholding obligation passes to the latter institution, and the final custodial institution's obligation is discharged.

Defined in this Act: amount, amount of tax, Commissioner, custodial institution, end investor, investment income, New Zealand, non-resident passive income, notify, pay

Compare: 2004 No 35 s NG 8(2), (3)

Section RF 4(1)(a): amended, on 1 April 2020, by section 183(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(2) heading: amended, on 1 April 2020, by section 183(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(2): amended, on 1 April 2020, by section 183(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(3) heading: amended, on 1 April 2020, by section 183(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(3): amended, on 1 April 2020, by section 183(1) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(4) heading: inserted, on 1 April 2020, by section 183(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(4): inserted, on 1 April 2020, by section 183(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(5) heading: inserted, on 1 April 2020, by section 183(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4(5): inserted, on 1 April 2020, by section 183(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4 list of defined terms **amount**: inserted, on 1 April 2020, by section 183(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4 list of defined terms **custodial institution**: inserted, on 1 April 2020, by section 183(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4 list of defined terms **end investor**: inserted, on 1 April 2020, by section 183(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section RF 4 list of defined terms **investment income**: inserted, on 1 April 2020, by section 183(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

RF 5 When amounts of tax already withheld

A person is not required to withhold NRWT when some or all of the payment consists of resident passive income to the extent to which the amount of tax has already been collected.

Defined in this Act: amount of tax, non-resident passive income, NRWT, pay, resident passive income

Compare: 2004 No 35 s NF 2(6)

RF 6 When amounts of tax not withheld or partly withheld

Person as filing taxpayer

(1) When a person (**person A**) is required under section RA 6(2) (Withholding and payment obligations for passive income) to withhold NRWT and does not withhold the full amount required under this Part, the person (**person B**) deriving the non-resident passive income is treated for this purpose as a filing taxpayer.

When amount treated as dividend

(1B) A person who derives non-resident passive income that is a dividend under section GB 1(3) (Arrangements involving dividend stripping) is treated as a filing taxpayer.

Debt payable

(2) The amount of tax referred to in subsection (1) as not withheld is a debt payable by person A to the Commissioner, and is treated as having become due under section RA 10 (When obligations not met).

Non-cash dividends

(3) Subsection (2) applies in relation to a non-cash dividend described in section RF 10 as if the amount equal to the amount of tax for the dividend were the amount payable.

Commissioner's powers to recover

(4) In recovering the amount, the Commissioner may take the steps the Commissioner thinks fit in relation to person A or person B, whether or not they are the same person.

Recovery of NRWT payable by person but paid by another person

(5) Section 165 of the Tax Administration Act 1994 applies if NRWT payable by person B is, in fact, paid by another person.

Defined in this Act: amount, amount of tax, Commissioner, filing taxpayer, non-cash dividend, non-resident passive income, NRWT, pay

Compare: 2004 No 35 s NG 13

Section RF 6(1): amended (with effect on 1 April 2008), on 29 March 2025, by section 127(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 6(1): amended (with effect on 1 April 2008), on 29 March 2025, by section 127(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 6(1B) heading: inserted (with effect on 1 April 2008), on 7 December 2009, by section 113(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 6(1B): inserted (with effect on 1 April 2008), on 7 December 2009, by section 113(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 6(2): amended (with effect on 1 April 2008), on 29 March 2025, by section 127(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 6(4): amended (with effect on 1 April 2008), on 29 March 2025, by section 127(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 6(5) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 127(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 6(5): inserted (with effect on 1 April 2008), on 29 March 2025, by section 127(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Calculating amounts of tax

RF 7 General rate for NRWT

When this section applies

(1) This section applies to a payment of non-resident passive income other than a payment to which sections RF 8 to RF 12 apply.

Calculation of amount of tax

(2) The amount of tax is calculated using the formula—

payment × 0.15.

Defined in this Act: amount of tax, non-resident passive income, NRWT, pay

Compare: 2004 No 35 s NG 2(1)(c)

RF 8 Certain dividends

When this section applies

(1) This section applies when a person makes a payment of non-resident passive income that consists of a dividend, except to the extent to which the payment is—

(a) an investment society dividend; or

(b) a supplementary dividend under subpart LP (Tax credits for supplementary dividends); or

(c) *[Repealed]*

(d) a fully imputed dividend; or

(e) *[Repealed]*

(f) *[Repealed]*

(g) an amount paid by a foreign investment PIE to a notified foreign investor under section HM 44B (NRWT calculation option) to the extent to which the amount represents the fully imputed portion of a dividend and the related supplementary dividend derived by the PIE.

Calculation of amount of tax

(2) The amount of tax is calculated using the formula—

dividend payment × 0.3.

Defined in this Act: amount of tax, dividend, foreign investment PIE, fully imputed, investment society dividend, non-resident passive income, notified foreign investor, pay, supplementary dividend

Compare: 2004 No 35 s NG 2(1)(a)

Section RF 8(1)(c): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 128(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 8(1)(e): repealed, on 1 April 2017, by section 275(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 8(1)(f): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 128(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 8(1)(g): inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 150(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RF 8 list of defined terms **CTR additional dividend**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 128(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 8 list of defined terms **FDP**: repealed, on 1 April 2017, by section 275(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 8 list of defined terms **foreign investment PIE**: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 150(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RF 8 list of defined terms **fully credited for conduit tax relief**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 128(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 8 list of defined terms **fully imputed**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 532 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 8 list of defined terms **notified foreign investor**: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 150(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

RF 9 When dividends fully imputed

When this section applies

(1) This section applies for the purposes of sections RF 8, RF 10, RF 11B, and RF 11BB to determine the extent to which a dividend is fully imputed.

Fully imputed

(2) The extent to which a dividend is fully imputed is calculated using the formula—

$$(\text{imputation credit amount} + \text{supplementary dividend amount}) \times (1 - \text{tax rate}) \div \text{tax rate}.$$

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **imputation credit amount** is the amount of an imputation credit attached to the dividend:

(b) **supplementary dividend amount** is the amount of a supplementary dividend payable under subpart LP (Tax credits for supplementary dividends) for the dividend:

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

Fully credited for FDP

[Repealed]

(4) *[Repealed]*

Definition of items in formula

[Repealed]

(5) *[Repealed]*

Fully credited for conduit tax relief

[Repealed]

(6) *[Repealed]*

Definition of item in formula

[Repealed]

(7) *[Repealed]*

Defined in this Act: amount, dividend, imputation credit, income tax, pay, supplementary dividend, tax year

Compare: 2004 No 35 ss NG 2(3), (4), OB 1 "fully conduit tax relief credited"

Section RF 9 heading: amended, on 1 April 2017, by section 276(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9(1): amended (with effect on 30 August 2022), on 31 March 2023, by section 110 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section RF 9(1): amended, on 1 April 2017, by section 276(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9(1): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 129(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 9(1): amended, on 1 February 2010, by section 114 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 9(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 533(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 9(3)(c) **tax rate**: amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RF 9(4) heading: repealed, on 1 April 2017, pursuant to section 276(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9(4): repealed, on 1 April 2017, by section 276(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9(5) heading: repealed, on 1 April 2017, pursuant to section 276(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9(5): repealed, on 1 April 2017, by section 276(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9(6) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 129(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 9(6): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 129(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 9(7) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 129(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 9(7): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 129(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 9 list of defined terms **FDP**: repealed, on 1 April 2017, by section 276(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 276(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 9 list of defined terms **fully credited for conduit tax relief**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 129(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

RF 10 Non-cash dividends

When subsections (2) to (5) apply

(1) Subsections (2) to (5) apply when a person makes a payment of non-resident passive income that consists of a non-cash dividend to the extent to which the amount is not fully imputed.

When amount not taxable bonus issue

(2) The amount of tax, when the payment is not a taxable bonus issue, is calculated using the formula—

$$\text{rate A} \div (1 - \text{rate A}) \times \text{dividend payment}.$$

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **rate A** is the rate of tax set out in section RF 8:

(b) **dividend payment** is the amount of the dividend paid to the extent to which the amount of the dividend is not fully imputed, as described in section RF 9(2), disregarding the amount of tax to be withheld.

(c) *[Repealed]*

(d) *[Repealed]*

When amount taxable bonus issue

(4) The amount of tax, when the payment is a taxable bonus issue, is calculated using the formula—

$$\text{rate A} \times \text{dividend payment}.$$

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **rate A** is the rate of tax set out in section RF 8:

(b) **dividend payment** is the amount of the dividend paid calculated under section CD 7(2), CD 7B(2), or CD 8(3) (which relate to bonus issues)—

(i) other than a dividend referred to in the item **bonus issue**:

(ii) to the extent to which the amount of the dividend is not fully imputed (as described in section RF 9).

(c) *[Repealed]*

(d) *[Repealed]*

(e) *[Repealed]*

Fully imputed non-cash dividends

(5B) When a payment of non-resident passive income consists of a non-cash dividend, the rate of NRWT payable on the amount is 0% to the extent to which the amount is fully imputed.

Amount treated as amount withheld and paid under NRWT rules

(6) A person who is liable under this section for NRWT must pay the amount to the Commissioner. The amount is treated as if it were an amount withheld and paid under the NRWT rules for the purposes of this Act and the Tax Administration Act 1994.

Amount part of dividend

[Repealed]

(7) *[Repealed]*

Defined in this Act: amount, amount of tax, Commissioner, dividend, fully imputed, non-cash dividend, non-resident passive income, NRWT, NRWT rules, pay, tax, taxable bonus issue

Compare: 2004 No 35 ss NG 2(1)(b)(ii), NG 9

Section RF 10(1) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 534(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 10(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 534(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 10(2) formula: replaced, on 1 April 2017, by section 277(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(3)(a): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 130(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 10(3)(b): replaced, on 1 April 2017, by section 277(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(3)(c): repealed, on 1 April 2017, by section 277(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(3)(d): repealed, on 1 April 2017, by section 277(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(4) formula: replaced, on 1 April 2017, by section 277(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(5)(b): amended (with effect on 1 October 2012), on 2 November 2012, by section 151(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RF 10(5)(b)(ii): replaced, on 1 April 2017, by section 277(6) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(5)(c): repealed, on 1 April 2017, by section 277(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(5)(d): repealed, on 1 April 2017, by section 277(8) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10(5)(e): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 130(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 10(5B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 534(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 10(5B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 534(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 10(7) heading: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, pursuant to section 130(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 10(7): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 130(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 10 list of defined terms **CTR additional dividend**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 130(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 10 list of defined terms **FDP**: repealed, on 1 April 2017, by section 277(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10 list of defined terms **FDP credit**: repealed, on 1 April 2017, by section 277(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 10 list of defined terms **fully credited for conduit tax relief**: repealed (with effect on 1 July 2011), on 7 May 2012, by section 130(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section RF 10 list of defined terms **fully imputed**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 534(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 10 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 534(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RF 11 Dividends paid to companies associated with non-residents

When this section applies

(1) This section applies when—

(a) a non-resident formerly held a share in a company (**company A**) resident in New Zealand; and

(b) while the non-resident held the share, company A was associated with the non-resident; and

(c) the non-resident has disposed of the share to another company (**company B**) that is resident in New Zealand and associated with the non-resident; and

(d) some or all of the price for which company B acquired the share remains after the acquisition unpaid or owing in any way to the non-resident, whether or not the amount is secured.

Dividend derived

(2) While an amount of the price remains unpaid or owing, a dividend paid to company B in relation to the share is treated as having been paid to the non-resident and as derived as a dividend by the non-resident at the time the dividend is paid.

Defined in this Act: amount, company, dividend, non-resident, pay, resident in New Zealand, share

Compare: 2004 No 35 s NG 14

Section RF 11 heading: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 535(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 11(1)(b): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 535(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 11(1)(c): substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 535(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 11 list of defined terms **control**: repealed, on 1 April 2010, by section 594 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RF 11B Dividends paid by companies in certain situations

The rate of NRWT payable on a payment of non-resident passive income in the form of a dividend paid by a company to a non-resident is—

(a) to the extent to which the payment is a fully-imputed dividend, 0% if—

(i) the non-resident has a direct voting interest in the company of 10% or more:

(ii) the non-resident does not have a direct voting interest in the company of 10% or more and, in the absence of this section, the post-treaty tax rate for the dividend would be less than 15% if no imputation credits were attached to the payment:

(b) to the extent to which the payment is not a fully-imputed dividend, the post-treaty tax rate for the dividend that, in the absence of this section, would apply if no imputation credits were attached to the payment.

Defined in this Act: company, direct voting interest, dividend, fully imputed, imputation credits, non-resident, non-resident passive income, NRWT, pay, post-treaty tax rate

Section RF 11B: replaced (with effect on 1 February 2010), on 2 November 2012, by section 152 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RF 11B list of defined terms **fully imputed**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RF 11B list of defined terms **fully-imputed dividend**: repealed, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RF 11BB Certain dividends paid to dual resident companies

When this section applies

(1) This section applies when a company makes a payment of non-resident passive income in the form of a dividend to a New Zealand resident company (the **recipient**) that is treated under a double tax agreement as not being resident in New Zealand to the extent to which the dividend is not fully imputed, if—

(a) the requirements of section CW 10(1)(b) to (d), (5), and (6) (Dividend within New Zealand wholly-owned group) are met; and

(b) the requirement of section CW 10(1)(f) is not met; and

(c) the recipient becomes a company that is not a foreign company before the DRCD deferral date.

Amount of tax

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

(a) the amount of tax that the payer would be required to withhold and pay in the absence of this section; and

(b) the sum of all dividends paid by the recipient while it was treated under the double tax agreement as not being resident in New Zealand to the extent to which those dividends were not fully imputed.

Defined in this Act: amount of tax, company, dividend, double tax agreement, DRCD deferral date, foreign company, fully imputed, New Zealand resident, non-resident passive income, pay, resident in New Zealand

Section RF 11BB: inserted (with effect on 30 August 2022), on 31 March 2023, by section 111 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

RF 11C Interest paid by non-resident companies to non-residents

When this section applies

(1) This section applies in relation to an amount of non-resident passive income that consists of interest and is paid—

(a) by a company that is resident in a country or territory outside New Zealand for the purposes of a double tax agreement; and

(b) to a person that is resident in a country or territory outside New Zealand for the purposes of the double tax agreement.

Application of double tax agreement and NRWT rules to amount

(2) The double tax agreement and the NRWT rules apply to the amount as being interest, despite any provision in the double tax agreement that would otherwise require the amount to be treated as being a dividend.

Defined in this Act: amount, company, dividend, double tax agreement, interest, New Zealand, non-resident passive income, NRWT rules, pay, tax

Section RF 11C: inserted (with effect on 1 April 2008), on 27 June 2018, by section 47(1) (and see section 47(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

RF 12 Interest paid by approved issuers or transitional residents

When this section applies

(1) This section applies in relation to an amount of non-resident passive income that consists of—

(a) interest that—

(i) is paid by an approved issuer under a registered security; and

(ii) unless the approved issuer is a member of a New Zealand banking group as described in section FE 33 (New Zealand banking group) or a limited partnership, is derived by a person not associated with the approved issuer except by being a beneficiary of a trust (a **security trust**) established for the main purpose of protecting and enforcing beneficiaries' rights under the registered security; and

(iib) if the approved issuer is a limited partnership that has chosen to be treated as the person making the payment under section RF 3(1B), is derived by a non-resident as a limited partner in the limited partnership and the limited partner is not associated with the borrower other than as a beneficiary of a security trust; and

(iic) if the approved issuer is a limited partnership that has chosen to be treated as the person making the payment under section RF 3(1C), is derived by a person not associated with the limited partner referred to in that section other than as a beneficiary of a security trust; and

(iii) is not a payment to which section RF 12B applies; and

(iv) if the interest relates to related-party debt, is derived at a time when the person is not associated with the approved issuer other than as a beneficiary of a security trust or as a partner of a partnership that is a beneficiary of a security trust, and the funding provided by the lender under the related-party debt does not meet the requirements in section RF 12H(1)(a)(ii), and the lender does not meet the requirements in section RF 12H(1)(a)(iii):

(b) interest that—

(i) is paid by a transitional resident in relation to money borrowed by them while non-resident; and

(ii) is not paid in relation to a business carried on through a fixed establishment in New Zealand; and

(iii) is derived by a person not associated with the transitional resident; and

(iv) is not a payment to which section RF 12B applies.

Zero-rating

(2) The rate of NRWT payable on the amount is 0%.

Interest paid under registered securities

(3) For the purposes of the NRWT rules, an amount of interest is paid by an approved issuer under a registered security only if it is treated as paid in relation to a registered security under section 86I of the Stamp and Cheque Duties Act 1971.

Defined in this Act: amount, approved issuer, associated person, business, company, fixed establishment, income, interest, life insurer, limited partner, limited partnership, New Zealand, New Zealand banking group, non-resident, non-resident passive income, NRWT, NRWT rules, partner, partnership, pay, registered security, related-party debt, resident in New Zealand, transitional resident

Compare: 2004 No 35 s NG 2(1)(b)(i), (ib)

Section RF 12: substituted (with effect on 1 April 2008), on 6 October 2009, by section 536(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 12(1)(a)(ii): replaced, on 30 March 2017, by section 278(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 12(1)(a)(ii): amended (with effect on 1 April 2008), on 29 March 2025, by section 128(1) (and see section 128(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12(1)(a)(ii): amended (with effect on 30 March 2017), on 30 March 2022, by section 163(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RF 12(1)(a)(iib): inserted (with effect on 1 April 2008), on 29 March 2025, by section 128(2) (and see section 128(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12(1)(a)(iic): inserted (with effect on 1 April 2008), on 29 March 2025, by section 128(2) (and see section 128(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12(1)(a)(iii): amended, on 30 March 2017, by section 278(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 12(1)(a)(iv): replaced (with effect on 30 March 2017), on 30 March 2022, by section 163(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RF 12(1)(a)(iv): amended (with effect on 1 April 2008), on 29 March 2025, by section 128(3) (and see section 128(5) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12(3): amended (with effect on 1 April 2008), on 7 December 2009, by section 116 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RF 12 list of defined terms **limited partner**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 128(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12 list of defined terms **limited partnership**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 128(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12 list of defined terms **New Zealand banking group**: inserted, on 30 March 2017, by section 278(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 12 list of defined terms **partner**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 128(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12 list of defined terms **partnership**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 128(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12 list of defined terms **related-party debt**: inserted, on 30 March 2017, by section 278(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 12B Interest derived jointly with residents

When payment derived jointly with resident

(1) If a person makes a payment of non-resident passive income that consists of interest derived by 2 or more persons jointly and at least 1 person deriving the interest is a New Zealand resident, the amount of tax for the payment is calculated using the formula—

(tax rate × (interest paid + foreign withholding tax)) − foreign withholding tax.

Definition of items in formula

(2) In the formula,—

(a) **tax rate** is the basic rate set out in schedule 1, part D, clause 3 or 4 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **interest paid** is the amount of interest paid before the amount of tax is determined:

(c) **foreign withholding tax** is the amount of foreign withholding tax paid or payable on the amount of interest paid.

Treatment as filing taxpayer

(3) For the purposes of this section, the New Zealand resident referred to in subsection (1) is treated as a filing taxpayer.

Interest derived by partners of partnerships

(4) Interest derived by 2 or more persons jointly includes interest derived by partners in a partnership.

Exclusion

(5) Despite subsection (1), this section does not apply to a payment of non-resident passive income that consists of interest derived by a non-resident as a limited partner in a limited partnership when 1 or more of the partners in that partnership is a New Zealand resident.

Defined in this Act: amount, amount of tax, filing taxpayer, foreign withholding tax, interest, limited partner, limited partnership, New Zealand resident, non-resident, non-resident passive income, partner, partnership, pay

Compare: 2004 No 35 s NG 2(1)(ab)

Section RF 12B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 536(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 12B(4) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(1) (and see section 129(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B(4): inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(1) (and see section 129(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B(5) heading: inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(1) (and see section 129(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B(5): inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(1) (and see section 129(3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B list of defined terms **limited partner**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B list of defined terms **limited partnership**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B list of defined terms **non-resident**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B list of defined terms **partner**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RF 12B list of defined terms **partnership**: inserted (with effect on 1 April 2008), on 29 March 2025, by section 129(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

RF 12C Amount derived from non-resident life insurer becoming resident

When this section applies

(1) This section applies when an amount of non-resident passive income is—

(a) derived by a life insurer from a company resident in New Zealand; and

(b) treated as income as a result of the granting of the insurer's application under section EY 49 (Non-resident life insurer becoming resident).

Zero-rating

(2) The rate of NRWT payable on the amount is 0%.

Defined in this Act: amount, apply, company, life insurer, New Zealand, non-resident passive income, NRWT, pay, resident in New Zealand

Compare: 2004 No 35 s NG 2(1)(b)(iii)

Section RF 12C: inserted (with effect on 1 April 2008), on 6 October 2009, by section 536(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RF 12C list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Certain financial arrangements involving related-party debt

Heading: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 12D Determining amount of non-resident financial arrangement income

Amount of income

(1) The amount of non-resident financial arrangement income derived by a lender in an income year is an amount equal to the expenditure incurred in the income year on the related-party debt by the borrower.

Applying general rule

(2) Subsections (3), (4), (5), (6), and (7) apply for the purposes of subsection (1) and sections RF 2B, RF 2C, RF 12E to RF 12J, and RZ 13 (Treatment of prepayments).

Expenditure

(3) **Expenditure** excludes an amount that may be an expense of the borrower under the arrangement but is not, and will not be, an amount received by the lender.

Spreading method

(4) For financial arrangements involving related-party debt, the spreading method that must be applied in determining the amount incurred is the method used by the borrower for the financial arrangement under subpart EW (Financial arrangements rules) excluding the following methods for which another spreading method must be substituted:

(a) the fair value method:

(b) the market valuation method under section EW 18 (Market valuation method).

Foreign exchange movements

(5) The calculation of total interest and total expenditure must be made in the currency of the financial arrangement.

When lender's income zero

(6) In the calculation of non-resident financial arrangement income, if the borrower has income on the related-party debt, the amount derived by the lender is treated as zero.

Part years

(7) For the purposes of subsection (1), a reference to an income year includes a reference to a part of an income year.

Example

NZ Sub B Ltd (B) has borrowed US$100m from its non-resident parent and will repay US$125m in 5 years' time. Calculated in US dollars, the financial arrangement expenditure for each year is US$4m, US$4.5m, US$5m, US$5.5m, and US$6m respectively. B must calculate NRFAI in US dollars for each year then, for the purposes of paying NRWT, convert this into NZ dollars using the currency conversion in subpart YF (Currency conversion). B has also entered into a hedge to buy US$125m in 5 years' time for NZ$200m. Because the hedge does not give rise to interest or NRFAI, income or expenditure relating to the hedge is excluded from B's NRWT calculations.

Defined in this Act: amount, expenditure, fair value method, financial arrangement, income, income year, non-resident financial arrangement income, related-party debt, spreading method

Section RF 12D: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 12E When non-resident financial arrangement income treated as paid

Amount paid

(1) An amount of non-resident financial arrangement income is treated as paid on the last day of the second month following the end of the borrower's income year.

When debt matures, ends, or no longer qualifies

(2) Despite subsection (1), if a related-party debt matures, ends, or no longer qualifies as a related-party debt during the borrower's income year, the non-resident financial arrangement income is treated as paid on the last day of the second month following the relevant event.

Defined in this Act: amount, income year, non-resident financial arrangement income, pay, related-party debt

Section RF 12E: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 12F Adjustments: first year additional amounts

When this section applies

(1) This section applies for the first income year in which a lender derives non-resident financial arrangement income under a financial arrangement. It increases the lender's income by adding an amount that the lender would have

derived if the financial arrangement had always given rise to non-resident financial arrangement income.

Formula

(2) The amount is calculated using the formula—

total accrual income − total interest.

Definition of items in formula

(3) In the formula,—

(a) **total accrual income** is the total expenditure incurred by the borrower under the arrangement to the extent to which the arrangement is held by a non-resident person for the period that—

(i) starts on the date on which the borrower became party to the arrangement; and

(ii) ends on the last day of the income year that precedes the first income year:

(b) **total interest** is the total interest paid by the borrower to all non-residents for the period that—

(i) starts on the date on which the borrower became party to the arrangement; and

(ii) ends on the NRFAI due date for the borrower's income year.

Example *continued from section RF 2C*

Foreign Lender Ltd has derived NRFAI for the first time in the third year of a loan to NZ Sub A Ltd (A). The NRFAI derived for this year is equal to A's financial arrangement expenditure for the third year of $53,000. However, as this year is the first in which Foreign Lender Ltd has derived NRFAI on this related-party debt, it also derives an additional amount of ($42,000 + $50,000) – ($19,000 + $20,000 + $21,000) = $32,000.

Defined in this Act: amount, financial arrangement, income, income year, interest, non-resident, non-resident financial arrangement income, NRFAI due date, NRWT, pay, related-party debt

Section RF 12F: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 12G Choosing to treat income as non-resident financial arrangement income

When this section applies

(1) This section applies for the first income year in which the borrower is party to a financial arrangement described in section RF 2C(1)(b).

Elections related to de minimis

(2) The borrower may choose to disregard the application of the related-party de minimis referred to in section RF 2C(3).

Elections related to deferral calculation

(3) Despite section RF 2C(4), if the result of the deferral calculation by the borrower is, or is treated as, more than 90%, they may choose to disregard the application of the calculation for an arrangement—

(a) that is for a period of more than 12 months; and

(b) in relation to which they reasonably expect non-resident financial arrangement income will arise for a later income year.

Making elections

(4) The election must be made by notifying the Commissioner by the earlier of—

(a) the first day on which interest described in section RF 2(1)(a)(iv) is paid:

(b) the last day of the income year in which the arrangement becomes a related-party debt.

Example

NZ Sub C Ltd (C) has borrowed $500,000 from its non-resident parent. Although interest accrues on this loan, C does not expect to make any interest payments for some years. C has also borrowed from a bank but has no other related-party loans. C's expected financial arrangement expenditure on the related-party debt for the first 3 years is $32,000, $36,000 and $41,000. C will not have to calculate whether NRFAI arises until the end of the third year as this is when the related party de minimis is reached. However, C expects that once the related party de minimis is reached, NRFAI will arise because there are expected to be no interest payments. Therefore, C notifies Inland Revenue during the first year, that it will withhold NRWT on NRFAI from the start of the first year.

Defined in this Act: Commissioner, financial arrangement, income year, inform, interest, non-resident financial arrangement income, notify, related-party debt

Section RF 12G: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RF 12G(4)(a): amended (with effect on 30 August 2022), on 31 March 2023, by section 112 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

RF 12H Meaning of related-party debt

Meaning of related-party debt

(1) **Related-party debt** means a financial arrangement under which—

(a) a person (the **lender**) is party to an arrangement that provides funds to another person (the **borrower**) when—

(i) the lender and borrower are associated persons; or

(ii) the funding is provided through an indirect associated funding arrangement, as described in section RF 12I(2); or

(iii) the lender is a member of a non-resident owning body that is associated with the borrower, as described in section RF 12I(3); and

(b) expenditure arises for the borrower for which they are allowed a deduction.

New Zealand banking group exclusion

(2) Subsection (1), other than paragraph (a)(ii), does not apply to a financial arrangement to which a member of a New Zealand banking group as determined under section FE 33 (New Zealand banking group) is party.

Associated persons

(3) When subsection (1)(a)(iii) applies, the borrower and the member of the non-resident owning body are treated as if they were associated for the purposes of this section, and sections RF 2C, RF 12, RF 12D to RF 12G, RF 12I, and RF 12J and section 32M of the Tax Administration Act 1994.

Defined in this Act: amount, associated person, deduction, financial arrangement, income year, New Zealand banking group, non-resident owning body, related-party debt

Section RF 12H: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 12I Concepts used for definition of related-party debt

When this section applies

(1) This section applies for the purposes of section RF 12H to describe what is meant by indirect associated funding arrangements and funding through non-resident owning bodies.

Indirect associated funding arrangements

(2) An indirect associated funding arrangement exists when—

(a) a non-resident person (the **indirect lender**) provides funds or pays money, directly or indirectly, to another person (the **direct lender**) who provides funds to a third person (the **borrower**)—

(i) in order for the funds to be provided to the borrower, or to reimburse the direct lender or compensate them, for providing the funds to the borrower; and

(ii) with the purpose or effect that the borrower incurs financial arrangement expenditure and the indirect lender does not derive non-resident passive income from the borrower; and

(b) the indirect lender is associated with the borrower; and

(c) the funding does not meet the requirements of section RF 12H(1)(a)(i) and (iii) for related-party debt.

Non-resident owning bodies

(3) A non-resident owning body is treated as associated with a borrower when the ownership interest, within the meaning set out in paragraph (a) of the definition of that term, in the borrower of all the members of the non-resident owning body is 50% or more.

Examples

NZ Sub D Ltd (D) borrows $1m at an interest rate of 6% from 3rd Party Finance Co Ltd (Finance Co) which agrees to provide this amount because D International, a non-resident associate of D, agrees to lend $800,000 at an interest rate of 4% to Finance Co. This is treated as a loan of $800,000 from D International to D, and a loan of $200,000 from Finance Co to D. D makes an interest payment of $60,000 to Finance Co, and Finance Co makes an interest payment of $32,000 to D International. D is treated as making an interest payment of $32,000 to Finance Co as agent for D International, so must withhold $3,200 NRWT. If D does not, Finance Co will be required to do so.

Two unrelated foreign investors agree to purchase 40% each of a New Zealand company with the remaining 20% held by a New Zealand investor. The New Zealand company has borrowed $1m, with the amounts being $400,000 from each of the foreign investors and $200,000 from the New Zealand investor and all borrowing is on similar terms. The 2 foreign investors are members of a non-resident owning body as they are acting together as if they were a single entity. Neither foreign investor is associated with the New Zealand business, either individually or as a consequence of being a member of the non-resident owning body. However, because they are members of the non-resident owning body, interest payments derived by the foreign investors will be ineligible for AIL and the loans may give rise to non-resident financial arrangement income.

Defined in this Act: arrangement, associated person, interest, non-resident, non-resident owning body, non-resident passive income, ownership interest, pay, related-party debt

Section RF 12I: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 12J Treatment of certain payments made under indirect associated funding arrangements

Payments made under funding arrangements

(1) The payment made under an indirect associated funding arrangement described in section RF 12I(2), to the extent to which subsection (2) applies, is treated as made under a financial arrangement between the borrower and the indirect lender, and not made under a financial arrangement between the borrower and the direct lender.

Treatment of payments

(2) Under this subsection,—

(a) an amount that the indirect lender pays to the direct lender is treated as paid by the indirect lender to the borrower to the extent to which the

amount is not more than the amount paid by the direct lender to the borrower:

(b) an amount that the borrower pays to the direct lender is treated as paid to the direct lender as agent for the indirect lender to the extent to which the amount is not more than the amount paid by the direct lender to the indirect lender.

When amounts of tax not withheld

(3) For the purposes of subsection (2)(b), if the borrower does not withhold the full amount required to be withheld under sections RA 6 (Withholding and payment obligations for passive income) and RF 3, the direct lender must withhold NRWT on interest paid to them.

No liability for direct lender

(4) Despite subsection (3), the direct lender has no liability to withhold an amount of tax for the payment if the borrower has notified the direct lender that—

(a) the payment is not made under an indirect associated funding arrangement:

(b) non-resident financial arrangement income has been derived on the financial arrangement.

Determining interest paid and effect of reduction

(5) For the purposes of subsection (3),—

(a) paragraph (d) of the definition of **pay** does not apply:

(b) for the financial arrangement, a reduction for the direct lender through the application of subsection (4) and paragraph (a) has no effect on the amount of NRWT that must be withheld on behalf of the indirect lender.

Defined in this Act: amount, amount of tax, associated person, financial arrangement, income tax liability, interest, notify, NRWT, pay

Section RF 12J: inserted, on 30 March 2017, by section 279 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Paying amounts of tax

RF 13 Basis for payment of amounts of tax for non-resident passive income

When this section applies

(1) This section applies when a person estimates for a tax year that they will not be required by the NRWT rules to withhold total NRWT of $500 or more.

Two instalments

(2) The person may pay to the Commissioner the amount withheld for the tax year in 2 instalments.

When threshold reached during tax year

(3) If the threshold amount of $500 is reached at a time in a tax year, the person must pay to the Commissioner—

(a) the amount of tax withheld from the start of the tax year to the end of the month in which the threshold is reached; and

(b) for the remainder of the tax year, the amount of tax on a monthly basis.

Defined in this Act: amount of tax, Commissioner, NRWT, NRWT rules, pay, tax withheld, tax year

Compare: 2004 No 35 s NG 11(1)–(3)

RF 14 Treatment of FDP credits

[Repealed]

Section RF 14: repealed, on 1 April 2017, by section 280 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RF 15 Commissioner's power to vary amounts of tax

Special circumstances

(1) For the purposes of meeting the special circumstances of a case or class of cases, the Commissioner may—

(a) relieve a person from an obligation to withhold NRWT under section RA 6(2) (Withholding and payment obligations for passive income), RF 3, RF 4, or RF 10; or

(b) vary the amount of tax that a person must withhold under section RA 6(2).

Exclusion for certain payments of interest

(2) This section does not apply to an amount of tax for a payment of interest derived jointly with a person resident in New Zealand as described in section RF 12B(1).

NRWT rules apply as if amended

(3) On the exercise of a power under subsection (1), the NRWT rules apply in the particular case as if they were amended in the way in which the power is exercised.

Defined in this Act: amount of tax, Commissioner, interest, NRWT, NRWT rules, pay, resident in New Zealand

Compare: 2004 No 35 s NG 10

Section RF 15(2): amended (with effect on 1 April 2008), on 29 March 2025, by section 130(1) (and see section 130(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

RF 16 Relationship with RSCT rules

When this section applies

(1) This section applies when a retirement scheme contributor makes a retirement scheme contribution for a person who is non-resident and pays RSCT for the contribution.

NRWT

(2) The contributor is treated as having withheld from the contribution an amount of NRWT equal to the lesser of—

(a) the amount of RSCT paid:

(b) the NRWT payable in relation to the contribution.

Treatment of balance

(3) Section LB 6 (Tax credits for RSCT) applies to any balance of RSCT paid.

Defined in this Act: non-resident, NRWT, pay, retirement scheme contribution, retirement scheme contributor, RSCT

Compare: 2004 No 35 s NG 16B

Section RF 16: added, on 1 April 2008, by section 544 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subpart RG—Payments for foreign dividends (FDP)

[Repealed]

Subpart RG: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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Introductory provisions

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RG 1 FDP rules and their application

[Repealed]

Section RG 1: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RG 2 Foreign dividends

[Repealed]

Section RG 2: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Obligation to make payments

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RG 3 Obligation to pay FDP

[Repealed]

Section RG 3: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Calculation of payments

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RG 4 Calculating amount of FDP

[Repealed]

Section RG 4: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Adjustments to payments

[Repealed]

Heading: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RG 5 Credit balance in branch equivalent tax account

[Repealed]

Section RG 5: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RG 6 Using loss balances

[Repealed]

Section RG 6: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RG 7 Reduction of payments for conduit tax relief

[Repealed]

Section RG 7: repealed (with effect on 30 June 2009), on 6 October 2009, by section 540(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart RH—Withholding tax on retirement scheme contributions

Subpart RH: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

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RH 1 RSCT rules and their application

Meaning

(1) The **RSCT rules** means—

(a) this subpart; and

(b) section BE 1(5B) (Withholding liabilities); and

(c) section CX 50B (Contributions to retirement savings schemes); and

(d) section LB 6 (Tax credits for RSCT); and

(e) section LE 7B (Credit of RSCT for imputation credit); and

(f) section LO 2B (Credit of RSCT for Maori authority credit); and

(g) section MB 1(5B) (Adjustments for calculation of family scheme income); and

(h) section MB 6 (Treatment of distributions from retirement savings schemes); and

(i) schedule 1, part D, clause 7; and

(j) sections 28C and 48B and Part 9 of the Tax Administration Act 1994.

Application

(2) The RSCT rules apply to a retirement scheme contributor who makes a retirement scheme contribution.

Defined in this Act: retirement scheme contribution, retirement scheme contributor, RSCT rules

Compare: 2004 No 35 s OB 1 "RSCWT rules"

Section RH 1: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RH 2 Retirement scheme contributions

Contribution for benefit of members

(1) A **retirement scheme contribution** means a contribution in money by a retirement scheme contributor to a retirement savings scheme for the benefit of a person who is a member of, or who has an ownership interest in, the contributor.

Tax credits

(2) For the purposes of subsection (1), money includes an amount of an imputation credit or a Maori authority credit.

Determining amount of contribution

(3) The amount of a retirement scheme contribution is the sum of—

(a) the amount of the contribution received by the retirement savings scheme and not withheld under subsection (5) on behalf of the retirement scheme contributor; and

(b) the amount of tax for the retirement scheme contribution.

Payment of amount of tax

(4) A retirement scheme contributor who pays an amount that represents a retirement scheme contribution must withhold and pay to the Commissioner the amount of tax for the contribution. The amount is payable monthly under section RA 15 (Payment dates for interim and other tax payments).

Appointment of agent

(5) For the purposes of subsection (4), a contributor may appoint the retirement savings scheme as agent in relation to the calculation and payment of the amount of tax.

Defined in this Act: amount, amount of tax, Commissioner, imputation credit, Maori authority credit, retirement savings scheme, retirement scheme contribution, retirement scheme contributor

Compare: 2004 No 35 ss NEB 1(2), NEB 2, NEB 3(1)(a), OB 1 "retirement scheme contribution"

Section RH 2: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RH 3 Retirement savings schemes

Requirements for entity

(1) An entity is a retirement savings scheme for a person if the entity—

(a) is a portfolio investment entity; and

(b) holds funds from a retirement scheme contribution for the person; and

(c) has rules (the **distribution rules**) governing the distribution by the entity of funds in which the person has an interest that—

(i) are approved by the Commissioner as fair and reasonable; and

(ii) meet the requirements of subsection (2).

Requirements for rules

(2) The rules must provide that—

(a) the availability of a distribution to the person is restricted before the person reaches an age of retirement set out in the rules:

(b) the person is not permitted to make a withdrawal before the age of retirement other than a withdrawal—

(i) to repay a student loan under the Student Loan Scheme Act 2011:

(ii) to pay fees and expenses related to tertiary education:

(iii) to buy a home if the person does not own one:

(iv) that the person would be permitted to make if the scheme were a KiwiSaver scheme:

(v) in circumstances set out in the distribution rules that have been approved under subsection (1)(c)(i):

(c) the entity may require the person to provide information to ensure that the requirements relating to a withdrawal are met.

Defined in this Act: Commissioner, income year, portfolio investment entity, retirement savings scheme, retirement scheme contribution, retirement scheme contributor

Compare: 2004 No 35 s NEB 5

Section RH 3: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section RH 3(2)(b)(i): amended, on 1 April 2012, by section 223 of the Student Loan Scheme Act 2011 (2011 No 62).

Section RH 3(2)(b)(iv): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

RH 4 Retirement scheme contributors

An entity is a retirement scheme contributor for a person for an income year if—

(a) the entity is—

(i) the trustee of a widely-held trust that is a unit trust:

(ii) a company other than a close company:

(iii) a Maori authority; and

(b) the person is a unit holder, shareholder, or member of the entity:

(c) in or before the income year, the entity makes a payment intended to be a retirement scheme contribution for the person.

Defined in this Act: close company, company, income year, Maori authority, pay, retirement savings scheme, retirement scheme contribution, retirement scheme contributor, shareholder, trustee, unit holder, unit trust, widely-held trust

Compare: 2004 No 35 s NEB 6

Section RH 4: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Calculating amounts of tax

Heading: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RH 5 Calculating amounts of tax for retirement scheme contribution

The amount of tax for a retirement scheme contribution is the amount determined under schedule 1, part D, clause 7 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Defined in this Act: amount of tax, retirement scheme contribution

Compare: 2004 No 35 s NEB 1(1)

Section RH 5: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

RH 6 Calculating amounts of tax on failure to withhold

When this section applies

(1) This section applies when a retirement scheme contributor or retirement savings scheme does not withhold an amount of tax for a retirement scheme contribution under section RH 2(4).

Calculation of amount

(2) The amount is calculated using the formula—

(tax rate ÷ (1 − tax rate) × contribution to scheme) − tax already paid.

Definition of items in formula

(3) In the formula,—

(a) **tax rate** is the rate of RSCT for the person set out in schedule 1, part D, clause 7 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):

(b) **contribution to scheme** is the amount of the retirement scheme contribution received by the retirement savings scheme excluding the amount of tax:

(c) **tax already paid** is any amount of tax for the contribution that has already been paid.

Defined in this Act: amount, amount of tax, retirement savings scheme, retirement scheme contribution, retirement scheme contributor, RSCT

Compare: 2004 No 35 s NEB 4(1)

Section RH 6: inserted, on 1 April 2008, by section 545 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Subpart RL—Residential land withholding tax

Subpart RL: inserted, on 1 July 2016, by section 49 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

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RL 1 Residential land withholding tax

What this subpart does

(1) This subpart imposes an obligation to pay a tax called residential land withholding tax (**RLWT**).

When this subpart applies

(2) This subpart applies for a residential land purchase amount in relation to a disposal of residential land located in New Zealand by a person (the **vendor**) to another person (the **purchaser**) if—

(a) the relevant residential land purchase amount would be income of the vendor under section CB 6A (Disposal within 2 years: bright-line test for residential land) ignoring sections CB 6A(5)(a) and CB 16A (Main home exclusion for disposal within 2 years); and

(b) the vendor is an offshore RLWT person.

How this subpart applies to joint owners

(3) For the purposes of this subpart, vendors who are co-owners are treated as disposing of separate residential land on the basis of an appropriate split of the underlying residential land and the consideration for its disposal.

When this subpart does not apply

(4) This subpart does not apply if the vendor holds an RLWT certificate of exemption that applies for the disposal of the relevant residential land. Section 54E of the Tax Administration Act 1994 provides for the issue of RLWT certificates of exemption to vendors.

When this subpart does not apply: relationship property

(4B) This subpart does not apply if section FB 3A(2) (Residential land) applies for the disposal of the relevant residential land.

Specific rules

(5) In this subpart,—

(a) section RL 2 provides rules for vendors and conveyancers in relation to who must pay RLWT and satisfy RLWT liability:

(b) section RL 3 provides rules for purchasers in relation to who must withhold RLWT from relevant residential land purchase amounts. It also provides rules for segregating the RLWT withheld:

(c) section RL 4 provides rules for calculating how much tax must be paid or withheld and paid for residential land purchase amounts:

(d) section RL 5 provides rules for paying RLWT:

(e) section RL 6 provides rules for the Commissioner repaying RLWT.

Return and information provisions in Tax Administration Act 1994

(6) Sections 54B, 54C, and 54D of the Tax Administration Act 1994 provide for the giving of returns and information in relation to RLWT obligations.

Defined in this Act: dispose, land, offshore RLWT person, residential land, residential land purchase amount, RLWT, RLWT certificate of exemption

Section RL 1: inserted, on 1 July 2016, by section 49 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RL 1(2)(a): replaced, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section RL 1(4B) heading: inserted, (with effect on 1 July 2016), on 21 February 2017, by section 95 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RL 1(4B): inserted, (with effect on 1 July 2016), on 21 February 2017, by section 95 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RL 2 Vendors: who must pay, and how?

Liability of vendor

(1) The vendor is liable to pay the amount of RLWT provided in section RL 4.

Conveyancers: agency for RLWT obligations

(2) The vendor's conveyancer, or if the vendor does not have a conveyancer, the purchaser's conveyancer, is treated as the agent (the **paying agent**) of the vendor in relation to the RLWT, and, in relation to the RLWT, must provide returns and satisfy the vendor's liability.

Conveyancers: no agency for other obligations

(3) The paying agent is not treated as the vendor's agent for income, or for a tax obligation other than RLWT, solely because of their agency in relation to RLWT.

Conveyancers: relationship with subject matter

(4) Sections HD 2, HD 3, and HD 4 (which relate to agents) do not apply to a paying agent that is agent only in relation to RLWT.

Liability of conveyancers

(5) The paying agent, as agent in relation to the RLWT, is not jointly and severally liable in relation to the vendor's RLWT or in relation to a debt under section RA 10 (When obligations not met). The vendor alone is liable to pay the RLWT, despite the paying agent's obligation to satisfy the vendor's liability.

Liability of conveyancers: exception for penalties

(6) Despite subsection (5), if the paying agent fails to satisfy the vendor's liability, then,—

(a) for the purposes of Part 9 of the Tax Administration Act 1994, the paying agent is treated as failing to pay an amount of withholding tax equal to the amount of RLWT liability they failed to satisfy, if the paying agent has subtracted or retained an amount from a residential land purchase amount; or

(b) for the purposes of Part 9 of the Tax Administration Act 1994 other than section 139B, the paying agent is treated as failing to pay an amount of withholding tax equal to the amount of RLWT liability they failed to satisfy, if the paying agent has not subtracted or retained an amount from a residential land purchase amount.

Liability of conveyancers: reasonable reliance

(7) A paying agent is not liable for a penalty under Part 9 of the Tax Administration Act 1994 for a failure described in subsection (6)(b) if, for that failure,—

(a) the paying agent has relied on a form and accompanying documents given to them in accordance with section 54C of the Tax Administration Act 1994; and

(b) the paying agent's reliance on the form and accompanying documents is reasonable.

Treatment of amount

(8) An amount subtracted or retained from a residential land purchase amount by a paying agent to satisfy the vendor's RLWT liability—

(a) is treated as received—

(i) by the vendor; and

(ii) at the time the residential land purchase amount is paid to them; and

(b) is treated for the purposes of this Act as derived by the vendor at the same time and in the same way as they derive the residential land purchase amount.

Defined in this Act: agent, amount, amount of tax, Commissioner, conveyancer, pay, residential land purchase amount, RLWT

Section RL 2: inserted, on 1 July 2016, by section 49 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RL 2(6)(a): amended, (with effect on 1 July 2016), on 21 February 2017, by section 96(a) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RL 2(6)(b): amended, (with effect on 1 July 2016), on 21 February 2017, by section 96(b) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RL 2(8): amended, (with effect on 1 July 2016), on 21 February 2017, by section 96(c) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RL 3 Associated persons: who must pay, and how?

Despite section RL 2, if the vendor and purchaser are associated persons—

(a) the vendor is not liable to pay the amount of RLWT provided in section RL 4; and

(b) the purchaser must withhold the amount of RLWT provided in section RL 4.

Defined in this Act: amount, associated person, RLWT, RLWT rules

Section RL 3: inserted, on 1 July 2016, by section 49 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

RL 4 How much RLWT?

How much tax?

(1) The total amount (**RLWT**) that the relevant person described in section RL 2 or RL 3 must pay or withhold for residential land purchase amounts is equal to the lesser of the amounts described in subsections (2), (4), and (6). The RLWT is paid or withheld for each residential land purchase amount, up to the maximum

of the relevant residential land purchase amount. All amounts in this section are GST exclusive.

Calculation of amount

(2) For the purposes of subsection (1), the amount is the greater of zero and the amount calculated using the formula—

RLWT rate × (current purchase price − vendor's acquisition cost).

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **RLWT rate** means the rate provided in schedule 1, part A, clause 1, table 1, row 5 or, if the vendor is a company that is not acting as a trustee, the rate provided in schedule 1, part A, clause 2:

(b) **current purchase price** is the purchase price agreed by the vendor and purchaser for the disposal of the residential land, including deposits and part payments, that the residential land purchase amount relates to:

(c) **vendor's acquisition cost** is the purchase price paid by the vendor for their acquisition of the residential land.

Calculation of amount

(4) For the purposes of subsection (1), the amount is calculated using the formula—

0.10 × current purchase price.

Definition of item in formula

(5) In the formula in subsection (4), **current purchase price** has the same meaning as in subsection (3)(b).

Calculation of amount

(6) For the purposes of subsection (1), the amount is the greater of zero and the amount calculated using the formula—

current purchase price − security discharge amount − outstanding rates.

Definition of items in formula

(7) In the formula in subsection (6),—

(a) **current purchase price** has the same meaning as in subsection (3)(b):

(b) **security discharge amount** is—

(i) zero, if paragraph (ii) does not apply:

(ii) the total of the amounts required by licensed security holders to discharge their mortgages or other securities over the residential land, if the relevant person who must pay RLWT is the vendor or the vendor's conveyancer:

(c) **outstanding rates** is the amount of local authority rates outstanding.

A definition

(8) In this section, **licensed security holder** means a person who has a mortgage or other security over the relevant residential land, if that person is—

(a) a registered bank:

(b) a licensed non-bank deposit taker.

Defined in this Act: amount, amount of tax, company, dispose, licensed non-bank deposit taker, licensed security holder, registered bank, residential land, residential land purchase amount, RLWT

Section RL 4: inserted, on 1 July 2016, by section 49 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section RL 4(1): amended (with effect on 1 July 2016), on 21 February 2017, by section 97 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RL 4(3)(a): amended, on 1 April 2021, by section 15 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section RL 4(8)(b): amended, on 29 March 2018, by section 232(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RL 4 list of defined terms **licensed non-bank deposit taker**: inserted, on 29 March 2018, by section 232(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RL 5 Paying RLWT

Paying RLWT

(1) A person who is required to pay or withhold RLWT must pay the amount of tax to the Commissioner under section RA 15 (Payment dates for interim and other tax payments).

Basis for payment of RLWT

(2) For the purposes of section RA 6C (Withholding and payment obligations for residential land), the person must pay the amount of tax on a monthly basis.

Defined in this Act: amount of tax, Commissioner, RLWT

Section RL 5: inserted, on 1 July 2016, by section 49 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

RL 6 Commissioner repaying RLWT

Repaying RLWT

(1) An amount of RLWT paid in relation to a person's disposal of residential land may be repaid by the Commissioner to the person if and to the extent to which—

(a) a tax credit for the RLWT is likely to be a surplus credit under section BC 8(4) for the relevant tax year, treating the person as only having income and deductions for land for the tax year and the relevant tax rate provided in section RL 4(3); and

(b) the person has no outstanding tax obligations under the Inland Revenue Acts; and

(c) the person gives the Commissioner the information in the form prescribed under section 54D of the Tax Administration Act 1994, including any prescribed accompanying documents.

Effect of repaying RLWT

(2) For the purposes of section LB 6B (Tax credits for RLWT), an amount of RLWT repaid by the Commissioner is treated as not paid in relation to the residential land that the person disposed of.

Defined in this Act: amount, Commissioner, dispose, land, residential land, RLWT

Section RL 6: inserted, on 1 July 2016, by section 49 of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Subpart RM—Refunds

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Companies receiving foreign dividends

[Repealed]

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RM 19 Treatment of financial arrangements *[Repealed]* 3100
RM 20 Treatment of amounts not refunded *[Repealed]* 3100
RM 21 Refunds when loss balances used to reduce net income *[Repealed]* 3101

Maori authorities

RM 22 Limits on refunds for Maori authorities 3101
RM 23 Limits on refunds when Maori authority stops being Maori authority 3102
RM 24 Increase in credit balances 3102
RM 25 Treatment of amounts not refunded 3103
RM 26 Treatment of further income tax paid 3103
RM 27 Application when no credits arise 3103

Persons with policyholder credit accounts

[Repealed]

RM 28 Limits on refunds for PCA persons *[Repealed]* 3104
RM 29 Limits on refunds when person no longer PCA person *[Repealed]* 3104
RM 30 Changes in credit balances *[Repealed]* 3104
RM 31 Treatment of amounts not refunded *[Repealed]* 3104

Qualifying companies

RM 32 Application of sections RM 13 to RM 17 to qualifying companies 3104

Certain unit trusts and group investment funds

RM 33 Limits on refunds for certain unit trusts and group investment funds 3105

Introductory provision

RM 1 What this subpart does

This subpart establishes and measures a person's entitlement to a refund for an overpayment under this Part or another Part of this Act, how the amount of the refund may be used, and the limits placed on the amount and use of a refund for—

(a) an imputation credit account (ICA) company:

(b) *[Repealed]*

(c) a Maori authority:

(d) *[Repealed]*

(e) a qualifying company:

(f) certain unit trusts and group investment funds.

Defined in this Act: amount, group investment fund, ICA company, Maori authority, pay, qualifying company, unit trust

Section RM 1(b): repealed (with effect on 1 April 2017), on 30 March 2022, by section 164(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 1(d): repealed, on 30 March 2017, by section 281(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RM 1 list of defined terms **company**: repealed (with effect on 1 April 2017), on 30 March 2022, by section 164(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 1 list of defined terms **foreign dividend**: repealed (with effect on 1 April 2017), on 30 March 2022, by section 164(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 1 list of defined terms **PCA person**: repealed, on 30 March 2017, by section 281(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Refunds for overpaid amounts

RM 2 Refunds for overpaid tax

Amounts arising on original assessments

(1A) The Commissioner must refund an amount of tax that a person has paid if—

(a) the amount is more than the tax required to be paid by the person under this Part; and

(b) the amount has arisen on an original assessment or an amended assessment referred to in subsection (3); and

(c) the Commissioner is satisfied, or has received notice, that the person is entitled to the refund.

Amount more than required

(1) The Commissioner must refund an amount of tax that a person has paid if—

(a) the amount is more than the tax required to be paid by the person under this Part; and

(ab) the amount has arisen on an amended assessment other than an amended assessment referred to in subsection (3); and

(b) the Commissioner is satisfied, or receives notice, that the person is entitled to the refund before the end of—

(i) for income tax, the 4-year period under section 108(1) of the Tax Administration Act 1994 for amendment of an assessment, if subparagraphs (ic) and (ii) do not apply; or

(ib) for an ancillary tax or approved issuer levy, the 4-year period under section 108(1C) of that Act for amendment of an assessment, if subparagraphs (ic) and (ii) do not apply; or

(ic) the 7-year period under section GC 13(6) (Calculation of arm's length amounts) for amendment of an assessment, if that subsection applies; or

(ii) the extended period allowed by the Commissioner under section 78B of that Act, if the Commissioner exercises the discretion under that section.

Provision of ancillary tax return treated as assessment

(1BA) For the purposes of this section, the provision by a person of a return for an amount of an ancillary tax for a period is treated as the making of an assessment of the amount of the ancillary tax by the person.

Refundable credits

(1B) An amount of tax under subsection (1) includes an amount of a refundable tax credit to which section LA 5(5) (Treatment of remaining credits) applies.

Refunds arising on amended assessments

[Repealed]

(2) *[Repealed]*

Amounts arising on treatment of some backdated payments as exempt income

(3) Subsection (1A) applies for an amended assessment arising from the treatment of a payment as being exempt income under section CZ 36 (Treatment of backdated payments for social rehabilitation: 2008–09 to 2017–18 income years).

Defined in this Act: amount, amount of tax, ancillary tax, assessment, Commissioner, notice, pay, refundable tax credit, tax

Compare: 2004 No 35 s MD 1(1)

Section RM 2(1A) heading: inserted (with effect on 1 April 2008), on 18 March 2019, by section 263(1) (and see section 263(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 2(1A): inserted (with effect on 1 April 2008), on 18 March 2019, by section 263(1) (and see section 263(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 2(1A)(b): amended (with effect on 1 April 2008), on 26 June 2019, by section 78(1) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RM 2(1)(ab): inserted (with effect on 1 April 2008), on 18 March 2019, by section 263(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 2(1)(ab): amended (with effect on 1 April 2008), on 26 June 2019, by section 78(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RM 2(1)(b): replaced (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, by section 87(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 2(1)(b)(i): replaced (with effect on 3 May 2016), on 18 March 2019, by section 264 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 2(1)(b)(ib): replaced (with effect on 3 May 2016), on 18 March 2019, by section 264 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 2(1)(b)(ic): inserted (with effect on 3 May 2016), on 18 March 2019, by section 264 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 2(1BA) heading: inserted, on 30 March 2022, by section 165(1) (and see section 165(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 2(1BA): inserted, on 30 March 2022, by section 165(1) (and see section 165(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 2(1B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 541(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RM 2(1B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 541(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RM 2(2) heading: replaced (with effect on 1 April 2008), on 18 March 2019, by section 263(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 2(2) heading: repealed (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, pursuant to section 87(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 2(2): repealed (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, by section 87(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 2(3) heading: inserted (with effect on 1 April 2008), on 26 June 2019, by section 78(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RM 2(3): inserted (with effect on 1 April 2008), on 26 June 2019, by section 78(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section RM 2 list of defined terms **amount**: inserted, on 30 March 2022, by section 165(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 2 list of defined terms **ancillary tax**: inserted, on 30 March 2022, by section 165(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 2 list of defined terms **notice**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RM 2 list of defined terms **refundable tax credit**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 541(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RM 3 Refunds for overpaid FDP

[Repealed]

Section RM 3: repealed, on 1 April 2017, by section 282 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 4 Overpayment on amended assessment

Assessment increasing tax

(1) The Commissioner must refund an amount of tax that a person has paid if—

(a) the person paid the amount as a result of an amendment to an assessment increasing the amount of tax payable by the person; and

(b) the amount is more than the amount required to be paid by the person under this Part; and

(c) for income tax, the 4-year period under section 108(1) of the Tax Administration Act 1994 beginning from the end of the tax year in which the assessment was amended has not ended; and

(d) for an ancillary tax or approved issuer levy, the 4-year period under section 108(1C) of that Act beginning from the end of the period in which the return or statement was provided has not ended.

Provision of ancillary tax return treated as assessment

(1B) For the purposes of this section, the provision by a person of a return for an amount of an ancillary tax for a period is treated as the making of an assessment of the amount of the ancillary tax by the person.

Refunds arising from mistakes

[Repealed]

(2) *[Repealed]*

Defined in this Act: amount, amount of tax, ancillary tax, assessment, Commissioner, pay, tax year

Compare: 2004 No 35 s MD 1(2)

Section RM 4(1)(c): replaced (with effect on 3 May 2016), on 18 March 2019, by section 265 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 4(1)(d): inserted (with effect on 3 May 2016), on 18 March 2019, by section 265 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 4(1B) heading: inserted, on 30 March 2022, by section 166(1) (and see section 166(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 4(1B): inserted, on 30 March 2022, by section 166(1) (and see section 166(3) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 4(2) heading: repealed (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, pursuant to section 88(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 4(2): repealed (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, by section 88(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 4 list of defined terms **ancillary tax**: inserted, on 30 March 2022, by section 166(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RM 4 list of defined terms **income year**: repealed (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, by section 88(3)(a) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 4 list of defined terms **tax year**: inserted (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, by section 88(3)(b) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

RM 5 Overpayment on income statements

[Repealed]

Section RM 5: repealed, on 1 April 2019, by section 266 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RM 6 Refunds after 4-year period ends

[Repealed]

Section RM 6: repealed (with effect on 1 April 2013 and applying to overpayments for the 2013–14 and later tax years), on 17 July 2013, by section 89(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

RM 6B Refunds for overpaid AIM method instalments

Refund

(1) The Commissioner must refund to a person the amount given by the formula in subsection (2), if the person uses the AIM method for a tax year and gives the Commissioner the required information in the form prescribed under section 45 of the Tax Administration Act 1994 (the **form**).

Formula

(2) For the purposes of subsection (1) the refund amount is—

AIM payments year to date − AIM year to date.

Definition of items in formula

(3) In the formula,—

(a) **AIM payments year to date** means the amount of provisional tax paid by the person for the tax year on and before the last day of the instalment period that the form relates to:

(b) **AIM year to date** means the amount of provisional tax liability that the person would have if the AIM method was applied for the period starting at the beginning of the tax year and finishing on the last day of the instalment period that the form relates to.

Defined in this Act: Commissioner, instalment date, provisional tax, tax year

Section RM 6B: inserted, on 1 April 2018, by section 41(1) (and see section 41(2) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

RM 7 Refunds to PAYE intermediaries

When this section applies

(1) This section applies when a PAYE intermediary pays to the Commissioner an amount of tax for a PAYE income payment for an employer—

(a) relying on a payment made to the trust account of the intermediary—

(i) by the employer and later dishonoured; or

(ii) mistakenly by a person and later recovered from the intermediary:

(b) mistakenly from funds not provided by the employer for a purpose related to the PAYE income payment.

Refund to intermediary

(2) The Commissioner must refund the amount of tax to the intermediary.

Defined in this Act: amount of tax, Commissioner, employer, pay, PAYE intermediary, PAYE income payment

Compare: 2004 No 35 s NBA 7

RM 8 Overpaid RWT or NRWT

When this section applies

(1) This section applies when a person is required to withhold and pay to the Commissioner an amount of resident withholding tax (RWT) or non-resident withholding tax (NRWT), and the amount is more than the amount required to be paid under this Part.

Refund to person deriving payment or person withholding amount

(2) The Commissioner must refund the amount of the overpayment to—

(a) the person who derives the payment from which the amount of tax was withheld; or

(b) the person who withheld the amount if they have paid the amount of the overpayment to the person deriving the payment and not subtracted the amount under section RA 12(5) and (6) (Adjustment to correct errors: certain excess amounts).

When subsections (4) and (5) apply

(3) Subsections (4) and (5) apply when—

(a) a holder of an attributing interest in a FIF receives a distribution from which an amount of tax for resident passive income has been withheld; and

(b) section CD 36 (Foreign investment fund income) applies to the distribution.

Certain FIF income: application by holder

(4) The holder may apply for a refund if—

(a) they apply before the next 31 March after the date on which the amount was withheld, with supporting information to show that the threshold referred to in section CQ 5(1)(d) (When FIF income arises) has been exceeded for their corresponding income year; and

(b) the person making the distribution has not—

(i) paid them a refund of the amount; or

(ii) applied themselves under subsection (5) for a refund in relation to the amount; and

(c) they notify the person making the distribution of their application under this subsection.

Certain FIF income: application by payer

(5) The person making the distribution may apply for a refund if—

(a) they apply before the next 31 March after the date on which the amount was withheld, with supporting information to show the payment has been made to the holder without any subtraction permitted by section RA 12(5) and (6) (Adjustment to correct errors: certain excess amounts); and

(b) the holder has not applied for a refund under subsection (4) in relation to the amount; and

(c) they provide, in relation to the amount, a statement that they will not include particulars in their investment income information under sections 25F to 25H and make disclosure under section 25N of the Tax Administration Act 1994.

Use of refund

(6) An amount of a refund paid under subsection (4) or (5) may be used under section RM 10 to satisfy a liability under the Inland Revenue Acts.

Defined in this Act: amount, amount of tax, apply, attributing interest, Commissioner, corresponding income year, FIF, Inland Revenue Acts, investment income information, notify, NRWT, pay, resident passive income, RWT

Compare: 2004 No 35 ss MD 1(4)(b), (c), NF 7(1), (2), (5), NG 16(1), (1A)

Section RM 8(3) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8(3): added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8(4) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8(4): added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8(5) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8(5): added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8(5)(c): replaced, on 1 April 2020, by section 233(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RM 8(6) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8(6): added (with effect on 1 April 2008), on 7 December 2009, by section 117(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RM 8 list of defined terms **attributing interest**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8 list of defined terms **corresponding income year**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8 list of defined terms **FIF**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8 list of defined terms **Inland Revenue Acts**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8 list of defined terms **investment income information**: inserted, on 1 April 2020, by section 233(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RM 8 list of defined terms **notify**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section RM 8 list of defined terms **resident passive income**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 126 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

RM 9 Calculations for attributed and non-attributed fringe benefits

When this section applies

(1) This section applies when an employer chooses to pay fringe benefit tax (FBT) under sections RD 47 to RD 53 (which relate to attributed fringe benefits and non-attributed fringe benefits).

Result of calculations

(2) If the result of the calculations of FBT on attributed fringe benefits or non-attributed fringe benefits is negative, the Commissioner must refund to the employer an amount equal to the deficiency.

Defined in this Act: amount, Commissioner, employer, FBT, pay

Compare: 2004 No 35 s ND 10(4)(a)

Use of refunds

RM 10 Using refund to satisfy tax liability

When this section applies

(1) This section applies when a person is entitled to a refund of an amount of tax under sections RM 2, RM 4, and RM 5. An amount of tax under this section includes an amount of a refundable tax credit under section LA 5(5) (Treatment of remaining credits). Section LB 4 (Tax credits for families) may apply to adjust the amount available.

Request for particular application

(2) The person may ask under section 173T of the Tax Administration Act 1994 for the Commissioner to apply some or all of the amount on a particular date to satisfy a liability under the Inland Revenue Acts.

Commissioner applying refund

(3) If no request is made under subsection (2), the Commissioner may apply the amount of the refund to satisfy a liability that the person has under the Inland Revenue Acts.

Exclusion

(4) Despite subsection (3), the Commissioner must not apply the amount of a refund under section LA 7(1)(a) (Remaining refundable credits: tax credits for social policy and other initiatives) or RM 8, or arising from an election under section IZ 8 (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year), to satisfy a liability of the person.

FamilyBoost tax credit

(5) Despite subsections (2) to (4), if a person has a FamilyBoost tax credit under subpart MH (FamilyBoost tax credits) and is entitled to a refund under section 41C of the Tax Administration Act 1994,—

(a) the Commissioner may apply the amount of the refund to satisfy a liability that the person has under section 41C(7) of that Act:

(b) if paragraph (a) does not apply or an amount remains after the Commissioner has exercised the discretion given under paragraph (a), the person may ask under section 173L of that Act for the Commissioner to apply some, or all, of the amount on a particular date to satisfy a liability under the Inland Revenue Acts.

Defined in this Act: amount, amount of tax, ask, Commissioner, FamilyBoost tax credit, Inland Revenue Acts, refundable tax credit, request

Compare: 2004 No 35 ss MD 1(3), (3A), MD 1(4)

Section RM 10(1): substituted (with effect on 1 April 2008), on 6 October 2009, by section 543(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RM 10(1): amended (with effect on 1 April 2013), on 17 July 2013, by section 90 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 10(1): amended (with effect on 1 April 2008), on 6 October 2009, by section 543(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RM 10(4): amended (with effect on 15 April 2020), on 30 April 2020, by section 14 of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section RM 10(4): amended (with effect on 1 April 2015), on 24 February 2016, by section 228 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RM 10(4): amended (with effect on 1 April 2008), on 2 November 2012, by section 153 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section RM 10(4): amended (with effect on 1 April 2008), on 6 October 2009, by section 543(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RM 10(5) heading: inserted, on 1 July 2024, by section 15(1) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RM 10(5): inserted, on 1 July 2024, by section 15(1) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RM 10 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RM 10 list of defined terms **FamilyBoost tax credit**: inserted, on 1 July 2024, by section 15(2) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section RM 10 list of defined terms **refundable tax credit**: added (with effect on 1 April 2008), on 6 October 2009, by section 543(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RM 10 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RM 11 Using GST refund to pay instalment of provisional tax

When this section applies

(1) This section applies when a person who is liable to pay provisional tax has a goods and services tax (GST) refund in a taxable period as a result of the application of section 20(5) of the Goods and Services Tax Act 1985.

Using amount

(2) The person may choose to use the amount of the refund to pay some or all of an instalment of provisional tax that is payable on the same instalment date.

Reduction in amount

(3) If the Commissioner amends the assessment reducing the amount of the refund, the person's payment of provisional tax arising from the GST refund is the reassessed amount.

Defined in this Act: amount, assessment, Commissioner, GST, instalment date, pay, provisional tax, taxable period

Compare: 2004 No 35 s MB 11

RM 12 Reduction in provisional tax liability

When this section applies

(1) This section applies when the amount of provisional tax payable for a tax year is reduced by the person liable to pay the provisional tax, or by the Commissioner under section 119(2) of the Tax Administration Act 1994.

Reduction in amount of provisional tax payable

(2) If the person applies for a refund of the amount of provisional tax already paid that is as a result of the reduction more than the amount that would have been payable in relation to earlier instalment dates for the tax year, the Commissioner must—

(a) apply the overpayment as the person asks under section 173T of the Tax Administration Act 1994 or, if no request is made, in a way that the Commissioner determines in payment of tax or another amount that is payable by them; and

(b) refund any balance of the overpayment.

Reduction in assessment

(3) If the person's residual income tax for the relevant tax year is no more than $5,000, and they apply for the refund of an amount of provisional tax that has been determined under section RC 9 (Provisional tax payable in instalments) and already paid, other than on a final instalment, the Commissioner must—

(a) apply the amount as the person asks under section 173T of the Tax Administration Act 1994 or, if no request is made, in a way the Commissioner determines in payment of tax or another amount that is payable by them; and

(b) refund any balance of the amount.

Treatment of amount refunded or credited

(4) When an overpayment or amount of provisional tax for a tax year has been applied or refunded under subsection (2) or (3)—

(a) a later instalment payable under section RC 10 or RC 11 (which relate to the methods used to calculate the amount of an instalment), as applicable, is calculated as if the total instalments previously payable were reduced by the amount of the overpayment or amount; and

(b) the overpayment or amount applied or refunded is, from the date of action taken by the Commissioner, treated as not being provisional tax paid for the tax year.

Defined in this Act: amount, apply, ask, Commissioner, instalment date, pay, provisional tax, request, residual income tax, tax, tax year

Compare: 2004 No 35 s MB 36

Section RM 12(2): amended, on 2 June 2016, by section 63(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RM 12(3): amended, on 1 April 2020, by section 28(1) (and see section 28(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section RM 12(3): amended, on 2 June 2016, by section 63(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RM 12 list of defined terms **apply**: inserted, on 2 June 2016, by section 63(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RM 12 list of defined terms **ask**: inserted, on 2 June 2016, by section 63(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RM 12 list of defined terms **request**: inserted, on 2 June 2016, by section 63(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Limits on refunds and transfers

ICA companies

RM 13 Limits on refunds for ICA companies

When this section applies

(1) This section applies when an ICA company is entitled to—

(a) a refund of income tax under sections RM 2, RM 4, and RM 5, other than a refund of provisional tax paid under the AIM method; or

(b) transfer an amount under section RC 32 (Wholly-owned groups of companies), other than a transfer of provisional tax paid under the AIM method.

Amount of refund or transfer limited

(2) The amount of the refund or transfer must be no more than the credit balance of the ICA company in the imputation credit account at the latest of the following dates:

(a) the last day of the tax year that has just ended:

(b) the last day of a period for which the company is required to file a return under section 70(1) of the Tax Administration Act 1994:

(c) the last day of a period for which the company filed an annual ICA return under section 70(3) of that Act.

Limits when company has extension of time for filing return

(3) The amount of the refund or transfer must be no more than the credit balance of the ICA company in the imputation credit account on the last day of the most recent period for which the company has filed an annual ICA return if, when the ICA company becomes entitled to the refund or transfer,—

(a) the ICA return for the most recent tax year that has ended (the **last tax year**) is not yet due because the company has an extension of time to file that return; and

(b) the ICA company has filed an ICA return for no period that is referred to in subsection (2)(a) to (c) and ends after the beginning of the last tax year.

Defined in this Act: amount, annual ICA return, ICA company, imputation credit account, income tax, tax year

Compare: 2004 No 35 s MD 2(1), (1A)

Section RM 13(1)(a): amended, on 1 April 2018, by section 42(1) (and see section 42(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RM 13(1)(a): amended (with effect on 1 April 2013), on 17 July 2013, by section 91 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 13(1)(b): amended, on 1 April 2018, by section 42(2) (and see section 42(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RM 13(3) heading: replaced, on 30 March 2017, by section 283 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RM 13(3): replaced, on 30 March 2017, by section 283 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 14 Limits on refunds when company stops being ICA company

When this section applies

(1) This section applies when a company stops being an ICA company and is entitled to have a refund or to make a transfer under section RM 13(1) for a tax year in which it was an ICA company.

Limit on amount of refund or transfer

(2) The total amount refunded or transferred must be no more than the final balance of the imputation credit account arising as a debit under section OB 56 (ICA final balance) just before the company stopped being an ICA company.

Defined in this Act: amount, company, ICA company, imputation credit account, tax year

Compare: 2004 No 35 s MD 2(2)

RM 15 Changes in credit balances

Credit balance reduced

(1) A credit balance is treated as reduced by the amount of a refund or transfer as described in sections RM 13 and RM 14 that is made earlier in the same tax year.

Credit balance increased

(2) A credit balance is treated as increased by an amount equal to a debit to the company's imputation credit account under section OB 41 (ICA debit for loss of shareholder continuity) arising after a credit is made to the company's imputation credit account for an amount that has satisfied the company's income tax liability for the tax year and before the date on which the credit balance is to be determined under sections RM 13 and RM 14.

Credit balance increased: refund after debit under section OB 41

(3) For a company that has a refundable tax credit for a tax year after a debit to the company's imputation credit account arises under section OB 41 (ICA debit for loss of shareholder continuity), a credit balance for the tax year is increased by an amount equal to the lesser of—

(a) the debit under section OB 41:

(b) the amount by which the refundable tax credit exceeds the total credits to the company's imputation credit account, for amounts satisfying the company's income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14.

Defined in this Act: amount, company, imputation credit account, income tax liability, tax year

Compare: 2004 No 35 s MD 2(3), (4)

RM 15(3) heading: inserted, on 1 April 2018, by section 234 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RM 15(3): inserted, on 1 April 2018, by section 234 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RM 16 Treatment of amounts not refunded

When this section applies

(1) This section applies when, through the application of sections RM 13 and RM 14, an overpayment of income tax by a company is not refunded to the company or transferred within a wholly-owned group of companies.

Satisfying liabilities or retained

(2) The amount prevented from being a refund or transfer—

(a) is applied to satisfy an income tax or provisional tax liability of the company for the tax year of the entitlement; and

(b) may be used by the company to satisfy an income tax or provisional tax liability for a tax year other than the tax year of entitlement; and

(c) is retained in the company's tax account with the Commissioner to the extent to which paragraphs (a) and (b) do not apply, whether because the company is liquidated or for another reason.

Credit for provisional tax

(3) Despite subsection (2), the amount may be credited on a provisional tax instalment date if residual income tax is treated under the Tax Administration Act 1994 as payable on the date set out in Part 7 of that Act.

Relationship with section RZ 6

(4) Section RZ 6 (Limits on refunds: transitional dates) overrides subsection (2)(c).

Defined in this Act: amount, Commissioner, company, income tax, income tax liability, instalment date, liquidation, pay, provisional tax, residual income tax, tax account with the Commissioner, tax year, wholly-owned group of companies

Compare: 2004 No 35 s MD 2(5), (5A)

Section RM 16(3): amended (with effect on 1 April 2008), on 18 March 2019, by section 267(1) (and see section 267(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RM 17 Treatment of further income tax paid

When this section applies

(1) This section applies for the purposes of sections RM 2, RM 4, and RM 5 when a company pays further income tax under sections OB 65 and OB 66 (which relate to further tax payable by ICA companies).

No refund

(2) The company is not entitled to a refund of the amount of further income tax paid which is treated as tax paid to satisfy an obligation yet to arise.

Defined in this Act: amount, company, further income tax, pay

Compare: 2004 No 35 s MD 2(6)

Section RM 17(1): amended (with effect on 1 April 2013), on 17 July 2013, by section 92 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Companies receiving foreign dividends

[Repealed]

Heading: repealed, on 1 April 2017, by section 284(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 18 Limits on refunds related to foreign dividends

[Repealed]

Section RM 18: repealed, on 1 April 2017, by section 284(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 19 Treatment of financial arrangements

[Repealed]

Section RM 19: repealed, on 1 April 2017, by section 284(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 20 Treatment of amounts not refunded

[Repealed]

Section RM 20: repealed, on 1 April 2017, by section 284(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 21 Refunds when loss balances used to reduce net income

[Repealed]

Section RM 21: repealed, on 1 April 2017, by section 284(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Maori authorities

RM 22 Limits on refunds for Maori authorities

When this section applies

(1) This section applies when a Maori authority is entitled to a refund of income tax under sections RM 2, RM 4, and RM 5.

Amount of refund limited

(2) The amount of the refund must be no more than the credit balance of the Maori authority in the Maori authority credit account at the latest of the following dates:

(a) the last day of the tax year that has just ended:

(b) the last day of a period for which the Maori authority is required to file a return under section 70B(1) of the Tax Administration Act 1994:

(c) the last day of a period for which the Maori authority files a Maori authority credit account return under section 70B(3) of that Act.

Time for filing returns

(3) Subsection (2) does not apply if the Maori authority has an extension of time to file its Maori authority credit account return for a tax year, and files the return with the extended time. In that case, the total amount refunded must be no more than the credit balance of the Maori authority in its Maori authority credit account on the last day of the tax year to which the return relates.

Satisfying liabilities or retained

(4) If the Maori authority has a refund of income tax, and an amount paid in excess is not refunded because of the application of subsection (2) or section RM 23, the amount prevented from being a refund or transfer—

(a) is used to satisfy an income tax or provisional tax liability of the Maori authority for the tax year of the entitlement; and

(b) may be used by the Maori authority to satisfy an income tax or provisional tax liability for a tax year other than the tax year of entitlement; and

(c) is retained in the authority's tax account with the Commissioner to the extent to which paragraphs (a) and (b) do not apply.

Credit for provisional tax

(5) Despite subsection (4), the amount may be credited on a provisional tax instalment date if residual income tax is treated under the Tax Administration Act 1994 as payable on the date set out in Part 7 of that Act.

Relationship with section RZ 6

(6) Section RZ 6 (Limits on refunds: transitional dates) overrides subsection (4)(b).

Defined in this Act: amount, income tax, income tax liability, instalment date, Maori authority, Maori authority credit account, Maori authority credit account return, provisional tax, residual income tax, tax account with the Commissioner, tax year

Compare: 2004 No 35 s MD 2B(1), (1B)

Section RM 22(1): amended (with effect on 1 April 2013), on 17 July 2013, by section 93 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section RM 22(5): amended (with effect on 1 April 2008), on 18 March 2019, by section 268(1) (and see section 268(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RM 23 Limits on refunds when Maori authority stops being Maori authority

When this section applies

(1) This section applies when a Maori authority stops being a Maori authority and is entitled to a refund under section RM 2, RM 4, or RM 5 for a tax year in which it maintained a Maori authority credit account.

Limit on amount of refund

(2) The amount refunded must be no more than the final balance of the Maori authority credit account arising as a debit under section OK 18 (MACA final balance) just before the Maori authority stopped being a Maori authority.

Defined in this Act: amount, Maori authority, Maori authority credit account, tax year

Compare: 2004 No 35 s MD 2B(2)

Section RM 23(1): amended (with effect on 1 April 2013), on 17 July 2013, by section 94 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

RM 24 Increase in credit balances

A credit balance is treated as increased by an amount equal to a debit to the Maori authority credit account under section OK 15 (MACA debit for loss of shareholder continuity) arising after the date of payment of instalment B set out in schedule 3, part A (Payment of provisional tax and terminal tax) for the authority's income year that corresponds to the tax year and before the date on which the credit balance is to be determined under sections RM 22 and RM 23.

Defined in this Act: amount, corresponding income year, Maori authority credit account, pay, tax year

Compare: 2004 No 35 s MD 2B(3)

RM 25 Treatment of amounts not refunded

When this section applies

(1) This section applies when, through the application of sections RM 22 and RM 23, an overpayment of income tax by a Maori authority is not refunded to the authority.

Satisfying liabilities or retained

(2) The amount prevented from being a refund is—

(a) applied to satisfy an income tax or provisional tax liability of the Maori authority for the tax year of the entitlement; and

(b) retained by the Commissioner to the extent to which paragraph (a) does not apply.

Credit for provisional tax

(3) Despite subsection (2), the amount may be credited on a provisional tax instalment date if residual income tax is treated under the Tax Administration Act 1994 as payable on the date set out in Part 7 of that Act.

Defined in this Act: amount, Commissioner, income tax, income tax liability, instalment date, Maori authority, pay, provisional tax, residual income tax

Compare: 2004 No 35 s MD 2B(4), (4B)

Section RM 25(3): amended (with effect on 1 April 2008), on 18 March 2019, by section 269(1) (and see section 269(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RM 26 Treatment of further income tax paid

When this section applies

(1) This section applies for the purposes of sections RM 2, RM 4, and RM 5 when a Maori authority pays further income tax under section OK 21 or OK 22 (which relate to further income tax for closing debit balance or when Maori authority stops being a Maori authority).

No refund

(2) The authority is not entitled to a refund of the amount of further income tax paid which is treated as tax paid to satisfy an obligation yet to arise.

Defined in this Act: amount, further income tax, Maori authority, pay, tax

Compare: 2004 No 35 s MD 2B(5)

Section RM 26(1): amended (with effect on 1 April 2013), on 17 July 2013, by section 95 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

RM 27 Application when no credits arise

Sections RM 22 to RM 26 do not apply in relation to an amount of tax paid for which no credit arises under section OK 2 (MACA payment of tax or transfer to account).

Defined in this Act: amount, amount of tax, pay

Compare: 2004 No 35 s MD 2B(6)

Section RM 27: amended, on 30 March 2022, by section 167 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Persons with policyholder credit accounts

[Repealed]

Heading: repealed, on 30 March 2017, by section 285(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 28 Limits on refunds for PCA persons

[Repealed]

Section RM 28: repealed, on 30 March 2017, by section 285(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 29 Limits on refunds when person no longer PCA person

[Repealed]

Section RM 29: repealed, on 30 March 2017, by section 285(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 30 Changes in credit balances

[Repealed]

Section RM 30: repealed, on 30 March 2017, by section 285(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RM 31 Treatment of amounts not refunded

[Repealed]

Section RM 31(3): amended, on 18 March 2019, by section 270(1) (and see section 270(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RM 31: repealed, on 30 March 2017, by section 285(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Qualifying companies

RM 32 Application of sections RM 13 to RM 17 to qualifying companies

Sections RM 13 to RM 17 do not apply to an overpayment of tax by a qualifying company that may be refunded to or allocated by the company unless—

(a) the overpayment was made as part of or under an arrangement—

  (i) to obtain a tax advantage of a kind referred to in section GB 35 (Imputation arrangements to obtain tax advantage); or

  (ii) to avoid a tax liability of a shareholder under this Act; and

(b) the arrangement, or a part of it, was based on the company's ability to obtain a refund of tax that the company would have under those sections in the absence of this section.

Defined in this Act: arrangement, pay, qualifying company, shareholder, tax advantage

Compare: 2004 No 35 s MD 2(7)

Certain unit trusts and group investment funds

RM 33 Limits on refunds for certain unit trusts and group investment funds

When this section applies

(1) This section applies when a public unit trust or group investment fund—

(a) is entitled to a refund under section RM 2, RM 4, or RM 5; and

(b) goes into liquidation or chooses to become a portfolio investment entity; and

(c) at the time of the liquidation or election, has—

(i) a credit balance in its available subscribed capital (ASC) account on liquidation; and

(ii) a zero balance in its imputation credit account.

Calculating amount of refund

(2) The refund must be no more than an amount calculated using the formula—

ASC credit balance × maximum imputation ratio.

Definition of items in formula

(3) In the formula,—

(a) **ASC credit balance** is the credit balance in the ASC account of the public unit trust or group investment fund, as applicable:

(b) **maximum imputation ratio** is the maximum permitted ratio calculated under section OA 18(2) (Calculation of maximum permitted ratios), read as if the words "in which the dividend or distribution is paid" in subsection (3) were "in which the liquidation occurs or the election is made".

Defined in this Act: amount, ASC account, group investment fund, imputation credit account, liquidation, maximum permitted ratio, portfolio investment entity, public unit trust

Compare: 2004 No 35 s MD 2A

Section RM 33(1)(a): amended (with effect on 1 April 2013), on 17 July 2013, by section 97 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Subpart RP—Intermediaries

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Introductory provision

RP 1 What this subpart does

This subpart establishes the obligations of PAYE intermediaries and tax pooling intermediaries in relation to the collection and payment of tax and the provision of information, and sets out the requirements for the operation of their respective accounts.

Defined in this Act: intermediary, pay, PAYE intermediary, tax

Compare: 2004 No 35 s MBA 1

PAYE intermediaries

Obligations and treatment of PAYE intermediaries

RP 2 PAYE intermediaries

Transferring obligations

(1) An employer may arrange to transfer their pay-as-you-earn (PAYE) and employer's superannuation contribution tax (ESCT) obligations to a person approved under section 124I or 124L of the Tax Administration Act 1994 as a PAYE intermediary.

Paying amounts of tax and filing returns

(2) A PAYE intermediary must, on behalf of an employer who has transferred an obligation to them under subsection (1),—

(a) withhold and pay to the Commissioner the amount of tax for a payment under the PAYE rules and the ESCT rules; and

(b) file a return of income relating to the payment and the amount of tax for the payment.

When person no longer intermediary

(3) A person who stops being a PAYE intermediary for an employer has the rights and obligations under the PAYE rules and ESCT rules of a PAYE intermediary in relation to funds that—

(a) the employer pays to the person as intermediary; and

(b) the person holds at the time they stop being an intermediary.

Defined in this Act: amount of tax, Commissioner, employer, ESCT, ESCT rules, pay, PAYE, PAYE intermediary, PAYE rules, return of income

Compare: 2004 No 35 ss NBA 1, NBA 8, NBB 7(3)

Section RP 2(1): amended, on 1 April 2020, by section 235(1)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 2(1): amended, on 18 March 2019, by section 293 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 2(2): amended, on 1 April 2020, by section 235(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 2(3): amended, on 1 April 2020, by section 235(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 2 list of defined terms **listed PAYE intermediary**: repealed, on 1 April 2020, by section 235(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RP 3 Requirements for listed PAYE intermediaries

[Repealed]

Section RP 3: repealed, on 1 April 2020, by section 236 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RP 4 Payment of subsidies to certain PAYE intermediaries

[Repealed]

Section RP 4: repealed, on 1 April 2020, by section 238 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RP 5 Subsidy claims

[Repealed]

Section RP 5: repealed, on 1 April 2020, by section 238 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RP 6 Operation of PAYE intermediaries' trust accounts

Nature of account

(1) A PAYE intermediary's trust account must be named as a trust account and established at a registered bank within the meaning of the Banking (Prudential Supervision) Act 1989.

Deposits

(2) The deposits to the account consist of—

(a) a payment of gross salary or wages paid by an employer:

(b) an amount of employer's superannuation cash contribution paid by an employer:

(c) an amount of tax for a payment of salary or wages required under the PAYE rules and ESCT rules, or made under section RP 12:

(d) an amount of a refund made by the Commissioner under section RM 7 (Refunds to PAYE intermediaries):

(e) interest on the amount of the funds in the trust account.

Withdrawals

(3) The withdrawals from the account consist of—

(a) a payment of net salary or wages to an employee:

(b) an amount of employer's superannuation cash contribution paid by an employer:

(c) an amount of tax for a payment of salary or wages withheld under section RP 12:

(d) a payment that an employer would be required to make but for the arrangement with the PAYE intermediary, in relation to an amount of tax for a payment of salary or wages to an employee or an employer's superannuation cash contribution made on behalf of an employee:

(e) interest on the amount of the funds in the trust account.

Payments held on trust

(4) A payment relating to an employee that is credited to the trust account of a PAYE intermediary is held by the PAYE intermediary on trust for the benefit

of the employee and the Commissioner according to their respective rights and obligations.

Interest

(5) Interest earned in the trust account of a PAYE intermediary by a payment that relates to an employee is held beneficially by the PAYE intermediary.

Defined in this Act: amount, amount of tax, Commissioner, employee, employer, employer's superannuation cash contribution, ESCT rules, gross, interest, pay, PAYE intermediary, PAYE rules, salary or wages

Compare: 2004 No 35 s NBA 6

Section RP 6(1): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section RP 6(2)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 544(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 6(3)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 544(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 6(3)(d): amended (with effect on 1 April 2008), on 6 October 2009, by section 544(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 6 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 544(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 6 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 544(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Employers' responsibilities

RP 7 General responsibilities of employers

When this section applies

(1) This section applies when an employer who meets the requirements of sections RP 8 to RP 11 arranges to transfer their PAYE obligations in relation to an employee and a pay period to a PAYE intermediary.

PAYE liabilities

(2) The employer is not liable under the PAYE rules in relation to the employee and the pay period. However, the employer remains liable for the payment to the employee of the salary or wages for the pay period.

ESCT liabilities

(3) If the PAYE intermediary assumes the employer's obligations under the ESCT rules, the employer is not liable under the ESCT rules in relation to the employee and the pay period. However, the employer remains liable for the payment to the employee of the employer's superannuation cash contribution made on the employee's behalf.

Defined in this Act: employee, employer, employer's superannuation cash contribution, ESCT rules, pay period, PAYE, PAYE intermediary, PAYE rules, salary or wages

Compare: 2004 No 35 s NBA 4(2), (3)

Section RP 7(3): amended (with effect on 1 April 2008), on 6 October 2009, by section 545(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 7 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 545(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 7 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 545(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RP 8 Information for PAYE intermediaries

An employer must provide the information sought by a PAYE intermediary within the time agreed by the employer and intermediary.

Defined in this Act: employer, PAYE intermediary

Section RP 8: replaced, on 1 April 2019, by section 239 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RP 9 Authorised transfers from accounts

When this section applies

(1) This section applies when an employer has authorised the PAYE intermediary to direct the transfer of an amount from the employer's bank account to meet an obligation that the PAYE intermediary has on the employer's behalf in relation to an employee and a pay period.

Sufficient funds

(2) The employer must ensure, at a time fixed by the PAYE intermediary, that the bank account has sufficient funds available for the transfer.

Defined in this Act: amount, employee, employer, pay period, PAYE intermediary

Compare: 2004 No 35 s NBA 4(1)(a)

RP 10 When transfers from accounts not authorised

Employer to pay amount of tax to trust account

(1) If an employer has not authorised a PAYE intermediary to direct the transfer of funds as described in section RP 9, and the employer pays salary or wages directly to an employee for a pay period under section RP 12, the employer must pay the amount of tax for the payment required under the PAYE rules and ESCT rules into the PAYE intermediary's trust account.

Employer to pay salary or wages to trust account

(2) If the employer has not authorised the PAYE intermediary to direct the transfer of funds as described in section RP 9, and subsection (1) does not apply, the employer must pay the amount of the employee's gross salary or wages for the pay period into the PAYE intermediary's trust account. However, the employer

may retain an amount lawfully owed to them by the employee before making the payment.

Defined in this Act: amount, amount of tax, employee, employer, ESCT rules, pay, pay period, PAYE intermediary, PAYE rules, salary or wages

Compare: 2004 No 35 s NBA 4(1)(b)(i), (ii)

RP 11 Employer's superannuation cash contributions

If a PAYE intermediary has assumed the obligations of an employer under the ESCT rules in relation to an employee and a pay period, the employer must pay the amount of the employer's superannuation cash contribution made in the pay period on behalf of the employee into the PAYE intermediary's trust account.

Defined in this Act: amount, employee, employer, employer's superannuation cash contribution, ESCT rules, pay, pay period, PAYE intermediary

Compare: 2004 No 35 s NBA 4(1)(b)(iii)

Section RP 11 heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 547(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 11: amended (with effect on 1 April 2008), on 6 October 2009, by section 547(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 11 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 547(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 11 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 547(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RP 12 When payments made directly to employees

Despite sections RP 9 and RP 10, an employer may pay an employee's salary or wages directly to the employee in the following circumstances:

(a) the payment is made on a day in a pay period that is not the usual day for a payment of salary or wages for the pay period; and

(b) the payment is—

  (i) an advance of the employee's salary or wages:

  (ii) salary or wages owed to the employee for an earlier pay period:

  (iii) a payment on the termination of the employee's employment; and

(c) the employer withholds for the salary or wages of the employee the amount of tax that would be required under the PAYE rules and the ESCT rules if the employer did not have an arrangement with a PAYE intermediary; and

(d) the employer pays the amount referred to in paragraph (c) in the way described in sections RP 9 to RP 11.

Defined in this Act: amount of tax, arrangement, employee, employer, employment, ESCT rules, pay, pay period, PAYE rules, salary or wages

Compare: 2004 No 35 s NBA 4(4)

PAYE intermediaries' responsibilities

RP 13 General responsibilities of PAYE intermediaries

When this section applies

(1) This section applies when a PAYE intermediary assumes the PAYE and ESCT obligations in relation to an employee and a pay period that an employer would have under those rules in the absence of section RP 2(1).

No liability as employer

(2) The PAYE intermediary does not become liable as an employer for the payment to the employee of the salary or wages for the pay period, or for the payment of an employer's superannuation cash contribution made on behalf of the employee.

Defined in this Act: employee, employer, employer's superannuation cash contribution, ESCT, pay, pay period, PAYE, PAYE intermediary, salary or wages

Compare: 2004 No 35 s NBA 5(1), (2)

Section RP 13(2): amended (with effect on 1 April 2008), on 6 October 2009, by section 548(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 13 list of defined terms **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 548(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 13 list of defined terms **employer's superannuation contribution**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 548(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

RP 14 Collection, payment, and information requirements

A PAYE intermediary must—

(a) calculate and withhold the amount of tax for a payment of salary or wages, and pay the amount to the Commissioner by electronic means and in the format required; and

(ab) transfer the amount of any payroll donation to the relevant recipient within the period described in section 124ZG of the Tax Administration Act 1994; and

(b) provide the relevant employment income information to the Commissioner under subpart 3C of that Act in electronic form and by means of an electronic communication as prescribed by the Commissioner; and

(c) *[Repealed]*

(d) keep the records referred to in section 22AA of that Act.

Defined in this Act: amount of tax, Commissioner, employment income information, pay, PAYE intermediary, salary or wages

Compare: 2004 No 35 s NBA 5(1)

Section RP 14(ab): inserted, on 6 January 2010, by section 549 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 14(ab): amended, on 1 April 2019, by section 271 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 14(b): replaced, on 1 April 2019, by section 240(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 14(c): repealed, on 1 April 2019, by section 240(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 14(d): amended, on 1 April 2019, by section 240(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 14 list of defined terms **employer monthly schedule**: repealed, on 1 April 2019, by section 240(5)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 14 list of defined terms **employment income information**: inserted, on 1 April 2019, by section 240(5)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RP 14 list of defined terms **PAYE income payment form**: repealed, on 1 April 2019, by section 240(5)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RP 15 When employers have authorised transfers from accounts

If a PAYE intermediary has been given an authorisation by an employer under section RP 2(1), the intermediary must direct that, at or before the time of the transfer of the payment of salary or wages, an amount equal to the amount of tax for the payment required under the PAYE rules and ESCT rules is transferred to—

(a) the Commissioner; or

(b) the trust account established by the PAYE intermediary and identified in the employer's notice under section 124O of the Tax Administration Act 1994.

Defined in this Act: amount, amount of tax, Commissioner, employer, ESCT rules, notice, pay, PAYE intermediary, PAYE rules, salary or wages

Compare: 2004 No 35 s NBA 5(1B)

Section RP 15(b): amended, on 18 March 2019, by section 293 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RP 16 Obligations for employer's superannuation contributions

When section RP 11 applies, the PAYE intermediary assumes the obligations under the ESCT rules in relation to the employee and the pay period that the employer would have in the absence of section RP 2(1).

Defined in this Act: employee, employer, ESCT rules, pay period, PAYE intermediary

Compare: 2004 No 35 s NBA 5

Tax pooling intermediaries

RP 17 Tax pooling intermediaries

Meeting person A's obligations

(1) A person (**person A**) may ask a person who maintains a tax pooling account to act as a tax pooling intermediary between person A and the Commissioner in using funds in the tax pooling account to satisfy a liability of person A to pay an amount referred to in section RP 17B(2).

Person A and group companies

(2) For the purposes of this section, if person A is a company in a group of companies, person A also includes the other companies that are in the group at the time—

(a) an amount is deposited in a tax pooling account under section RP 18; and

(b) as applicable,—

(i) is used or transferred under section RP 17B:

(ii) is transferred under section RP 19.

Defined in this Act: amount, ask, Commissioner, company, group of companies, intermediary, provisional tax, tax pooling account

Compare: 2004 No 35 s MBA 2

Section RP 17: amended (with effect on 1 April 2009), on 6 October 2009, by section 550 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 17(1) heading: inserted, on 29 August 2011, by section 125(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17(1): replaced (with effect on 1 April 2019), on 30 March 2022, by section 168(1) (and see section 168(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17(2) heading: added, on 29 August 2011, by section 125(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17(2): added, on 29 August 2011, by section 125(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17 list of defined terms **amount**: inserted, on 29 August 2011, by section 125(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17 list of defined terms **ask**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 17 list of defined terms **company**: inserted, on 29 August 2011, by section 125(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17 list of defined terms **group of companies**: inserted, on 29 August 2011, by section 125(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

RP 17B Tax pooling accounts and their use

Meaning

(1) A **tax pooling account** means a trust account into which a tax pooling intermediary pays an amount that they receive from a person in their role as intermediary.

Use of funds in tax pooling accounts

(2) An amount held in a tax pooling account on behalf of a person may be refunded, transferred, sold, or used to satisfy a person's liability for—

(a) provisional tax other than under the AIM method:

(b) terminal tax:

(c) an increased amount of tax described in subsection (3):

(d) interest under Part 7 of the Tax Administration Act 1994 on an increased amount of tax described in subsection (3):

(e) interest under Part 7 of the Tax Administration Act 1994 on the provisional tax or terminal tax described in subsection (4):

(f) a new liability described in subsection (12).

When original liability increased

(3) For the purposes of this section, an increased amount of tax—

(a) arises when a person's previous assessed liability is increased after—

(i) the Commissioner amends an assessment under section 113 of the Tax Administration Act 1994:

(ii) the Commissioner makes a determination under section 119 of that Act:

(iii) an assessment is made because the Commissioner or the person is treated under section 89H of that Act as having accepted a proposed adjustment:

(iv) the person makes a voluntary disclosure:

(ab) also arises when a person has—

(i) before taking any action under subparagraph (ii), filed a return required to be provided for a tax type listed in subsection (8); and

(ii) has made a voluntary disclosure in relation to the return:

(ac) also arises when—

(i) before any assessment or adjustment under subparagraph (ii) is made, the person has filed a return required to be provided for a tax type listed in subsection (8); and

(ii) the Commissioner makes an assessment or adjustment increasing an amount previously payable:

(b) includes deferrable tax as defined in section 3(1) of the Tax Administration Act 1994 payable by the person:

(bb) includes an amount of tax (the **agreed delay tax**) for which the person has initiated a dispute under Part 4A of the Tax Administration Act 1994, if—

(i) the facts and questions of law in the dispute closely resemble the facts and questions of law for an assessment that is at the time the subject of proceedings in a court or Taxation Review Authority; and

(ii) the Commissioner and the person have agreed that the dispute will be determined by the final outcome of the proceedings; and

(iii) the Commissioner and the person enter the agreement on or after the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 receives the Royal assent:

(c) does not include the amount of the previous assessment or the amount that was previously payable under paragraph (ab) or (ac), as applicable.

Transfers for provisional tax or terminal tax

(4) A person who chooses to use funds in a tax pooling account to satisfy an obligation for provisional tax (other than under the AIM method) for a tax year, terminal tax for a tax year, or interest under Part 7 of the Tax Administration Act 1994 on the provisional tax or terminal tax may ask the tax pooling intermediary to arrange the transfer of an amount to their tax account with the Commissioner as follows:

(a) on a day that—

(i) is, or is after, the first day of the person's income year corresponding to the tax year; and

(ii) is, or is before, the day that is 75 days after the person's terminal tax date for the tax year, unless paragraph (b) or (c) applies:

(b) on a day that—

(i) is, or is after, the first day of the person's income year corresponding to the tax year; and

(ii) is, or is before, the day that is 76 days after the person's terminal tax date for the tax year, if the person's balance date falls at the end of October, November, or December, and the terminal tax date falls in a tax year that includes a 29 February:

(c) if the amount is to be transferred from funds deposited on the person's behalf in the tax pooling account under section RP 18 and the person's return filing requirements have been met, at any time.

Group companies

(4B) For the purposes of subsection (4)(c), if the person is part of a group of companies, the person includes the other companies in the group at the time at which a deposit to the tax pooling account is made, or funds purchased or used, as applicable.

Transfer within 60 days for increased amounts and use of money interest

(5) If a person chooses to use funds in a tax pooling account to satisfy an obligation for an increased amount of tax as described in subsection (3)(a) to (ac), or for interest under Part 7 of the Tax Administration Act 1994 on the increased amount of tax, the tax pooling intermediary must apply to the Commissioner within 60 days from the date on which the Commissioner issues the notice of assessment increasing the amount to transfer the amount to the person's tax account with the Commissioner.

Transfer within 60 days for deferrable tax, agreed delay tax, and use of money interest

(6) If a person chooses to use funds in a tax pooling account to satisfy an obligation for deferrable tax under subsection (3)(b), for agreed delay tax referred to in subsection (3)(bb), or for interest under Part 7 of the Tax Administration Act 1994 on deferrable tax or agreed delay tax, the tax pooling intermediary must apply to the Commissioner within 60 days from the date on which the court proceedings are finally determined to transfer the amount to the person's tax account with the Commissioner. For the purposes of this subsection, court proceedings include proceedings before the Taxation Review Authority.

Maximum amount of transfer

(7) The maximum amount that a person may ask a tax pooling intermediary to transfer to meet an obligation to pay tax is—

(a) for a transfer under subsection (4)(a) or (b), the total of—

(i) the provisional tax or terminal tax payable:

(ii) interest under Part 7 of the Tax Administration Act 1994 on the provisional tax or terminal tax:

(b) for a transfer under subsection (4)(c), the amount of the funds deposited by the person under section RP 18:

(c) for a transfer under subsection (5), the total of—

(i) the increased amount of tax payable:

(ii) interest payable under Part 7 of the Tax Administration Act 1994 on the increased amount of tax:

(d) for a transfer under subsection (6), the total of—

(i) the amount of deferrable tax or agreed delay tax payable:

(ii) interest payable under Part 7 of the Tax Administration Act 1994 on the amount of deferrable tax or agreed delay tax.

Extended meaning for increased amount of tax and deferrable tax

(8) For the purposes of sections RP 17 to RP 21, an increased amount of tax or deferrable tax includes an amount relating to—

(a) tax paid or payable under the PAYE rules, ESCT rules, RSCT rules, RWT rules, or NRWT rules:

(b) income tax, GST, FBT, further income tax, and imputation penalty tax payable under section 140B of the Tax Administration Act 1994.

When subsection (10) applies

[Repealed]

(9) *[Repealed]*

Commissioner's discretion to allow use of funds

[Repealed]

(10) *[Repealed]*

Review

[Repealed]

(11) *[Repealed]*

When funds may be used to meet new liability for tax or interest

(12) Subsection (13) applies when—

(a) a person is liable for an increased amount of a tax in a category referred to in subsection (14), or of interest under Part 7 of the Tax Administration Act 1994 (the **Part 7 interest**) on an increase in the amount of such a tax; and

(b) the liability referred to in paragraph (a) (the **new liability**) does not relate to a liability of the person that arose from a return by the person, or an assessment of the person, made before the person becomes aware of the new liability; and

(c) the person makes a voluntary disclosure of the new liability; and

(d) the person notifies the Commissioner of the details of the new liability and the notification results in an assessment of the new liability or in an obligation to pay the new liability; and

(e) the person makes the voluntary disclosure referred to in paragraph (c)—

(i) within a reasonable time after the earliest time that the person or the person's agent is aware of the person's new liability; and

(ii) before the date of the return referred to in paragraph (d); and

(iii) before the person is notified, within the terms of section 141G(4) of the Tax Administration Act 1994, of a pending tax audit or investigation or that a tax audit or investigation has started.

Commissioner's discretion to allow use of funds to meet new liability

(13) On application by the person, the Commissioner may notify the person that the person may use funds in a tax pooling account to meet the new liability, if the Commissioner is satisfied that the new liability did not arise as a result of a choice by the person not to comply with the person's obligations under the Inland Revenue Acts or as a result of a failure by the person to take reasonable care to comply with those obligations.

Categories of tax that may be included in new liability

(14) The categories of tax that may be included in a new liability for the purposes of subsection (12) are—

(aa) approved issuer levy:

(a) ESCT:

(b) FBT:

(c) further income tax:

(d) GST:

(e) imputation penalty tax:

(f) income tax:

(g) NRWT:

(h) PAYE:

(i) RSCT:

(j) RWT.

Defined in this Act: amount, amount of tax, apply, ask, assessment, balance date, Commissioner, corresponding income year, income tax, notice, notify, pay, provisional tax, return of income, tax account with the Commissioner, tax pooling account, terminal tax

Section RP 17B: inserted, on 6 October 2009, by section 551 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 17B(2): replaced (with effect on 3 July 2014), on 24 February 2016, by section 230(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(2)(a): amended, on 1 April 2018, by section 44(1) (and see section 44(3) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RP 17B(2)(d): amended, on 1 April 2019, by section 272(1) (and see section 272(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 17B(2)(e): inserted, on 1 April 2019, by section 272(1) (and see section 272(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 17B(2)(f): inserted, on 30 March 2022, by section 169(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(3)(ab): inserted, on 29 August 2011, by section 126(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(3)(ac): inserted, on 29 August 2011, by section 126(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(3)(bb): inserted (with effect on 3 July 2014), on 24 February 2016, by section 230(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(3)(c): amended, on 29 August 2011, by section 126(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(4) heading: substituted, on 29 August 2011, pursuant to section 126(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(4): substituted, on 29 August 2011, by section 126(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(4): amended, on 1 April 2019, by section 272(2) (and see section 272(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 17B(4)(a): replaced, on 30 March 2022, by section 169(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(4)(b): replaced, on 30 March 2022, by section 169(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(4B) heading: inserted, on 29 August 2011, by section 126(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(4B): inserted, on 29 August 2011, by section 126(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(5) heading: replaced (with effect on 3 July 2014), on 24 February 2016, by section 230(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(5): amended, on 2 June 2016, by section 65(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 17B(5): amended (with effect on 3 July 2014), on 24 February 2016, by section 230(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(5): amended, on 29 August 2011, by section 126(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(6) heading: replaced (with effect on 3 July 2014), on 24 February 2016, by section 230(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(6): amended, on 2 June 2016, by section 65(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 17B(6): amended (with effect on 3 July 2014), on 24 February 2016, by section 230(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(7) heading: added, on 29 August 2011, by section 126(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(7): added, on 29 August 2011, by section 126(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(7)(a): replaced, on 1 April 2019, by section 272(3) (and see section 272(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 17B(7)(c): replaced (with effect on 3 July 2014), on 24 February 2016, by section 230(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(7)(d): replaced (with effect on 3 July 2014), on 24 February 2016, by section 230(8) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 17B(8) heading: added, on 29 August 2011, by section 126(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(8): added, on 29 August 2011, by section 126(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B(9) heading: repealed, on 30 March 2022, pursuant to section 169(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(9): repealed, on 30 March 2022, by section 169(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(10) heading: repealed, on 30 March 2022, pursuant to section 169(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(10): repealed, on 30 March 2022, by section 169(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(11) heading: repealed, on 30 March 2022, pursuant to section 169(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(11): repealed, on 30 March 2022, by section 169(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(12) heading: inserted, on 30 March 2022, by section 169(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(12): inserted, on 30 March 2022, by section 169(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(13) heading: inserted, on 30 March 2022, by section 169(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(13): inserted, on 30 March 2022, by section 169(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(14) heading: inserted, on 30 March 2022, by section 169(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(14): inserted, on 30 March 2022, by section 169(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 17B(14)(aa): inserted, on 1 April 2025, by section 133 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section RP 17B list of defined terms **apply**: inserted, on 2 June 2016, by section 65(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 17B list of defined terms **ask**: inserted, on 2 June 2016, by section 65(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 17B list of defined terms **balance date**: inserted, on 29 August 2011, by section 126(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B list of defined terms **corresponding income year**: inserted, on 29 August 2011, by section 126(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B list of defined terms **income tax**: inserted, on 29 August 2011, by section 126(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 17B list of defined terms **notify**: inserted, on 2 June 2016, by section 65(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 17B list of defined terms **return of income**: inserted, on 29 August 2011, by section 126(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

RP 18 Deposits in tax pooling accounts

When this section applies

(1) This section applies when a tax pooling intermediary makes a deposit in a tax pooling account on behalf of a person.

Deposit held in trust

(2) The intermediary holds the principal amount of the person's deposit in trust for the person until the amount is—

(a) credited to the person's tax account with the Commissioner:

(b) credited to another person's tax account with the Commissioner:

(c) refunded to the person:

(d) transferred at the person's request to another intermediary:

(e) transferred at the intermediary's request to another intermediary.

Effective date

(2B) For the purposes of this section and sections RP 17B and RP 19, a deposit that is transferred between intermediaries under subsection (2)(d) or (e) retains its pre-transfer date.

Notification required

(3) The intermediary must—

(a) notify the person, at or before the time the person pays an amount to the intermediary, that the payment does not satisfy an obligation of the person to make a payment to the Commissioner; and

(b) notify the Commissioner by electronic means, providing for each person who has contributed an amount as a deposit,—

(i) the person's name and tax file number; and

(ii) the amount of the person's contribution.

Confirming receipt of deposit and details

(4) On receiving the deposit and details described in subsection (3), the Commissioner must provide confirmation of receipt.

Refunding deposit

(5) If the details described in subsection (3) are not provided within 5 working days after a deposit is made, the Commissioner must refund the deposit.

Defined in this Act: amount, Commissioner, intermediary, notify, pay, request, tax account with the Commissioner, tax file number, tax pooling account, working day

Compare: 2004 No 35 ss MBA 3, MBA 4(3), MBA 5(1)–(4)

Section RP 18(2)(c): amended, on 6 October 2009, by section 552(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 18(2)(d): added, on 6 October 2009, by section 552(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 18(2)(e): added, on 6 October 2009, by section 552(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 18(2B) heading: inserted, on 6 October 2009, by section 552(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 18(2B): inserted, on 6 October 2009, by section 552(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 18(4) heading: substituted, on 6 October 2009, by section 552(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 18(4): substituted, on 6 October 2009, by section 552(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 18 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RP 19 Transfers from tax pooling accounts

Transferring amounts

(1) A tax pooling intermediary may apply to the Commissioner to transfer an amount in their tax pooling account to the tax account of a person who is their client or to another intermediary.

Treatment of transferred amounts

(1B) An amount transferred and credited to the tax account of a person for provisional tax or terminal tax is treated as follows:

(a) for an amount credited on or before the date that is, or would have been, the person's final instalment date for a tax year, as income tax paid to meet a provisional tax obligation under the provisional tax rules:

(b) for an amount credited after the date that is, or would have been, the person's final instalment date for a tax year,—

(i) first, as applied under section 120F of the Tax Administration Act 1994 to pay interest that the person is liable to pay; and

(ii) secondly, as income tax paid to meet the person's provisional tax obligation.

Credited on date of deposit or later

(2) The intermediary may apply to the Commissioner that the amount of a transfer under subsection (1) is credited in the person's tax account or the account of another intermediary on the date on which the amount was deposited in the tax pooling account or on some later date.

Credit date

(3) The credit date for an amount transferred to a person's tax account is—

(a) for a transfer under section RP 17B(4)(a) or (b), a date nominated that is no earlier than the first day of the relevant income year:

(b) for a transfer under section RP 17B(4)(c), the date on which the person deposited the funds in a tax pooling account:

(c) for an application made within the 60-day period referred to in section RP 17B(5) or (6), a date nominated that is no earlier than the original due date for the relevant period:

(d) in any other case, the date on which the Commissioner receives the application for the transfer.

Details

(4) For the purposes of this section, the intermediary must provide the following details to the Commissioner by electronic means:

(a) the date of the transfer and the credit date, if it is different; and

(b) the amount of the transfer; and

(c) the tax file number of the person for whom the amount is transferred.

Statement

(5) When an amount is transferred, the Commissioner must provide a statement showing the effect of the transfer to both the intermediary and the person for whom the transfer is made.

Defined in this Act: amount, apply, Commissioner, income tax, intermediary, pay, provisional tax, provisional tax rules, tax file number, tax pooling account, tax year, terminal tax

Compare: 2004 No 35 s MBA 6(1)–(3)

Section RP 19(1) heading: substituted, on 6 October 2009, by section 553(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 19(1): substituted, on 6 October 2009, by section 553(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 19(1): amended, on 2 June 2016, by section 66(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 19(1B) heading: inserted, on 6 October 2009, by section 553(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 19(1B): inserted, on 6 October 2009, by section 553(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 19(1B): amended (with effect on 3 July 2014), on 24 February 2016, by section 231 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 19(1B)(a): replaced, on 1 April 2019, by section 273(1) (and see section 273(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 19(1B)(b): replaced, on 1 April 2019, by section 273(1) (and see section 273(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 19(2): amended, on 2 June 2016, by section 66(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 19(2): amended, on 6 October 2009, by section 553(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section RP 19(3): substituted, on 29 August 2011, by section 127 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 19(3)(a): replaced (with effect on 1 April 2019), on 30 March 2022, by section 170(1) (and see section 170(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section RP 19(3)(c): amended, on 2 June 2016, by section 66(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 19(3)(d): amended, on 2 June 2016, by section 66(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 19 list of defined terms **apply**: inserted, on 2 June 2016, by section 66(5) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RP 19B Transfers for certain expected tax liabilities

Who this section applies to

(1) This section applies to a person who—

(a) expects to have an income tax or provisional tax liability other than under the AIM method for a tax year; and

(b) has acquired funds in a tax pooling account other than by depositing them on their own account; and

(c) has not yet filed a return of income in relation to the liability for the tax year.

Using funds

(2) The person may choose to use the funds towards the payment of the liability for the tax year on meeting all the requirements of this section.

Requirements at time of making request

(3) At the time of making the request, the person must—

(a) for an income tax liability, have met all their return filing requirements for earlier tax years:

(b) for a provisional tax liability other than under the AIM method, have met all their obligations under the provisional tax rules for the tax year.

Effective date of transfer

(4) The effective date that the person nominates for the transfer of funds must correspond to the relevant instalment date set out in schedule 3, part A (Payment of provisional tax and terminal tax).

Refunds

(5) If an overpayment arises as a result of a transfer under this section, the amount of the overpayment is treated as follows:

(a) first, the amount is transferred to meet a liability of the person for—

(i) provisional tax (other than under the AIM method), terminal tax, and interest under Part 7 of the Tax Administration Act 1994, referred to in section RP 17B(4)(a) or (b):

(ii) an amount referred to in section RP 17B(5) consisting of an increased amount of tax and interest payable under Part 7 of the Tax Administration Act 1994 on the increased amount of tax:

(iii) an amount referred to in section RP 17B(6) consisting of deferrable tax, or agreed delay tax, and interest payable under Part 7 of the Tax Administration Act 1994 on the deferrable tax or agreed delay tax:

(b) secondly, the amount is transferred with an effective date that is no earlier than the date on which the Commissioner received the later application:

(c) thirdly, the amount is refunded to the person.

Relationship with section RP 17B

(6) This section overrides section RP 17B(7)(a).

Defined in this Act: amount, apply, Commissioner, instalment date, provisional tax, provisional tax rules, request, return of income, tax pooling account, tax year, terminal tax

Section RP 19B: inserted, on 29 August 2011, by section 128 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 19B(1)(a): amended, on 1 April 2018, by section 45(1) (and see section 45(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RP 19B(3)(b): amended, on 1 April 2018, by section 45(2) (and see section 45(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section RP 19B(5): replaced (with effect on 3 July 2014), on 24 February 2016, by section 232 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section RP 19B(5)(a)(i): replaced, on 1 April 2019, by section 274(1) (and see section 274(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RP 19B(5)(b): amended, on 2 June 2016, by section 67(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 19B list of defined terms **apply**: inserted, on 2 June 2016, by section 67(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 19B list of defined terms **request**: inserted, on 2 June 2016, by section 67(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RP 20 Declining, amending, or reversing transfers

When this section applies

(1) This section applies when a tax pooling intermediary applies to the Commissioner to transfer an amount under section RP 19.

Tax avoidance

(2) The Commissioner may refuse to accept the application, or may reverse the transfer, if the application is made for the purpose or effect of tax avoidance.

Non-compliance

(2B) If the Commissioner considers that the application does not comply with sections RP 17 to RP 21, the Commissioner may—

(a) decline to process the application:

(b) amend the application:

(c) reverse the transfer.

Failure to provide details

(3) The Commissioner must refuse the transfer if—

(a) it relates to a deposit for which the details have not been provided under section RP 18(3) and the period of 5-working days has not expired:

(b) the details required under section RP 19(4) have not been provided.

Defined in this Act: amount, apply, Commissioner, intermediary, tax avoidance, working day

Compare: 2004 No 35 s MBA 6(4)–(9)

Section RP 20 heading: substituted, on 29 August 2011, by section 129(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 20(1): amended, on 2 June 2016, by section 68(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 20(2): amended, on 2 June 2016, by section 68(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 20(2B) heading: inserted, on 29 August 2011, by section 129(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 20(2B): inserted, on 29 August 2011, by section 129(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section RP 20(2B): amended, on 2 June 2016, by section 68(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 20(2B)(a): amended, on 2 June 2016, by section 68(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 20(2B)(b): amended, on 2 June 2016, by section 68(5) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 20 list of defined terms **apply**: inserted, on 2 June 2016, by section 68(6) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RP 21 Refunds from tax pooling accounts

A tax pooling intermediary may apply to the Commissioner to refund some or all of the balance in their tax pooling account.

Defined in this Act: apply, Commissioner, intermediary, tax pooling account

Compare: 2004 No 35 s MBA 7

Section RP 21: amended, on 2 June 2016, by section 69(1) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section RP 21 list of defined terms **apply**: inserted, on 2 June 2016, by section 69(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Subpart RZ—Terminating provisions

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Provisional tax

RZ 1 Certain elections to become person with provisional tax liability

When this section applies

(1) This section applies when a person has a non-standard income year and has, between 10 October 2000 and the date on which the Taxation (Relief, Refunds, and Miscellaneous Provisions) Act 2002 received Royal asset, filed a return of income for the 1998–99 income year or a later income year on the basis that section MB 3(a) of the Income Tax Act 2004 (section MB 2A(1)(a)(i) before the enactment of that Act) applied.

Choosing to have provisional tax liability

(2) The person may choose to be a person with a provisional tax liability for the income year for which the return was filed if they have paid provisional tax of more than $2,500 on or before the date of instalment F for the income year corresponding to the tax year for which the return was filed.

Defined in this Act: corresponding income year, income year, non-standard income year, provisional tax, return of income, tax year

Compare: 2004 No 35 s MZ 8

RZ 2 Amount of provisional tax based on 1997–98 or earlier tax year

For the purposes of sections MB 4 and MB 5 other than section MB 5(3) and (4) of the Income Tax Act 2004 (which relate to the methods for calculating provisional tax), and for a person who is a New Zealand superannuitant for the 1997–98 tax year, the person's residual income tax for the tax year or for an earlier tax year is the amount that would have been their residual income tax if they—

(a) had not been liable to pay the New Zealand superannuitant surcharge; and

(b) had not paid any New Zealand superannuitant surcharge by way of surcharge deduction.

Defined in this Act: amount, New Zealand superannuitant, residual income tax, tax year

Compare: 2004 No 35 s MZ 9

RZ 3 Standard method: 2010–11 to 2012–13 income years

When this section applies

(1) This section applies to the calculation of a person's provisional tax liability, when section RC 5 (Methods for calculating provisional tax liability) applies,—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year and for instalments for the 2011–12 and 2012–13 income years, if the person is a new personal tax rate person:

(b) for instalments payable for the 2011–12 and 2012–13 income years, if the person is a new company tax rate person.

Standard method modified: for 5% uplift

(2) The standard method under section RC 5(2) is modified so that—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year, instead of using 105%, the amount of provisional tax payable is calculated using 95%, if the person is a new personal tax rate person:

(b) for the 2011–12 income year, instead of using 105%, the amount of provisional tax payable is calculated using—

(i) 95%, if the person is a new personal tax rate person; or

(ii) 100%, if the person is a new company tax rate person.

Standard method modified: for 10% uplift

(3) The standard method under section RC 5(3) is modified so that—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year, instead of using 110%, the amount of provisional tax payable is calculated using 95%, if the person is a new personal tax rate person:

(b) for the 2011–12 income year, instead of using 110%, the amount of provisional tax payable is calculated using—

(i) 95%, if the person is a new personal tax rate person; or

(ii) 105%, if the person is a new company tax rate person:

(c) for the 2012–13 income year, instead of using 110%, the amount of provisional tax payable is calculated using—

(i) 100%, if the person is a new personal tax rate person; or

(ii) 105%, if the person is a new company tax rate person.

Defined in this Act: amount, income year, new company tax rate person, new personal tax rate person, pay, provisional tax

Section RZ 3: substituted, on 1 October 2010, by section 29 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

RZ 4 GST ratio method: 2010–11 to 2013–14 income years

When this section applies

(1) This section applies to the calculation of a person's provisional tax liability, when section RC 8 (GST ratio method) applies and requires an amount of residual income tax or an assessment of income tax for the calculation of the GST ratio,—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year and for instalments for the 2011–12, 2012–13, and 2013–14 income years, if the person is a new personal tax rate person:

(b) for instalments payable for the 2011–12, 2012–13, and 2013–14 income years, if the person is a new company tax rate person.

(2) The GST ratio method under section RC 8 is modified so that—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year, and for the 2011–12 income year, if the person is a new personal tax rate person,—

(i) the amount of residual income tax or the amount of an assessment of income tax for the preceding year, as applicable, is reduced by multiplying the amount by 0.90:

(ii) the amount of residual income tax or the amount of an assessment of income tax for the tax year before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.85:

(iii) the amount of residual income tax or the amount of an assessment of income tax for the year that is 2 years before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.80:

(b) for instalments payable for the 2012–13 income year, if the person is a new personal tax rate person,—

(i) the amount of residual income tax or the amount of an assessment of income tax for the tax year before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.90:

(ii) the amount of residual income tax or the amount of an assessment of income tax for the year that is 2 years before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.85:

(c) for instalments payable for the 2013–14 income year, if the person is a new personal tax rate person, the amount of residual income tax or the amount of an assessment of income tax for the year that is 2 years before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.90:

(d) for instalments payable for the 2011–12 income year, if the person is a new company tax rate person,—

(i) the amount of residual income tax or the amount of an assessment of income tax for the preceding year, as applicable, is reduced by multiplying the amount by 0.95:

(ii) the amount of residual income tax or the amount of an assessment of income tax for the tax year before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.95:

(iii) the amount of residual income tax or the amount of an assessment of income tax for the year that is 2 years before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.95:

(e) for instalments payable for the 2012–13 income year, if the person is a new company tax rate person,—

(i) the amount of residual income tax or the amount of an assessment of income tax for the tax year before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.95:

(ii) the amount of residual income tax or the amount of an assessment of income tax for the year that is 2 years before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.95:

(f) for instalments payable for the 2013–14 income year, if the person is a new company tax rate person, the amount of residual income tax or the amount of an assessment of income tax for the year that is 2 years before the preceding year or the transitional year, as applicable, is reduced by multiplying the amount by 0.95.

Defined in this Act: amount, assessment, GST ratio, income tax, income year, new company tax rate person, new personal tax rate person, pay, provisional tax, residual income tax

Section RZ 4: substituted, on 1 October 2010, by section 29 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

RZ 5 Calculating amounts under standard method: 2010–11 to 2012–13 income years

When this section applies

(1) This section applies to the calculation of a person's provisional tax liability, when section RC 10 (Calculating amount of instalment under standard and estimation methods) applies,—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year and for instalments for the 2011–12 and 2012–13 income years, if the person is a new personal tax rate person:

(b) for instalments payable for the 2011–12 and 2012–13 income years, if the person is a new company tax rate person.

Calculation modified: for 5% uplift

(2) In the calculation of the amount of an instalment, in section RC 10(3)(a), subparagraph (i) is modified so that—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year, instead of using a 5% uplift, a 5% reduction is used, if the person is a new personal tax rate person:

(b) for the 2011–12 income year, instead of using a 5% uplift, the amount of provisional tax payable is calculated using—

(i) a 5% reduction, if the person is a new personal tax rate person; or

(ii) no uplift, if the person is a new company tax rate person.

Calculation modified: for 10% uplift

(3) In the calculation of the amount of an instalment, in section RC 10(3)(a), subparagraph (ii) is modified so that—

(a) for instalments payable on or after 1 October 2010 for the 2010–11 income year, instead of using a 10% uplift, a 5% reduction is used, if the person is a new personal tax rate person:

(b) for the 2011–12 income year, instead of using a 10% uplift, the amount of provisional tax payable is calculated using—

(i) a 5% reduction, if the person is a new personal tax rate person; or

(ii) a 5% uplift, if the person is a new company tax rate person:

(c) for the 2012–13 income year, instead of using a 10% uplift, the amount of provisional tax payable is calculated using—

(i) no uplift, if the person is a new personal tax rate person; or

(ii) a 5% uplift, if the person is a new company tax rate person.

Defined in this Act: amount, income year, new company tax rate person, new personal tax rate person, pay, provisional tax

Section RZ 5: substituted, on 1 October 2010, by section 29 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

RZ 5B Standard method: new personal tax rate persons from 1 October 2008 to end 2009–10 income year

[Repealed]

Section RZ 5B: repealed, on 1 October 2010, by section 29 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

RZ 5C GST ratio method: new personal tax rate persons from 1 October 2008 to end 2009–10 income year

[Repealed]

Section RZ 5C: repealed, on 1 October 2010, by section 29 of the Taxation (Budget Measures) Act 2010 (2010 No 27).

RZ 5D Standard method or GST method: transition for Maori authorities

When this section applies

(1) This section applies when the provisional tax liability of a Maori authority is calculated for the 2011–12 and 2012–13 income years (the **transitional period**).

Application of modified sections RZ 3 to RZ 5

(2) Sections RZ 3 to RZ 5 apply for the transitional period to the Maori authority and the Maori authority's provisional tax liability as if—

(a) the Maori authority were a new company tax rate person:

(b) in section RZ 3,—

(i) in subsection (2)(b)(ii), 100% had been replaced by 95%:

(ii) in subsection (3)(b)(ii), 105% had been replaced by 100%:

(iii) in subsection (3)(c)(ii), 105% had been replaced by 100%:

(c) in section RZ 4,—

(i) in subsection (2)(d), 0.95 had been replaced by 0.9 in each place where it appears:

(ii) in subsection (2)(e), 0.95 had been replaced by 0.9 in each place where it appears:

(d) in section RZ 5,—

(i) in subsection (2)(b)(ii), a reference to no uplift had been replaced by a reference to a 5% reduction:

(ii) in subsection (3)(b)(ii), a reference to a 5% uplift had been replaced by a reference to no uplift:

(iii) in subsection (3)(c)(ii), a reference to a 5% uplift had been replaced by a reference to no uplift.

Defined in this Act: Maori authority, new company rate person

Section RZ 5D: inserted (with effect on 1 October 2010), on 21 December 2010, by section 131 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section RZ 5D list of defined terms **provisional tax liability**: repealed, on 27 February 2014, by section 131 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Refunds

RZ 6 Limits on refunds: transitional dates

ICA companies

(1) If an imputation credit account (ICA) company has a refund of income tax, and an amount paid in excess is dealt with under section RM 16(2)(c) (Treatment of amounts not refunded), the amount may be used only for a tax year commencing after the 1988–89 tax year, whether that is before or after the year of that entitlement.

Maori authorities

(2) If a Maori authority has a refund of income tax, and an amount paid in excess is dealt with under section RM 22(4)(b) (Limits on refunds for Maori

authorities), the amount may be used only for a tax year commencing after the 2004–05 tax year, whether that is before or after the year of that entitlement.

PCA persons

[Repealed]

(3) *[Repealed]*

Defined in this Act: amount, ICA company, income tax, Maori authority, tax year

Compare: 2004 No 35 ss MD 2(5)(a)(ii), MD 3(4)(a)

Section RZ 6(3) heading: repealed, on 30 March 2017, pursuant to section 286(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RZ 6(3): repealed, on 30 March 2017, by section 286(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RZ 6 list of defined terms **PCA person**: repealed, on 30 March 2017, by section 286(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Withdrawal income

[Repealed]

Heading: repealed, on 2 June 2016, by section 70 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RZ 7 Withdrawal income

[Repealed]

Section RZ 7: repealed, on 2 June 2016, by section 70 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RZ 8 Payment and rate of withdrawal tax

[Repealed]

Section RZ 8: repealed, on 2 June 2016, by section 70 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RZ 9 Relief in certain cases

[Repealed]

Section RZ 9: repealed, on 2 June 2016, by section 70 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

RZ 10 Recovery of amounts payable to Commissioner

[Repealed]

Section RZ 10: repealed, on 2 June 2016, by section 70 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Refunds for life insurers

Heading: inserted (with effect on 3 July 2014), on 24 February 2016, by section 233 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RZ 11 Refunds for life insurers

The Commissioner must refund an amount of tax that a life insurer has paid to the extent to which—

(a) the tax paid gave rise to imputation credits; and

(b) for a tax year corresponding to an income year before the income year that includes 1 July 2010, the life insurer would be entitled to a refund under section RM 2(1) (Refunds for overpaid tax) or any provision corresponding to it in an earlier Act, treating section RM 2(1)(a) and any corresponding provision as modified so as to exclude the amount of the life insurer's policyholder base income tax liability from the tax required to be paid by them; and

(c) all other relevant requirements for a refund are met.

Defined in this Act: amount of tax, Commissioner, imputation credit, income year, life insurer, pay, policyholder base income tax liability, tax

Section RZ 11: added (with effect on 1 April 2008), on 6 October 2009, by section 556 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Tax pooling intermediaries

Heading: inserted (with effect on 3 July 2014), on 24 February 2016, by section 234 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

RZ 12 Adjustments to interest in requests made after commencement

When this section applies

(1) This section applies when a tax pooling intermediary makes a request (the **original request**) to the Commissioner for a person under section RP 17B(5) or (6) (Tax pooling accounts and their use) after 2 July 2014 and before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 receives the Royal assent.

Amendment request

(2) The tax pooling intermediary, if authorised by the person, may make a request (the **amendment request**) to the Commissioner for the original request to be amended by adjusting the amount included to pay interest under Part 7 of the Tax Administration Act 1994.

Permitted changes

(3) The amendments to the original request are limited to changes in—

(a) the details required by section RP 19(4)(a) (Transfers from tax pooling accounts):

(b) the details required by section RP 19(4)(b).

Maximum amount unchanged

(4) The original request as amended must not request the transfer of an amount exceeding the maximum amount specified in section RP 17B(7).

Time limit for amendment request

(5) The amendment request must be received by the Commissioner within 60 days from the date on which the Commissioner notifies the person of the amount of interest payable under Part 7 of the Tax Administration Act 1994.

Timing of effect

(6) The original request as amended is treated as being made on the date on which the original request was made.

Defined in this Act: Commissioner, interest, tax pooling intermediary

Section RZ 12: inserted (with effect on 3 July 2014), on 24 February 2016, by section 234 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Non-resident financial arrangement income

Heading: inserted, on 30 March 2017, by section 287 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

RZ 13 Treatment of prepayments

When this section applies

(1) This section applies for the purposes of the NRWT rules when—

(a) a person resident in New Zealand enters into a financial arrangement before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 receives the Royal assent (the **date of enactment**); and

(b) either—

(i) no obligation to withhold NRWT has arisen in relation to the arrangement before the date of enactment; or

(ii) approved issuer levy has been paid in relation to the arrangement before the date of enactment; and

(c) the arrangement would be a related-party debt if sections RF 12H to RF 12J (which relate to related-party debt) had applied to the arrangement before the date of enactment; and

(d) the person is party to the arrangement on or after the date of enactment.

When excess treated as paid

(2) If, at the date on which section 273(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 applies in relation to the arrangement, the total interest paid under the arrangement is

more than the total expenditure accrued by the person on the arrangement, the excess interest is treated as paid on that date.

Foreign exchange treatment

(3) For the purposes of subsection (2) and an arrangement that is denominated in a foreign currency, the calculation of total interest and total expenditure must be made in the currency of the arrangement and the excess converted to New Zealand dollars under subpart YF (Currency conversion).

Example

On 1 April 2010, X Ltd borrowed $1m from Foreign Parent Ltd, repayable on 31 March 2025. Foreign Parent also has a New Zealand branch. On 31 March each year from 2011 to 2016, X makes an interest payment of $60,000 to Foreign Parent. As Foreign Parent has a New Zealand branch, these interest payments are not non-resident passive income, so no NRWT is required to be withheld. Once the amendments to section RF 2(1)(d) are enacted, any interest payments by X to Foreign Parent will be non-resident passive income. On 30 September 2016, X makes a one-off interest payment of $400,000 and agrees with Foreign Parent that no further interest will be paid. X calculates that $35,000 of this payment covers the period from 1 April 2016 to the date on which the amendments to section RF 2(1)(d) are enacted. The remaining $365,000 is treated as a prepayment that is paid on the date of enactment, so X is required to withhold NRWT of $36,500.

Defined in this Act: amount, approved issuer, financial arrangement, income year, interest, NRWT, NRWT rules, pay, related-party debt, resident in New Zealand

Section RZ 13: inserted, on 30 March 2017, by section 287 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section RZ 13 list of defined terms **approved issuer**: inserted, on 29 March 2018 (with effect on 30 March 2017), by section 241 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RZ 13 list of defined terms **approved issuer levy**: repealed, on 29 March 2018 (with effect on 30 March 2017), by section 241 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

RZ 14 Listed PAYE intermediaries: transitional provision

Despite the repeal of sections RP 4 and RP 5, sections 124L, 124M, 124N, 124R, 185C, and 185D of the Tax Administration Act 1994, and the Income Tax (Payroll Subsidy) Regulations 2006 (which relate to the payment of subsidies to certain PAYE intermediaries) by the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018, those provisions continue to apply in relation to the payment of an amount of a subsidy or a claim for a subsidy to which a listed PAYE intermediary becomes entitled before the date of the repeal.

Defined in this Act: amount, pay, PAYE intermediary

Section RZ 14: inserted, on 1 April 2020, by section 242 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section RZ 14: amended, on 1 April 2020, by section 275 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RZ 15 Treatment of certain refunds made on income statements: 1 April 2008 to 31 March 2019

When this section applies

(1) This section applies for the period that starts on 1 April 2008 and ends on 31 March 2019 when—

(a) an income statement has been provided to a person for a tax year and the result is that an amount of tax must be refunded to the person; and

(b) the person is a deceased person for whom no executor or administrator has been appointed; and

(c) the amount is—

(i) more than the confirmation threshold applying for the person at the time the income statement was provided; and

(ii) not more than $15,000.

Persons confirming correctness of statements

(2) The Commissioner may allow a person appearing on the list described in subsection (3) to confirm, to the best of their knowledge, the correctness of the income statement on behalf of the person.

List of classes of persons

(3) The Commissioner must publish a list of the classes of persons who are considered likely to have a relationship with a deceased person and that the Commissioner considers may be best placed to confirm an income statement of a deceased person.

Defined in this Act: amount, amount of tax, Commissioner, income statement, tax year

Section RZ 15: inserted (with effect on 1 April 2008), on 18 March 2019, by section 276(1) (and see section 276(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

RZ 16 Treatment of certain refunds not paid within 4-year period: 1 April 2008 to 31 March 2013

When this section applies

(1) This section applies for the period that starts on 1 April 2008 and ends on 31 March 2013 when—

(a) a person overpaid their tax for an income year that falls in the period and was entitled to a refund of tax; and

(b) the refund arose from the person's return of income and not from an amended assessment; and

(c) the Commissioner was unable to make the refund within the 4-year period referred to in section 108(1) of the Tax Administration Act 1994; and

(d) after the expiry of the 4-year period, the refund could not be made under section RM 2 as it was before it was amended by section 87(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013.

(2) The Commissioner may pay the refund to the person.

Defined in this Act: assessment, Commissioner, pay, return of income

Section RZ 16: inserted (with effect on 1 April 2008), on 18 March 2019, by section 277(1) (and see section 277(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section RZ 16(1)(c): amended (with effect on 1 April 2008), on 23 March 2020, by section 184 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Part Y
Definitions and related matters

Subpart YA—General definitions

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YA 1 Definitions

In this Act, unless the context requires otherwise,—

5-year test land *[Repealed]*

10-year test land *[Repealed]*

12 month ASAP—

(a) means an agreement for the sale and purchase of property or services (ASAP) for which an amount paid or payable for property or services is pre-paid (the **prepayment**) by reference to the rights date, and the prepayment is paid 12 months or more before the rights date, except if the prepayment is only—

(i) a payment for progress made on either making or constructing property, or providing services:

(ii) a deposit for property or services paid within the first 3 months of the ASAP that, when aggregated with all other deposits paid within those first 3 months, totals 10% or less of the amount paid or payable for property or services; and

(b) means an ASAP for which an amount paid or payable for property or services is delayed (the **deferment**) and the deferment is paid 12 months or more after the rights date, except if the deferment is only—

(i) an earnout amount based on business performance after the sale and purchase of property or services:

(ii) an adjustment to the amount paid or payable for the property or service under a warranty:

(iii) an adjustment to the amount paid or payable for the property or service on account of working capital

1973 version provisions *[Repealed]*

1988 version provisions *[Repealed]*

1990 version provisions *[Repealed]*

abatement amount is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

abating WFF tax credit is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

absentee—

(a) means a person other than a person who is resident in New Zealand during any part of the tax year:

(b) is defined in section HD 18 (Agency in relation to absentees generally) for the purposes of subpart HD (Agents)

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

ACC means the Accident Compensation Corporation continued by section 259 of the Accident Compensation Act 2001

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

acceptable property is defined in section GB 45(3) (Arrangements involving money not at risk) for the purposes of that section

accident compensation earnings-related payment means a payment included in salary or wages of the following kinds and under the following Acts:

(a) under the Accident Compensation Act 1982, a payment of earnings related compensation, as defined in section 2, and of compensation under section 80(4), that are not payments of account made under section 88 in circumstances in which, at the time the payments are made, the nature of the compensation has not been determined:

(b) under the Accident Rehabilitation and Compensation Insurance Act 1992,—

  (i) a vocational rehabilitation allowance payable under section 25; and

  (ii) a payment of compensation for loss of earnings payable under any of sections 38, 39, and 43; and

  (iii) a payment of compensation for loss of potential earning capacity payable under section 45 or 46; and

  (iv) a payment of weekly compensation payable under any of sections 58, 59, and 60; and

  (v) a payment of continued compensation payable under section 138:

(c) under the Accident Insurance Act 1998,—

(i) a payment or weekly compensation made by an insurer, as defined in that Act:

(ii) a payment of compensation for loss of earnings, or loss of potential earning capacity in relation to a work-related personal injury, as defined in that Act, made by an insurer under a policy of personal accident or sickness insurance to which section 188(1)(a) (as it read immediately before its repeal by section 7 of the Accident Insurance Amendment Act 2000) applies:

(d) under the Accident Compensation Act 2001, a payment of weekly compensation made by the Corporation, as defined in that Act

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

accident compensation payment for attendant care *[Repealed]*

accident insurance contract is defined in section CW 34(2) (Compensation payments) for the purposes of that section

accommodation,—

(a) in section CX 28 (Accommodation), includes the use of a house or living premises, or the use of part of a house or living premises, whether permanent or temporary:

(b) is defined in section CE 1(2) for the purposes of sections CE 1B to CE 1E, CW 16B to CW 16F, CW 17CB, CW 19B, CZ 23, CZ 23B, CZ 29 to CZ 30, and FP 15 (which relate to accommodation provided in connection with employment)

account advantage—

(a) is defined in section GB 36(5) (Reconstruction of imputation arrangements to obtain tax advantage) for the purposes of that section:

(b) is defined in section GB 43(5) (Reconstruction of Maori authority credit arrangements to obtain tax advantage) for the purposes of that section

accounting period, for a foreign company, means—

(a) its accounting year; or

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

accounting profits method *[Repealed]*

accounting year,—

(a) for any person, means a tax year or another 12 month period that ends with the date of the annual balance of the person's accounts:

(b) for a company, includes—

(i) a period, shorter than 12 months, that is the period for which accounts are prepared, including under the international tax rules, because of the formation of the company or the termination of the company's existence; and

(ii) a period, shorter or longer than 12 months, that is the period for which accounts are prepared, including under the international tax rules, because of the company or a person under section EX 25 (Change of CFC's balance date) or EX 69 (Change of FIF's balance date) adopting a new accounting balance date

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

accrued entitlement, for a party to a financial arrangement at any time, means the party's rights under the arrangement at the time

accrued obligation, for a party to a financial arrangement at any time, means the party's obligations under the arrangement at the time

acquire, for depreciable property, includes—

(a) make:

(b) be granted, for a patent, design registration, or plant variety rights:

(bb) apply an artistic work industrially, as provided by section 75 of the Copyright Act 1994, for industrial artistic copyright:

(c) lodge, for a patent application, design registration application, or a plant variety rights application

acquisition is defined in section GC 14 (Definitions for sections GC 6 to GC 13) for the purposes of sections GC 6 to GC 13 (which relate to transfer pricing arrangements)

acquisition price is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

acquisition proportion is defined in section CW 3C (Certain partitions or subdivisions of land)

active service area is defined in section CW 24(2) (Deferred military pay for active service) for the purposes of that section

act together is defined in section FH 15(1) (Definitions)

actuarial reserves is defined in section EZ 59 (Meaning of actuarial reserves)

actuarially determined, for an amount, means a requirement that is met when an actuary has calculated the amount using relevant actuarial standards and a proper and reasonable calculation methodology

actuary means a person who is—

(a) a Fellow of the New Zealand Society of Actuaries; or

(b) a Fellow of the Institute of Actuaries of Australia; or

(c) a Fellow of the Institute of Actuaries (of London); or

(d) the holder of an equivalent professional qualification approved by the Commissioner for the purposes of this definition

additional transport costs is defined in section CW 18(3) (Allowance for additional transport costs) for the purposes of that section

adjusted tax value—

(a) is defined in sections EE 55 to EE 60 (which relate to depreciation):

(b) for software acquired before 1 April 1993, is defined in section EZ 20 (Adjusted tax value for software acquired before 1 April 1993):

(c) is defined in paragraphs (a) and (b) and sections EE 21 to EE 24 (which relate to depreciation) for the purposes of section FO 16 (Amortising property)

adjusted value is defined in section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section

adverse event deposit *[Repealed]*

adverse event income equalisation account *[Repealed]*

adverse event income equalisation scheme *[Repealed]*

adverse event maximum deposit *[Repealed]*

affected area means any of the following regions or districts:

(a) the regions of Northland, Auckland, Waikato, Bay of Plenty, Gisborne, and Hawke's Bay:

(b) the districts of Tararua, Masterton, Carterton, South Wairarapa, Manawatū, and Rangitikei

affected associate is defined in section GB 48(1) (Defined terms for sections GB 45 and GB 46) for the purposes of sections GB 45 and GB 46 (which relate to arrangements involving money not at risk)

affected class is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

affected depreciable property is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

affected depreciation loss is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

affected depreciation recovery income is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

affected improvement to land is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

affected property is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

affected revenue property is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

after-income tax earnings *[Repealed]*

after-income tax loss *[Repealed]*

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

agreement for the sale and purchase of property is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

agreement for the sale and purchase of property or services—

(a) means a financial arrangement that is a conditional or unconditional agreement to—

(i) acquire or dispose of property; or

(ii) obtain or supply services; and

(b) does not include a forward contract, a futures contract, an option, or a specified option

agricultural, horticultural, or viticultural company means a company that carries on a business that comprises or includes performing any work or rendering a service set out in schedule 4, part C, clause 1(b) (Standard rates of tax for schedular payments)

AIM-capable accounting system is defined in section RC 7B (AIM method)

air transport from New Zealand is defined in section CW 56(3) (Non-resident aircraft operators) for the purposes of that section

air transport to New Zealand is defined in section CW 56(3) (Non-resident aircraft operators) for the purposes of that section

aircraft engine means—

(a) for an aircraft that is not a helicopter, an engine used for the propulsion of the aircraft:

(b) for a helicopter,—

(i) an engine used for the propulsion of, and generation of lift for, the helicopter:

(ii) the main transmission system:

(iii) the main rotor system:

(iv) the swash plate assembly:

(v) the anti-torque system:

(vi) the hydraulic system:

(vii) an assemblage consisting of 2 or more items referred to in subparagraphs (i) to (vi)

aircraft engine overhaul—

(a) for an aircraft that is not a helicopter, means a process that involves removing, if necessary, an aircraft engine from the aircraft, dismantling the aircraft engine and testing pieces, replacing or restoring pieces on the basis of test results or use of the aircraft engine since installation of the piece, restoring the aircraft engine to a condition in which it meets its performance specifications for the scheduled overhaul period before the overhaul, reassembling the aircraft engine, fitting the aircraft engine to the aircraft, and testing the aircraft engine:

(b) for a helicopter, means a process that involves the application of the process described in paragraph (a) to—

(i) an engine:

(ii) the main transmission system:

(iii) the main rotor system:

(iv) the swash plate assembly:

(v) the anti-torque system:

(vi) the hydraulic system:

(vii) an assemblage consisting of 2 or more items referred to in subparagraphs (i) to (vi)

airport is defined in section HR 7(2) (Meaning of airport operator's activities) for the purposes of that section

airport asset is defined in section HR 6(7) (Airport operator's assets) for the purposes of that section

airport authority means—

(a) an airport authority as defined in section 2 of the Airport Authorities Act 1966:

(b) an airport operator as defined in section 5 of the Civil Aviation Act 2023

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

airport operator's activities is defined in section HR 7 (Meaning of airport operator's activities) for the purposes of sections HR 5 and HR 6 (which relate to airport operators)

amalgamated company means—

(a) the 1 company that results from and continues after an amalgamation and that may be 1 of the amalgamating companies or a new company:

(b) for an amalgamation of building societies, a building society described as **society B** in the definition of **amalgamation**, paragraph (b)

amalgamating company means—

(a) a company that amalgamates with 1 or more other companies under an amalgamation:

(b) for an amalgamation of building societies, a building society described as **society A** or as **society B** in the definition of **amalgamation**, paragraph (b)

amalgamation means—

(a) an amalgamation to which both of the following apply:

(i) it occurs under Part 13 or 15 of the Companies Act 1993, or it occurs or occurred under a foreign law that has the same or similar effect to Part 13 or 15 of the Companies Act 1993; and

(ii) it causes 2 or more companies to amalgamate and continue as 1 company:

(b) a transfer by a building society (**society A**) of all of its engagements to another building society (**society B**) under section 33 of the Building Societies Act 1965 if—

(i) a notice of the transfer (the **notice**) is registered under section 34(3) of the Building Societies Act 1965; and

(ii) society A's funds, property, and assets are transferred or assigned to society B, except to the extent required to settle its affairs before being removed from the register of building societies; and

(iii) society A does not carry on business after the notice is registered, except to the extent required to settle its affairs before being removed from the register of building societies; and

(iv) society A's liabilities are satisfied or assumed by society B; and

(v) society A is or will be removed from the register of building societies as soon as practicable after the notice is registered

amalgamation rules means the provisions listed in section FO 2 (Amalgamation rules)

amortising property means property for which a person—

(a) is allowed a deduction for an amount of depreciation loss; or

(b) may make a deduction on account of amortisation of expenditure under section EZ 7 (Acquiring patent rights before 1 April 1993), EZ 8 (Pre-

mium paid on land leased before 1 April 1993), or any other amortisation provision

amount—

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

(b) in sections CB 24 (Disposal of timber or right to take timber), CB 25 (Disposal of land with standing timber), and CB 29 (Disposal of minerals), includes the amount treated as—

(i) *[Repealed]*

(ii) the consideration under sections FB 6 and FB 7 (which relate to the disposal of timber on a settlement of relationship property):

(iii) the price realised under sections GC 1 and GC 2 (which relate to the disposal of trading stock for inadequate consideration):

(c) is defined in section EH 35(2) (Meaning of main maximum deposit) for the purposes of that section:

(d) is defined in section EH 78(3) (Meaning of thinning operations maximum deposit) for the purposes of that section:

(e) is defined in section GC 14 (Definitions for sections GC 6 to GC 13) for the purposes of sections GC 6 to GC 13 (which relate to transfer pricing arrangements):

(f) is defined in section RD 33(4) (Subsidised transport) for the purposes of that section:

(g) is defined in section RD 37(2) (Contributions to superannuation schemes) for the purposes of that section:

(h) is defined in section RD 41(4) (Services) for the purposes of that section

amount of all consideration is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

amount of tax, for a payment, includes the amount of tax that must be withheld and paid, or paid to the Commissioner under the PAYE rules, ESCT rules, RSCT rules, RLWT rules, RWT rules, or NRWT rules

ancillary tax means—

(a) provisional tax:

(b) further income tax:

(c) imputation penalty tax:

(d) distribution penalty tax for a Maori authority payable under section 140CB of the Tax Administration Act 1994:

(e) *[Repealed]*

(f) *[Repealed]*

(g) *[Repealed]*

(h) qualifying company election tax:

(hb) multinational top-up tax:

(i) PAYE:

(j) FBT:

(k) ESCT:

(kb) RSCT:

(kc) RLWT:

(l) RWT:

(m) NRWT

(n) *[Repealed]*

annual branch equivalent tax account return means the return to be filed with the Commissioner under section 78 of the Tax Administration Act 1994

annual FDPA return *[Repealed]*

annual gross income is defined in section BC 2 (Annual gross income)

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

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

annual PCA return *[Repealed]*

annual rate is defined in section EE 61 (Meaning of annual rate)

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

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

annual total deduction is defined in section BC 3 (Annual total deduction)

applied global anti-base erosion rules means the global anti-base erosion model rules as applied by section HP 3 (Application of global anti-base erosion model rules)

apply, for a mode of communication, has the meaning set out in section 14C of the Tax Administration Act 1994

approved AIM provider means a person that the Commissioner has approved as an approved AIM provider under section 15U of the Tax Administration Act 1994, if the approval has not been revoked under section 15V of that Act

approved issuer means a person for whom an approval under section 32M of the Tax Administration Act 1994 is in force

approved research and development cap is defined in section 3(1) of the Tax Administration Act 1994

approved research provider is defined in section 3(1) of the Tax Administration Act 1994

arm's length amount, for an arrangement that is a cross-border arrangement under section GC 6 (Purpose and application of rules and nature of arrangements) means an arm's length amount of consideration under section GC 13 (Calculation of arm's length amounts)

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

arrangement for assistance entered into by the government of New Zealand is defined in section CW 22(3) (Amounts derived by overseas experts and trainees in New Zealand by government arrangement) for the purposes of that section

arrangement property is defined in section GB 45(3) (Arrangements involving money not at risk) for the purposes of that section

ASC has the same meaning as **available subscribed capital**

ASC account means a memorandum account established by an ASC account company under section OF 1(2) (General rules for companies with ASC accounts)

ASC account company means a company that chooses under section OF 1(1) and OF 3 (which relate to ASCA companies) to become an ASCA company

ASC credit means a credit referred to in section OA 5(6) (Credits)

ASC debit means a debit referred to in section OA 6(6) (Debits)

ASCA means available subscribed capital account

ask, for a mode of communication, has the meaning set out in section 14B of the Tax Administration Act 1994

assessable income is defined in section BD 1(5) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income)

assessment is defined in section 3(1) of the Tax Administration Act 1994

assessment period is defined in section GB 45(3) (Arrangements involving money not at risk) for the purposes of that section

asset—

(a) is defined in section DG 3 (Meaning of asset for this subpart) for the purposes of subpart DG (Expenditure related to use of certain assets) and sections CC 1(2B) and CW 8B (which relate to the treatment of certain income):

(b) is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation restructure):

(c) is defined in section HR 12(6) (Non-exempt charities: treatment of tax exempt accumulations) for the purposes of that section:

(d) is defined in section IB 3(7) (When tax loss components of companies carried forward despite ownership continuity breach) for the purposes of section IB 3(5)

asset base, for a class of life insurance policy, means a segregated or identifiable group, or proportion of a group, of assets attributable to the class

asset value is defined in section DG 11(8) (Interest expenditure: close companies) for the purposes of subpart DG (Expenditure related to use of certain assets)

associated, associated person, person associated, and other expressions indicating the association of persons with each other are defined in sections YB 1 to YB 16 (which relate to associated persons)

associated internal software developer *[Repealed]*

associated mining operations is defined in section CU 7(2) (Some definitions)

associated non-attributing active CFC, for a CFC, means a person who is associated with the CFC under section YB 2 (Two companies) if the person and the CFC meet the following requirements:

(a) the person is a non-attributing active CFC; and

(b) the person and the CFC each have a taxed CFC connection with the same country or territory

association, in subpart HE (Mutual associations), and sections CB 33, CB 34, and DV 19, (which relate to mutual associations), means a body or association of persons, whether incorporated or not

association rebate is defined in section HE 3 (Association rebates) for the purposes of subpart HE (Mutual associations) and sections CB 34 and DV 19 (which relate to mutual associations)

ASX-listed Australian company is defined in section ED 2B(8) (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)

attributable CFC amount is defined in section EX 20B (Attributable CFC amount)

attributable FIF income method means the method of calculating FIF income or FIF loss in section EX 50 (Attributable FIF income method)

attributed CFC income is defined in section CQ 2 (When attributed CFC income arises)

attributed CFC loss is defined in section DN 2 (When attributed CFC loss arises)

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

attributed PIE income means an amount of income attributed by a multi-rate PIE to an investor in the PIE under section HM 36 (Calculating amounts attributed to investors)

attributed PIE loss means an amount of loss attributed by a multi-rate PIE to an investor in the PIE under section HM 36 (Calculating amounts attributed to investors)

attributed repatriation *[Repealed]*

attributing interest means an attributing interest in a foreign investment fund as defined in sections EX 29 to EX 43 (which relate to attributing interests in FIFs)

attribution period, for a multi-rate PIE, means a period described in section HM 34 (Attribution periods)

Auckland Council is defined in section CW 39B(4) (Auckland Future Fund) for the purposes of that section

Auckland Future Fund is defined in section CW 39B(3) (Auckland Future Fund) for the purposes of that section

Australian approved deposit fund means an approved deposit fund as defined in section 10 of the Superannuation Industry (Supervision) Act 1993 (Aust)

Australian complying superannuation scheme means—

(a) an entity that is a complying superannuation fund for the purposes of Part 5, Division 2 of the Superannuation Industry (Supervision) Act 1993 (Aust) and that is regulated by the Australian Prudential Regulation Authority:

(b) the Australian Commissioner of Tax (**ACT**), in the ACT's capacity under the Superannuation (Unclaimed Money and Lost Members) Act 1999 (Aust)

Australian exempt public sector superannuation scheme means an exempt public sector superannuation scheme as defined in section 10 of the Superannuation Industry (Supervision) Act 1993 (Aust)

Australian financial year is defined in section CV 8(3) (Regulations: Australian wine producer rebate) for the purposes of that section

Australian ICA company means a company that—

(a) is required to establish and maintain an imputation credit account because of an election under section OB 2(1) (Australian companies with imputation credit accounts); or

(b) is required by section OB 2(3B) to maintain an imputation credit account

Australian non-attributing shares is defined in section EM 8 (Some definitions) for the purposes of subpart EM (Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests)

Australian regulated superannuation fund means a regulated superannuation fund as defined in section 19 of the Superannuation Industry (Supervision) Act 1993 (Aust)

Australian retirement savings account means a retirement savings account as defined in section 8 of the Retirement Savings Accounts Act 1997 (Aust)

Australian wine producer rebate means a producer rebate (under A New Tax System (Wine Equalisation Tax) Act 1999 (Aust) and regulations made under that Act) that relates to wine exported from New Zealand on or after 1 July 2005

author is defined in section EI 3(6) (Assigning or granting copyright) for the purposes of that section

authorised investment is defined in section HR 3 (definitions for section HR 2: group investment funds) for the purposes of that section

authorised savings institution *[Repealed]*

available capital distribution amount means the amount calculated for a share in a company under section CD 44 (Available capital distribution amount)

available subscribed capital means the amount calculated for a share in a company under section CD 43 (Available subscribed capital (ASC) amount)

available tax loss, for a person and their net income, means—

(a) a loss balance carried forward that, under Part I (Treatment of tax losses), is required to be subtracted from the net income:

(b) an amount of another company's tax loss that, under Part I, the person, if it is a company, is allowed to subtract from the net income:

(c) an attributed CFC net loss or FIF net loss carried forward that, under subpart IQ (Attributed controlled foreign company net losses and foreign investment fund net losses), is required to be subtracted from the net income:

(d) the amount of another company's attributed CFC net loss or FIF net loss that, under subpart IQ, is subtracted from the net income:

(e) an amount treated as being an amount of available tax loss under section IZ 8 (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year) for a tax year referred to in that section as the taxable income year

balance date, for the purposes of sections FG 3 (Notional interest) and RC 10 (Calculating amount of instalment under standard and estimation methods) and

subpart RC (Provisional tax), section RP 17B (Tax pooling accounts and their use), and schedule 3 (Payment of provisional tax and terminal tax) means the date of the annual balance of a person's financial statements for their tax year

balloted loan right is defined in section DV 10(3) (Building societies) for the purposes of that section

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

base amount is defined in section RC 8(2) (GST ratio method) for the purposes of that section

base premium for the 1998–99 premium year is defined in section EZ 30(3) (Base premium for 1998–99 premium year under Accident Insurance Act 1998) for the purposes of that section

basic tax rate, for a person,—

(a) means the basic rate of income tax for the person set out in schedule 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) and schedule 2 (Basic tax rates for PAYE income payments); and

(b) in the case of a transitional year, resulting from a change in a person's balance date, has the meaning given in section 39(5) of the Tax Administration Act 1994

benchmark distribution means the first taxable Maori authority distribution by a Maori authority in a tax year

benchmark dividend, means the first dividend paid by a company in a tax year that is not 1 of the following kinds:

(a) a dividend to which the company is not allowed by section OB 63 (Australian dividends) to attach an imputation credit:

(b) a distribution of a co-operative company for which the company has made an election under section OB 82 (When and how co-operative company makes election)

beneficial interest includes an interest that is contingent, discretionary or unvested

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

beneficiary income is defined in section HC 6 (Beneficiary income)

benefit *[Repealed]*

benefit fund PIE means a defined benefit fund that—

(a) meets the requirements of section HM 7 (Requirements); and

(b) chooses to become a PIE under section HM 71 (Choosing to become PIE); and

(c) has not chosen to cancel PIE status under section HM 29 (Choosing to cancel status); and

(d) does not attribute amounts to investors

best estimate assumptions means assumptions about the future that—

(a) are actuarially determined; and

(b) are made using professional judgement, training and experience; and

(c) are not deliberately overstated or understated

Best Start credit abatement is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

Best Start tax credit is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

BETA has the same meaning as **branch equivalent tax account**

BETA company *[Repealed]*

BETA person means a person who chooses under sections OE 1(2) and OE 17 (which relate to persons with branch equivalent tax accounts) to become a BETA person

binding ruling is defined in section 3 of the Tax Administration Act 1994

bloodstock—

(a) means a horse that is a member of the standardbred or thoroughbred breed of horses; and

(b) includes a share or interest in such a horse

boarding establishment means premises used in a business of supplying accommodation, if the premises are managed by the business and have—

(a) at least 10 boarding rooms that are not self-contained; and

(b) shared living facilities available, as appropriate, to all residents

bonus issue means—

(a) the issue or subdivision of shares in a company, or the giving of credit for or forgiveness of an amount unpaid on any shares in a company, if the company receives no consideration for the issue, subdivision, crediting, or forgiveness other than the shareholder choosing not to receive an amount as an alternative to the issue or subdivision:

(b) the issue of shares under a profit distribution plan

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

(a) a bonus issue; or

(b) money; or

(c) money's worth, other than money's worth that is a bonus issue

boutique investor class, for a portfolio investment entity, means an investor class of the entity if—

(a) the class does not have 20 or more members; and

(b) the entity has 1 or more other investor classes that include 20 or more persons; and

(c) no investor in the class described in paragraph (a), other than the manager or trustee of the entity, can control investment decisions relating to the class; and

(d) the investor interests of investors in all investor classes described in paragraph (a) of the entity add up to less than 10% of the total value of interests in the entity

branch equivalent company *[Repealed]*

branch equivalent income, for a foreign company and for an accounting period, means the amount of income for the accounting period calculated under section EX 21 (Branch equivalent income or loss: calculation rules) as that provision read immediately before being amended by section 161 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009

branch equivalent loss, for a foreign company and for an accounting period, means the amount of loss for the accounting period calculated under section EX 21 (Branch equivalent income or loss: calculation rules) as that provision read immediately before being amended by section 161 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009

branch equivalent method means the method of calculating FIF income or FIF loss in section EX 50 (Branch equivalent method) as that provision read immediately before being amended by section 35 of the Taxation (International Investment and Remedial Matters) Act 2012

branch equivalent tax account means the account maintained by a BETA person under section OE 17(3) (Person choosing to become BETA person)

branch equivalent tax credit means a credit referred to in section OA 5(5) (Credits)

branch equivalent tax debit means a debit referred to in section OA 6(5) (Debits)

branch mismatch report is defined in section FH 15(1) (Definitions)

bribe is defined in section DB 45(4) (Bribes) for the purposes of that section

bright-line acquisition date *[Repealed]*

bright-line disposal date *[Repealed]* and **bright-line date** *[Repealed]*

bright-line end date is defined in section CB 6A (Disposal within 2 years: bright-line test for residential land)

bright-line grandparented home *[Repealed]*

bright-line period means, for a person and residential land, the period beginning with the bright-line start date for the land and ending with the bright-line end date for the land

bright-line start date is defined in section CB 6A (Disposal within 2 years: bright-line test for residential land)

broodmare means a broodmare that is bloodstock

build-to-rent land—

(a) means, for a person, land that they own and that is described in section CB 12(1)(a) to (e) or CB 13(1)(a) and (b), to the extent to which it is or was part of 1 project of 20 or more dwellings, and to the extent to which it is currently 1 of 20 or more dwellings used, available for use, or being prepared or restored for use, as a dwelling occupied under a residential tenancy to which the Residential Tenancies Act 1986 applies or would apply, if—

(i) in the case of a dwelling completely built before 1 July 2023, the landlord or manager for the dwelling has offered any current tenants before 1 July 2023 a fixed-term tenancy of no less than 10 years, and always offers prospective tenants such a tenancy; and

(ii) in the case of a dwelling completely built on or after 1 July 2023, the landlord or manager for the dwelling always offers prospective tenants a fixed-term tenancy of no less than 10 years; and

(iii) the tenancy agreement expressly refers to the ability of the tenant to personalise the dwelling with the consent of the landlord in accordance with sections 42, 42A, and 42B of the Residential Tenancies Act 1986, and includes examples of possible personalisations and the landlord's position on the keeping of pets; and

(iv) the tenancy agreement provides that a tenant may terminate the tenancy with 56 days' notice, as provided by section 58A of the Residential Tenancies Act 1986:

(b) does not include land that at any time after it first meets the requirements of paragraph (a) fails to meet those requirements

building, in subpart EE (Depreciation), includes part of a building, to the extent to which it is a unit in a unit title development under the Unit Titles Act 2010, but, in subparts EE and EZ (Terminating provisions), does not include—

(a) a grandparented structure:

(b) commercial fit-out, except for commercial fit-out acquired as part of a building in the 2010–11 or an earlier income year for which the person

has never had any deductions under any provisions other than sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and DB 65B (Allowance for embedded fit-out of certain commercial buildings)

building *[Repealed]*

building society is defined in section 2 of the Building Societies Act 1965

bus service is defined in section CX 19C (Certain public transport) for the purposes of that section

business—

(a) includes any profession, trade, or undertaking carried on for profit:

(b) includes the activities of—

(i) a statutory producer board:

(ii) an airport operator:

(c) is further defined in section DD 11 (Some definitions) for the purposes of subpart DD (Entertainment expenditure)

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

business premises, for subpart DD (Entertainment expenditure) and sections CB 6 to CB 13 (which relate to disposals of land),—

(a) means the normal business premises or a temporary workplace of the person (or an associate):

(b) does not include premises or a workplace established mainly for the purpose of enjoying entertainment

business tool means an item that is used by an employee in the performance of their work duties and in the absence of section CX 21 (Business tools) would give rise to an unclassified benefit

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

calculation method, for the calculation of FIF income or FIF loss, means any of the attributable FIF income method, the comparative value method, the deemed rate of return method, the fair dividend rate method, and the cost method

calculation period, for a multi-rate PIE, means a period in which the entity calculates an amount under section HM 47 (Calculation of tax liability or tax credit of multi-rate PIEs) that—

(a) consists of 1 or more attribution periods:

(b) for a calculation under the quarterly calculation option, is a quarter:

(c) for a calculation under the exit calculation or provisional tax calculation options, is an income year:

(d) for a calculation under the exit calculation option when an exit period arises, is the exit period

cancellation, for a company and for a share, means the acquisition, redemption, or other cancellation of the whole share by the company, including on the liquidation of a company, and when a stapled debt security ceases to be a share

Canterbury earthquakes is defined in section CZ 29(5) (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section

capital contribution—

(a) in sections CC 1B, CG 8, DB 64, and EE 48 (which relate to capital contributions), means an amount that—

(i) is paid by a person (the **payer**) to a person (the **recipient**) under an agreement between them; and

(ii) is paid by the payer other than in their capacity of settlor, partner, or shareholder of the recipient; and

(iii) is not income of the recipient, ignoring sections CC 1B and CG 8; and

(iv) is paid, under the express terms and conditions of the agreement, as a contribution for capital contribution property; and

(v) if the agreement is a contract of insurance, indemnity, or compensation, is paid in relation to an interruption or impairment of business activities:

(b) is defined in section HG 11(12) (Limitation on deductions by partners in limited partnerships) for the purposes of that section

capital contribution property means, for a recipient of an amount,—

(a) depreciable property owned or to be acquired by the recipient:

(b) an improvement for which expenditure is or would be deductible for the recipient under section DO 4, DO 11, DO 12, or DO 13 (which relate to farming, horticultural, aquacultural, and forestry improvements):

(c) a listed horticultural plant or land for which expenditure is or would be deductible for the recipient under section DO 5 or DO 6 (which relate to horticultural expenditure on land):

(d) a listed horticultural plant or land to the extent to which some but not all expenditure for replacement plants is deductible under section DO 6

capital limitation is defined in section DA 2(1) (General limitations)

capital property is defined in section CD 44(18) (Available capital distribution amount) for the purposes of that section

car,—

(a) in section EZ 16 (Amount of depreciation loss for plant or machinery additional to section EZ 15 amount), and in the definition of **qualifying asset**,—

(i) means a motor vehicle designed exclusively or mainly to carry up to 9 people, including the driver; and

(ii) includes such a motor vehicle that has rear doors and collapsible rear seats; and

(iii) does not include a moped or a motorcycle:

(b) in the FBT rules, and in the definition of **work-related vehicle**,—

(i) means a motor vehicle designed exclusively or mainly to carry people:

(ii) includes such a motor vehicle that has rear doors or collapsible rear seats:

(iii) does not include a minibus, moped, motorcycle, or small passenger service vehicle

caregiver is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

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

cash basis person is defined in section EW 54 (Meaning of cash basis person)

casual agricultural employee means—

(a) a casual agricultural worker:

(b) a shearer:

(c) a shearing shed hand

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

category A income is defined in section HR 3(1) (Definitions for section HR 2: group investment funds) for the purposes of section HR 2 (Group investment funds)

category B income is defined in section HR 3(3) (Definitions for section HR 2: group investment funds) for the purposes of section HR 2 (Group investment funds)

CFC has the same meaning as **controlled foreign company**

charitable or other public benefit gift is defined in section LD 3 (Meaning of charitable or other public benefit gift)

charitable organisation—

(a) means, for a quarter or an income year, an association, fund, institution, organisation, society, or trust to which section LD 3(2) (Meaning of charitable or other public benefit gift) or schedule 32 (Recipients of charitable or other public benefit gifts) applies—

(i) in the quarter; or

(ii) in the income year, if fringe benefit tax is payable on an income year basis under section RD 60 (Close company option); and

(ab) includes a person who has been removed from the register of charitable entities (the **register**) under the Charities Act 2005, but only for the period starting on the day the person is registered on the register and ending on the earlier of the last day of the following periods:

(i) the quarter, or income year if section RD 60 (Close company option) applies, in which the person does not comply with their rules contained in the register:

(ii) the quarter, or income year if section RD 60 applies, in which the day of final decision falls; and

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

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

(a) the purpose of a trust, society, or institution is charitable under this Act if the purpose would meet the public benefit requirement apart from the fact that the beneficiaries of the trust, or the members of the society or institution, are related by blood:

(b) a marae has a charitable purpose if—

(i) the physical structure of the marae is situated on land that is a Maori reservation referred to in Te Ture Whenua Maori Act 1993 (the Maori Land Act 1993); and

(ii) the funds of the marae are not used for a purpose other than the administration and maintenance of the land and of the physical structure of the marae, or are used for a purpose that is a charitable purpose

charitable trust *[Repealed]*

chief executive is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

chief executive of the administering department—

(a) means the chief executive, appointed under the Public Service Act 2020, of the department responsible for administering the Social Security Act 2018; and

(b) includes any person authorised to perform any of the functions of the chief executive

child in subparts MA to MG and MZ (which relate to tax credits for families), and in the definition of **dependent child**, means a person who is not in a marriage, civil union, or de facto relationship, and who—

(a) is aged 15 years or less; or

(b) is aged 16 or 17 years and is not financially independent; or

(c) is aged 18 years and is a person for whom a tax credit is allowed under section MD 1 (Abating WFF tax credit) or both sections MD 1 and ME 1 (Minimum family tax credit)

child tax credit is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

civil union partner, in subparts MA to MG and MZ (which relate to tax credits for families) and in section LC 13 (Tax credits for independent earners) and in the definitions of **entitlement period**, **full-time earner**, and **separated person**, does not include a separated person

claim, in the rules for life insurers, is defined in section EY 7 (Meaning of claim)

claim of right means a belief that an act is lawful, although the belief may be based on ignorance, or mistake, of—

(a) fact; or

(b) any matter of law other than the enactment against which the offence is alleged to have been committed

class, in subpart EC (Valuation of livestock), and in sections EZ 4 and EZ 4B (which are terminating provisions relating to livestock), subpart FP (Tax relief for emergencies), and in the definition of **national average market value**,—

(a) means a category of livestock listed in schedule 17, column 2 (Types and classes of livestock); and

(b) when used of a particular type of livestock, means any of the categories listed for that particular type

class closing animal balance is defined in section EC 8(4) (Restrictions arising from use of herd scheme) for the purposes of that section

class of policies means life insurance policies that have substantially the same terms and conditions, and that are priced by the life insurer using substantially the same assumptions

clean vehicle discount scheme means the clean vehicle discount scheme administered by the New Zealand Transport Agency

close company—

(a) means, at any time, a company to which 1 of the following applies:

(i) at the time there are 5 or fewer natural persons or trustees the total of whose voting interests in the company is more than 50% (treating all natural persons associated at the time as 1 person); or

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

(b) *[Repealed]*

(c) does not include a special corporate entity

close of trading spot exchange rate, for any foreign currency on any day, means the rate determined by applying the following paragraphs in order:

(a) the rate of a spot contract for the purchase of New Zealand dollars using the foreign currency at any time on that day on a market approved, with the rate obtained from the sources of information approved, by the Commissioner in determination G6D made under section 64E of the Income Tax Act 1976 (or a determination issued in substitution for that determination); and

(b) if no such rate can be obtained for that day, then the rate on the next day on which it can be obtained and that is no later than 5 working days after the first day; and

(c) if no such rate of a spot contract can be obtained, the cross rate determined as at 3.00 pm New Zealand time on that day by applying the method outlined in paragraph 6(3)(c) of determination G6D made under section 64E of the Income Tax Act 1976 (or in the corresponding paragraph of a determination issued in substitution for that determination); and

(d) if no such rate can be obtained, the rate determined by applying the method set out in paragraph 6(2) of determination G9A made under section 64E of the Income Tax Act 1976 (or in the corresponding paragraph of a determination issued in substitution for that determination)

close relative,—

(a) is defined in section FC 1(2) (Disposals to which this subpart applies) for the purposes of subpart FC (Distribution, transmission, and gifts of property):

(b) in section HA 6 (Corporate requirements), means, for a person—

(i) a spouse, civil union partner, or de facto partner of the person:

(ii) another person who is within the second degree of relationship to the person

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

(a) at the time there are 5 or fewer persons the total of whose direct voting interests in the company is more than 50%, treating all persons associated at the time as 1 person; or

(b) at the time,—

(i) a market value circumstance exists for the company; and

(ii) there are 5 or fewer persons the total of whose direct market value interests in the company is more than 50%, treating all persons associated at the time as 1 person

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

code compliance certificate *[Repealed]*

collection agency has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

combined imputation and CTR ratio *[Repealed]*

combined imputation and FDP ratio *[Repealed]*

combined tax and earner-related payment means, for a PAYE income payment, the total of—

(a) the amount of tax for the PAYE income payment required to be withheld and paid under the PAYE rules; and

(b) the amount withheld from the PAYE income payment under—

(i) section 115 of the Accident Rehabilitation and Compensation Insurance Act 1992, on account of the earner's premium payable by employees under the Act; or

(ii) section 285 of the Accident Insurance Act 1998, on account of the earner's premium payable by employees under the Act; or

(iii) section 221 of the Accident Compensation Act 2001, on account of the earner's levy payable by employees under the Act

commencement of this Act, in sections ZA 3 (Transitional provisions), ZA 4 (Saving of binding rulings), ZA 5 (Saving of accrual determinations), and ZA 6 (Comparative tables of old and new provisions), means commencement under section A 2(2) (Commencement)

commercial bill—

(a) includes—

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

(ii) a bill of exchange, as defined in section 3 of the Bills of Exchange Act 1908; and

(iii) a promissory note, as defined in section 84 of the Bills of Exchange Act 1908, other than a banknote; and

(iv) a Treasury Bill; and

(v) a document or agreement that has substantially the same purpose or effect as an item referred to in any of subparagraphs (i) to (iv); and

(vi) a share or interest in an item referred to in any of subparagraphs (i) to (v); and

(b) does not include—

(i) a debenture or bond for the payment of a security issued by a body corporate; or

(ii) a security, whether legal or equitable, over an estate or interest in land

commercial building means a building that is not, in part or in whole, a dwelling, unless use as a dwelling is a secondary and minor use

commercial fit-out means an item to the extent to which it is—

(a) plant attached to a commercial building, but not used inside a dwelling within the commercial building:

(b) attached to, and non-structural in relation to, a building, if the item is not used for weatherproofing the building and—

(i) is not used in relation to, and is not part of, a dwelling within the building; or

(ii) is used in relation to, but is not part of, a dwelling within the building, and the building is a commercial building

commercial production—

(a) for petroleum mining, means the production in commercial quantities on a continuing basis of petroleum in a state suitable for delivery to a buyer, consumer, processor, refinery, or user:

(b) for mineral mining, means the extraction of a listed industrial mineral from a permit area and the production of the mineral in commercial quantities on a continuing basis to a stage at which it is in a saleable form and suitable location for delivery to a buyer, consumer, processor, or user

Commissioner means the Commissioner of Inland Revenue as defined in section 3 of the Tax Administration Act 1994

common interest is defined in section YC 13(4) (Corporate spin-outs) for the purposes of that section

common market value interest—

(a) means the market value interest measured under section IC 3(4) (Common ownership: group of companies) for the purposes of that section and sections CD 5 and IC 4:

(b) is defined in section YC 13(6) (Corporate spin-outs) for the purposes of that section

common span is defined in section IP 2(1) (Group companies' common span) for the purposes of subpart IP (Meeting requirements for part-years)

common voting interest—

(a) means the voting interest measured under section IC 3(3) (Common ownership: group of companies) for the purposes of that section and sections CD 5 and IC 4:

(b) is defined in section YC 13(5) (Corporate spin-outs) for the purposes of that section

commonality period is defined in section IC 6(1) (Common ownership for period) for the purposes of Part I (Treatment of tax losses)

Commonwealth—

(a) means the British Commonwealth of Nations; and

(b) includes every territory for whose international relations the Government of any country of the Commonwealth is responsible

community housing entity is defined in section CW 42B (Community housing trusts and companies)

community trust is defined in section 4 of the Community Trusts Act 1999

company—

(a) means a body corporate or other entity that has a legal existence separate from that of its members, whether it is incorporated or created in New Zealand or elsewhere:

(ab) does not include a limited partnership, other than—

(i) a listed limited partnership or foreign corporate limited partnership:

(ii) a limited partnership treated as a company under section YB 14(4) (Tripartite relationship) for the purposes of section YB 14 or under section YB 16B (Limited partnerships treated as companies) for the purposes of sections YB 2, YB 3, YB 12(2), (3), and

(4) (which relate to associated persons), and YC 4 (Look-through rule for corporate shareholders):

(abb) does not include a look-through company, except in the PAYE rules, the FBT rules, the NRWT rules, the RWT rules, the ESCT rules, the RSCT rules, and for the purposes of subpart FO (Amalgamation of companies):

(abc) does not include a company that is acting in the capacity of trustee:

(ac) *[Repealed]*

(ad) *[Repealed]*

(b) includes a unit trust:

(c) includes a trustee of a group investment fund that is not a designated group investment fund, but only to the extent to which the fund results from investments made into it that are—

(i) not from a designated source, as defined in section HR 3(5) (Definitions for section HR 2: group investment funds); and

(ii) not made before 23 June 1983, including an amount treated as invested at that date under the definition of **pre-1983 investment** in section HR 3(8):

(d) includes an airport operator:

(e) includes a statutory producer board:

(f) includes a society registered under the Incorporated Societies Act 1908:

(g) includes a society registered under the Industrial and Provident Societies Act 1908:

(h) includes a friendly society:

(i) includes a building society:

(j) is further defined in section EX 30(7) (Direct income interests in FIFs) for the purposes of that section:

(k) is defined in section HD 15(9) (Asset stripping of companies) for the purposes of that section

company dividend statement means a statement required by section 25G of the Tax Administration Act 1994 to be completed and retained by a company for a dividend

comparative value method means the method of calculating FIF income or FIF loss in section EX 51 (Comparative value method)

compensation is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

compensation *[Repealed]*

competent authority is defined in section 3(1) of the Tax Administration Act 1994

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

(a) the stage of production at which the film has been completely edited, shot by shot, to its final length; or

(b) a production stage equivalent to that described in paragraph (a)

complying fund calculation period *[Repealed]*

complying fund rules means, for a superannuation fund and an employee's superannuation accumulation, rules that—

(a) meet all the requirements set out in schedule 28 (Requirements for complying fund rules); and

(b) do not detract from those requirements

complying superannuation fund has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013

complying trust is defined in section HC 10 (Complying trusts)

compulsory employer contribution has the same meaning as in the KiwiSaver Act 2006

conduct *[Repealed]*

conduit company *[Repealed]*

consideration—

(aa) includes the amount owing under a stapled debt security when the security ceases to be a share, in section CD 43 (Available subscribed capital (ASC) amount):

(a) is defined in section EE 45 (Consideration for purposes of section EE 44) for the purposes of section EE 44 (Application of EE 48 to EE 51):

(b) means an amount determined under the financial arrangements rules in—

(i) the financial arrangements rules:

(ii) section EX 21(11) (Attributable CFC amount and net attributable CFC income or loss: calculation rules):

(iii) sections FO 12 to FO 15 (which relate to the treatment of financial arrangements on amalgamation):

(iv) sections FO 18 to FO 20 (which relate to companies that are parties to financial arrangements):

(v) section HC 31(4) (When existing trusts come into tax base)

consolidated BETA group *[Repealed]*

consolidated FDP group *[Repealed]*

consolidated group means, at any time, a consolidated group formed under section FM 35 (Forming consolidated group) as it is constituted at that time

consolidated imputation group means—

(a) an imputation group:

(b) a resident imputation subgroup:

(c) a consolidated group, no member of which is a member of an imputation group

consolidation rules means the provisions listed in section FM 2(2) (Consolidation rules)

consumer trust is defined in section CW 55BC (Water organisations) for the purposes of that section

contaminant means a contaminant as defined in section 2(1) of the Resource Management Act 1991

continental shelf is defined in the Continental Shelf Act 1964

continuity period—

(a) is defined in section IA 5(6) (Restrictions on companies' loss balances carried forward: continuity of ownership) for the purposes of that section:

(b) is defined in section LP 4(3) (Continuity rules for carrying credits forward) for the purposes of that section:

(c) is defined in section LY 8(4) (Carry forward for remaining research and development tax credits) for the purposes of that section

continuity provisions means—

(a) section GB 3 (Arrangements for carrying forward loss balances: companies' ownership); and

(b) section GB 4 (Arrangements for grouping tax losses: companies); and

(bb) section HA 6 (Corporate requirements); and

(c) sections IA 3 and IA 4 (which relate to the use of tax losses); and

(d) section IA 5 (Restrictions on companies' loss balances carried forward: continuity of ownership); and

(e) section IC 1 (Company A making tax loss available to company B); and

(f) section LP 3(4) (Use of remaining credits); and

(fba) section LY 8 (Carry forward for remaining research and development tax credits); and

(fb) section MX 7 (Reinstatement of R&D tax losses and R&D repayment tax); and

(g) section OB 41 (ICA debit for loss of shareholder continuity); and

(h) *[Repealed]*

(i) *[Repealed]*

(j) section OK 15 (MACA debit for loss of shareholder continuity)

contract activity or service, for a non-resident contractor, means—

(a) performing any work in New Zealand:

(b) rendering a service of any kind in New Zealand:

(c) providing the use of, or right to use, in New Zealand, any personal property or services of a person other than the non-resident contractor

contract of employment is defined in section DC 3B(3) (Payments to working owners) for the purposes of that section and the definition of **working owner**

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

contract payment, for a non-resident contractor, means any payment other than—

(a) a royalty; or

(b) a payment made to the non-resident contractor by or on behalf of a person who is not associated with the contractor to reimburse costs incurred by the contractor; or

(c) a payment referred to in schedule 4, part E (Standard rates of tax for schedular payments)

contractor labour means, for the purposes of schedule 21B, expenditure by a person's contractor on the salary and wages of the contractor's employees

contractor R&D consideration is defined in section MX 3(5) (Wage intensity criteria)

contribution, in the FBT rules, means a contribution made—

(a) directly; or

(b) indirectly by reimbursement through another person

control *[Repealed]*

control group is defined in section FH 15(1) (Definitions)

control interest, for a foreign company, is defined in sections EX 2 (Four categories for calculating control interests) and EX 7 (Indirect control interests)

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

controlled foreign company is defined in section EX 1 (Meaning of controlled foreign company)

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

(a) 90% or more in value of its outstanding shares are held, directly or indirectly, by or for 5 or fewer persons; and

(b) the market value of a petroleum permit, including an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) attributable to the permit, held by the company is at least 75% of the value of its assets minus its liabilities, as shown in the company's audited financial statement or accounts prepared under generally accepted accounting practice

controlled petroleum mining entity means—

(a) a controlled petroleum mining company; or

(b) a controlled petroleum mining holding company; or

(c) a controlled petroleum mining trust; or

(d) a controlled petroleum mining holding trust

controlled petroleum mining holding company means a company if—

(a) 90% or more in value of its outstanding shares are held, directly or indirectly, by or for 5 or fewer persons; and

(b) the total market value of the following shares and trust interests held by the company is at least 75% of the value of its assets minus its liabilities, as set out in the company's audited financial statement or accounts prepared according to generally accepted accounting practice:

(i) shares in petroleum miners that are companies:

(ii) shares in petroleum mining holding companies:

(iii) trust interests in petroleum miners that are trusts:

(iv) trust interests in petroleum mining holding trusts

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

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

(b) the total market value of the following shares and trust interests held by the trust is at least 75% of the value of its assets minus its liabilities, as set out in the trust's accounts prepared according to generally accepted accounting practice:

(i) trust interests in petroleum miners that are trusts:

(ii) trust interests in other petroleum mining holding trusts:

(iii) shares in petroleum miners that are companies:

(iv) shares in petroleum mining holding companies

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

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

(b) the market value of a petroleum permit, including an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) attributable to the permit, held by the trust is at least 75% of the value of its assets minus its liabilities, as shown in the trust's accounts prepared under generally accepted accounting practice

controlling shareholder is defined in section HD 15(9) (Asset stripping of companies) for the purposes of that section

convert, for a New Zealand emissions unit, means convert as defined in regulations made under section 30G of the Climate Change Response Act 2002

convertible credit *[Repealed]*

convertible note means a document or a combination of documents that—

(a) is issued or given by a company; and

(b) creates or relates to money lent to the company, whether or not secured; and

(c) provides, whether exclusively or not,—

(i) for the holder to have a right to subscribe for shares or stock in the capital of the company or in the capital of another company; or

(ii) for the amount or any part of the amount, with or without interest and whether at par or otherwise, to be converted into or repaid by the issue of shares in the company, whether the conversion or repayment by the issue of shares is mandatory or is at the option of the company or of the holder

conveyancer means,—

(a) for a vendor or a purchaser, the lawyer, incorporated law firm, conveyancing practitioner, or incorporated conveyancing firm that provides **conveyancing services**, as that term is used in the Lawyers and Conveyancers Act 2006, to the vendor or purchaser using a New Zealand-based trust account; but

(b) for a purchaser who does not have a conveyancer described in paragraph (a), the purchaser themselves

co-operative company does not include a statutory producer board

co-owner is defined in section CW 3C (Certain partitions or subdivisions of land) for the purposes of that section and section CB 15E (Disposals of land subject to section CW 3C)

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

core acquisition price is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

core research and development activity is defined in section LY 2 (Key terms)

core technology means technology which is used as a basis for research or development

corpus is defined in section HC 4 (Corpus of trust)

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

corresponding tax year is defined in section MK 2B(2) (Taxable income) for the purposes of that section

cost,—

(a) in subpart EB (Valuation of trading stock (including dealer's livestock)), for trading stock, means costs incurred in the ordinary course of business to bring trading stock to its present location and condition, including acquisition costs and costs of production, calculated under sections EB 6 to EB 8 (which relate to costs for standard valuations), EB 15 to EB 18 (which relate to costs for low-turnover traders), and EB 22 (Valuing closing stock consistently for low-turnover traders):

(b) is defined in section RD 40(3) (Goods) for the purposes of that section:

(c) in sections RD 42 and RD 43 (which relate to goods provided with staff discount), for a registered person who may claim input tax for the cost of the goods, means the GST-inclusive cost of the goods to the person

cost deductions is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

cost method means a method of calculating FIF income or FIF loss under section EX 56 (Cost method)

cost of timber, in sections DP 11, EJ 1, EW 2, EZ 44, FB 6, and FB 7 (which relate to the disposal of timber),—

(a) means the amount of expenditure incurred by a person in relation to timber—

(i) before harvest, for a disposal of harvested timber:

(ii) before the disposal of the timber or the relevant right, for a disposal of standing timber or a disposal of a right to take timber, or another right referred to in section DP 11(4) (Cost of timber); and

(b) includes, for section DP 11,—

(i) expenditure on planning, planting, and growing the timber:

(ii) expenditure incurred in relation to the rights listed in section DP 11(4); and

(c) excludes—

(i) expenditure for which a deduction is allowed under a provision of this Act other than section DP 11:

(ii) expenditure to which section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) applies:

(iii) an amount allowed as a deduction under section DQ 4 (Environmental restoration accounts scheme)

cost price,—

(a) in subpart EC (Valuation of livestock), and in sections EZ 4B, EZ 5, EZ 6, FB 17, FP 23, HB 10, and HG 10 (which relate to livestock), does not include any amount of input tax in relation to the supply of livestock or trading stock to a person; and

(b) in section FZ 2 (Effect of specified lease on lessor and lessee), and in the definition of **specified lease**, and for a personal property lease asset, means the amount of expenditure of a capital nature that is incurred, in acquiring and installing the asset,—

(i) by the lessor; or

(ii) if the lessor under a lease acquires the asset as lessee under any other lease, by the person who is the lessor in the other lease; and

(c) as a qualification on paragraph (b), if, in carrying on a business in the income year in which the asset is acquired, the lessor acquires, manufactures, or assembles as trading stock, and distributes or sells, an asset of the same kind as the asset, the cost price for the asset is an amount equal to the normal price for which, at the start of the lease period, the lessor would have sold an asset of the same kind as the asset to the lessee; and

(d) as another qualification on paragraph (b), if the lessor has used the asset in deriving income before the lease is entered into, the cost price of the asset is equal to the capital expenditure incurred by the lessor in acquiring the asset, reduced by the total of the amounts of depreciation loss for which the lessor has been allowed deductions for the asset; and

(e) as another qualification on paragraph (b), if, for an asset and a lease entered into on or after 29 October 1983, an amount cannot be determined under any of paragraphs (b) to (d), the cost price for the asset is an amount equal to the market price of the asset at the start of the term of the lease or, if there is no such market price or there are 2 or more, is an amount equal to the amount that, in the circumstances of the case, is reasonable, having regard to the nature of the asset and to the tenor of this definition

council-controlled organisation—

(a) means—

(i) an organisation that is a council-controlled trading organisation as defined in section 6 of the Local Government Act 2002, and is not a company:

(ii) a company that is a council-controlled organisation, under paragraph (a)(i) of the definition of **council-controlled organisation** in section 6(1) of the Local Government Act 2002:

(iii) an organisation that is a council-controlled organisation, under paragraph (b) of the definition of **council-controlled organisation** in section 6(1) of the Local Government Act 2002, and that has, in an organisation of a kind described in subparagraph (i) or (ii), control of at least 50% of the votes at any meeting of the members or the controlling body of the organisation, or the right to appoint at least 50% of the directors, managers, or trustees of the organisation (however the positions are described):

(iv) an organisation that would be a council-controlled organisation of a kind described in paragraph (a) or (b) or (c) if it did not have an exemption granted under section 6(4)(i) of the Local Government Act 2002:

(v) the New Zealand Local Government Association Incorporated:

(vi) a company or organisation, as defined in section 6(2) of the Local Government Act 2002, that is subject to the control, directly or indirectly, of the New Zealand Local Government Association Incorporated:

(vii) New Zealand Local Government Insurance Corporation and any subsidiaries it has; but

(viii) *[Repealed]*

(b) does not include Auckland Transport (as established by section 38 of the Local Government (Auckland Council) Act 2009) or Auckland Regional Holdings (as established by section 18 of the Local Government (Auckland) Amendment Act 2004 or the New Zealand Local Government Funding Agency Limited

counted associate is defined in section CD 22(9) (Returns of capital: off-market share cancellations) for the purposes of that section

country-by-country report is the report that must be provided to the Commissioner under section 78G of the Tax Administration Act 1994

cover review period is defined in section EY 30 (Transitional adjustments: life risk)

COVID-19 New Zealanders Stranded Overseas Support Programme means the welfare programme of that name approved and established under section 101 of the Social Security Act 2018 on 17 April 2020

credit account continuity provisions means section OB 41 (ICA debit for loss of shareholder continuity)

credit card repayment insurance is defined in section EY 30 (Transitional adjustments: life risk)

credit of tax has the same meaning as **tax credit**

credit transfer notice means a credit transfer notice issued under section 30C of the Tax Administration Act 1994

creditable membership, for a person,—

(a) means membership of a KiwiSaver scheme or a complying superannuation fund; and

(b) includes the following periods:

(i) the period beginning on the first day of a month in which a KiwiSaver contribution for the person is first deducted or a contribution for the person is first received by the Commissioner and ending on the day on which securities are first allotted by the scheme for the person:

(ib) the period beginning on the day which the Commissioner nominates when requested by the person, in circumstances where, due to matters outside the control of the person, the first deduction of KiwiSaver contributions was delayed, and ending on the day on which securities are first allotted by the KiwiSaver scheme for the person:

(ii) the days in the month in which securities are first allotted by the scheme or fund for the person:

(iii) for the period beginning on 1 July 2007 and ending on the day on which securities are first allotted by the scheme for the person, and for a person who contributes to the scheme before 1 November 2007, the days in the month on which the scheme receives a valid application for membership from the person and the days remaining in the period

creditor workout, in relation to a financial arrangement, means—

(a) a compromise, as that term is defined in section 227 of the Companies Act 1993, in writing that, for the parties to the financial arrangement, is binding under Part 14, 15, or 15A of that Act, or is otherwise legally binding, to the extent to which the compromise does not cancel all of a debt:

(b) a suspension in part of the repayment of any deposit, the payment of any debt, or the discharge of any obligation, under section 44 of the Corporations (Investigation and Management) Act 1989

cross-border employee is defined in section CE 1F(4) (Treatment of amounts derived by cross-border employees for the purposes of that section and sections CE 1(3B), RA 15(4B), RD 62B, RD 65, and RD 71B (which relate to amounts derived by employees)

cross-border related borrowing is defined in section GC 6(3B) (Purpose and application of rules and nature of arrangements)

Crown Research Institute is defined in section 2 of the Crown Research Institutes Act 1992

cryptoasset means a digital representation of value that exists in—

(a) a database that is secured cryptographically and contains ledgers, recording transactions and contracts involving digital representations of value, that are maintained in decentralised form and shared across different locations and persons; or

(b) another application of the same technology performing an equivalent function

cryptocurrency means a cryptoasset that is not a non-fungible token

CTR *[Repealed]*

CTR account *[Repealed]*

CTR additional dividend *[Repealed]*

CTR company *[Repealed]*

CTR credit *[Repealed]*

CTR debit *[Repealed]*

CTR group member *[Repealed]*

CTR holding company *[Repealed]*

CTR ratio *[Repealed]*

CTRA *[Repealed]*

current accounting year *[Repealed]*

current market value is defined in section HR 12 (Non-exempt charities: treatment of tax-exempt accumulations) for the purposes of that section

current value is defined in section HR 3(4) (Definitions for section HR 2: group investment funds) for the purposes of section HR 2 (Group investment funds)

current year is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

custodial institution is defined in section RE 10C(6) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section and sections RE 4 and RF 4

date of acquisition *[Repealed]*

date of transfer, in subpart FB (Transfers of relationship property), and in the definitions of **year of transfer**, for property transferred under a relationship agreement, means the date on which the property was transferred

date the deposit ends—

(a) is defined in section EH 36 (Other definitions) for the purposes of the main income equalisation scheme:

(b) *[Repealed]*

(c) is defined in section EH 79 (Other definitions) for the purposes of the thinning operations income equalisation scheme

day is defined in section RD 30(2) (Private use of motor vehicle: 24-hour period) for the purposes of section RD 29 (Private use of motor vehicle: formulas)

day of final decision means the later of—

(a) the day the relevant person is removed from the register of charitable entities under the Charities Act 2005:

(b) the day on which all reasonably contemplated administrative appeals and court proceedings, including appeal rights, are finalised or exhausted in relation to the person's charitable status

de facto partner means a person who is party to a de facto relationship

de minimis trust is defined in section HC 40 (De minimis trust)

debenture includes debenture stock

debenture holder includes the owner of debenture stock

debt funding special purpose vehicle means a company or a trustee of a trust that, ignoring section HR 9 (Debt funding special purpose vehicles are transparent if election made by originator),—

(a) derives no exempt income; and

(b) has all of its assets treated as the assets of its originators, or included in consolidated financial statements prepared by 1 of its originators or another company in the same wholly-owned group of companies as its originators, for financial reporting purposes, but ignoring any current account balance that is incidental to the company's or trustee's sole purpose described in paragraph (e); and

(c) receives only funds that—

  (i) are used to acquire assets described in paragraph (b):

  (ii) are derived from assets described in paragraph (b):

  (iii) are incidental to the company's or trustee's sole purpose described in paragraph (e); and

(d) operates to—

  (i) guarantee liabilities of the originator, being a financial institution, or of a company, incorporated in and resident in New Zealand, that is a member of a wholly-owned group of companies that includes the financial institution that is the originator:

  (ii) raise funds by issuing securities backed by its assets:

  (iii) raise funds by borrowing money backed by its assets; and

(e) has interests in assets only for the sole purpose of carrying out the company's or trustee's operations described in paragraph (d); and

(f) has its assets included in financial statements that are prepared using IFRSs and are audited; and

(g) is a New Zealand resident

debt security is defined in section FA 2B(4) (Stapled debt securities)

debt value is defined in section DG 11(9) (Interest expenditure: close companies) for the purposes of subpart DG (Expenditure related to use of certain assets)

decommissioning, for a petroleum miner or farm-in party, means—

(a) dismantling, demolishing, or removing petroleum mining assets other than those referred to in section CT 6B(2)(a) (Meaning of petroleum mining operations):

(b) plugging and abandoning the following wells on a site, or former site, of petroleum mining operations:

(i) a well (a **commercial well**), including any associated processing facility connected to the well, used for the commercial production of petroleum:

(ii) *[Repealed]*

(iii) a well used for water injection, water disposal, gas reinjection, or gas disposal in the commercial production of petroleum:

(c) restoring a site, or former site, of petroleum mining operations other than a part of the site that has been used only for an activity referred to in section CT 6B(2)(a):

(d) the ongoing monitoring of—

(i) a commercial well or other well referred to in paragraph (b) that has been plugged and abandoned:

(ii) a site or former site referred to in paragraph (c) that has been restored:

(e) planning and managing an activity referred to in paragraphs (a) to (d)

deductible foreign equity distribution means a distribution by a foreign company to a company, in relation to a share in the foreign company,—

(a) for which a deduction against income or equivalent tax relief or tax benefit is allowed, or would be allowed in the absence of hybrid mismatch legislation, in the calculation of the income tax imposed by a country or territory other than New Zealand on the income of the foreign company or on the income of a company in the same group as the foreign company:

(b) sourced directly or indirectly out of an amount paid to the foreign company in relation to a financial arrangement or share by another company if—

(i) the foreign company is not liable for income tax imposed by a country or territory other than New Zealand on the amount paid to the foreign company; and

(ii) the other company is allowed, or would be allowed in the absence of hybrid mismatch legislation, a deduction against income or equivalent tax relief or tax benefit, in the calculation of the income tax imposed by a country or territory other than New Zealand on the income of the other company, for the amount paid to the foreign company

deductible output tax, in sections DB 2 (Goods and services tax) and EE 54 (Cost: GST) the sum of the following amounts, as applicable:

(a) an amount of output tax charged in relation to a supply of goods and services that the Goods and Services Tax Act 1985 treats a registered person as making under—

(i) section 5(23) of that Act:

(ii) section 5B of that Act when they have no deduction for any input tax on the acquisition of the goods or services:

(iii) the old apportionment rules referred to in section 21H of that Act:

(iv) section 21I(1) to (3) of that Act:

(b) an amount that is the result of an apportionment of input tax made in relation to the supply under section 20(3C) to (3I) of that Act to the extent to which the person does not have a deduction from output tax for the full amount of input tax:

(c) an amount of output tax accounted for in relation to the supply under section 20(3J) of that Act:

(d) an amount of output tax that is the result of adjustment made in relation to the supply under sections 21 to 21H of that Act

deducting branch is defined in section FH 15(1) (Definitions)

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

deemed rate of return method means the method of calculating FIF income or FIF loss in section EX 55 (Deemed rate of return method)

deferred military pay is defined in section CW 24(2) (Deferred military pay for active service) for the purposes of that section

defined benefit fund means a superannuation scheme or workplace savings scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013) that operates on the principle of unallocated funding

dependent child, for a child and a person,—

(a) means a child—

(i) whose care is primarily the responsibility of the person; and

(ii) who is maintained as a member of that person's family; and

(iii) who is financially dependent on that person:

(b) for the purposes of the child tax credit and WFF tax credits other than the Best Start tax credit, does not include a child in relation to whom—

(i) a payment is made under section 363 of the Oranga Tamariki Act 1989:

(ii) an orphan's benefit or unsupported child's benefit is being paid:

(c) despite paragraph (b)(i), for the purposes of the child tax credit and WFF tax credits other than the Best Start tax credit, includes a child or a young person, as defined in section 2(1) of the Oranga Tamariki Act 1989,—

(i) of whom the person is a parent within the meaning of that Act; and

(ii) to whom section 361 of that Act applies; and

(iii) who, under section 362 of that Act, is placed in the charge of the person:

(d) for the purposes of the Best Start tax credit, includes a child for whom a person receives—

(i) payments under section 363 of the Oranga Tamariki Act 1989:

(ii) a benefit paid under section 28 or 29 of the Social Security Act 1964

deposit—

(a) is defined in section EH 36 (Other definitions) for the purposes of the main income equalisation scheme:

(b) *[Repealed]*

(c) is defined in section EH 79 (Other definitions) for the purposes of the thinning operations income equalisation scheme:

(d) is defined in section EZ 81 (Refund of excess deposit in adverse event income equalisation account as consequence of election under section EZ 4B or FP 23) for the purposes of that section

depreciable intangible property is defined in section EE 62 (Meaning of depreciable intangible property)

depreciable property is defined in sections EE 6 (What is depreciable property?) and EE 7 (What is not depreciable property?)

depreciation loss—

(a) means a loss that a person has in the circumstances set out in section EE 1(2) (What this subpart does); and

(b) includes a deduction for depreciation that a person was allowed under an earlier Act

depreciation method is defined in section EE 12 (Depreciation methods)

depreciation percentage means a percentage set by the Commissioner under section EC 33 (Determining depreciation percentages)

depreciation recovery income—

(a) means income that a person has in the circumstances set out in section EE 1(3) (What this subpart does); and

(b) includes income that a person had under the corresponding provision of an earlier Act

derivative instrument means a derivative as defined in NZIAS 39

derived from New Zealand *[Repealed]*

descendant is defined in section EC 4B(7) (Compulsory use of herd scheme method for associated persons) for the purposes of that section

descended associate is defined in section EC 4B(7) (Compulsory use of herd scheme method for associated persons) for the purposes of that section

design registration means a registration of a design under the Designs Act 1953, and includes a similar registration and protection of a design under the laws of a country or territory other than New Zealand

design registration application means an application for a design registration

designated FMI is defined in section RE 10C(2B) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section

designated group investment fund is defined in section HR 3(6) (Definitions for section HR 2: group investment funds) for the purposes of section HR 2 (Group investment funds)

designated source investments is defined in section HR 3(7) (Definitions for section HR 2: group investment funds) for the purposes of section HR 2 (Group investment funds)

designated sources is defined in section HR 3(5) (Definitions for section HR 2: group investment funds) for the purposes of section HR 2 (Group investment funds)

detached tax credit is defined in section LB 3(8) (Tax credits for resident withholding tax) for the purposes of that section and sections HC 6 and RE 2 (which relate to RWT substitution payments)

development is defined in section DB 35 (Some definitions) for the purposes of that section, section DB 34, and subpart MX (which relate to research and development)

development investments *[Repealed]*

diminished value is defined in section DO 9B (Meaning of diminished value) for the purposes of section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) and sections DO 4, DO 5, DO 11, DO 12, DO 13, DP 3, DP 4, DZ 17, DZ 18, and schedule 20 (which relate to improvements to land and aquacultural business)

diminishing value equivalent is defined in section EC 34(4) (General rule) for the purposes of that section

diminishing value equivalent method is defined in section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section

diminishing value method, for depreciation, is defined in section EE 67 (Other definitions)

diminishing value rate is defined in section EE 67 (Other definitions)

direct control interest is defined in section EX 5 (Direct control interests)

direct income interest—

(a) is defined in section EX 9 (Direct income interests) except for the FIF rules:

(b) is defined in section EX 30 (Direct income interests in FIFs) for the FIF rules

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

direct market value interest means a market value interest of a person in a company other than a market value interest of the person in the company to the extent to which it is treated as arising only under section YC 4(5) (Look-through rule for corporate shareholders)

direct voting interest means a voting interest of a person in a company other than a voting interest of the person in the company to the extent to which it is treated as arising only under section YC 4(2) (Look-through rule for corporate shareholders)

director—

(a) means—

(i) a person occupying the position of director, whatever title is used:

(ii) a person in accordance with whose directions or instructions the persons occupying the position of directors of a company are accustomed to act:

(iii) a person treated as being a director by any other provision of this Act:

(iv) in the case of an entity that does not have directors and that is treated as, or assumed to be, a company by a provision of this Act, any trustee, manager, or other person who acts in relation to the entity in the same way as a director would act, or in a similar way to that in which a director would act, were the entity a company incorporated in New Zealand under the Companies Act 1993:

(b) is defined in section HD 15(9) (Asset stripping of companies) for the purposes of that section

disabled beneficiary is defined in section HC 39(3) (Trustee income: disabled beneficiary trusts)

disabled beneficiary trust is defined in section HC 39(2) (Trustee income: disabled beneficiary trusts)

disabled workshop payment is defined in section CW 33(2) (Allowances and benefits) for the purposes of that section

disallowed residential property *[Repealed]*

discontinuance profit means the amount calculated by a life insurer following the steps in section EY 36 (Discontinuance profit for income year)

discontinuance profit formula means the formula in section EY 37 (Discontinuance profit formula (existing policies)) or the formula in section EY 38 (Discontinuance profit formula (new policies))

discount payment date is defined in section EZ 30(3) (Base premium for 1998–99 premium year under Accident Insurance Act 1998) for the purposes of that section

dispose,—

(a) in sections CB 6A to CB 16A, CB 18, CB 19, CB 21, CB 22, CW 3C, and subpart EL (which relate to the disposal of land), for land, includes—

(i) compulsory acquisition under any Act by the Crown, a local authority, or a public authority:

(ii) if there is a mortgage secured on the land, a disposal by or for the mortgagee as a result of the mortgagor's defaulting under the mortgage:

(b) in sections CB 24 (Disposal of timber or right to take timber), CB 25 (Disposal of land with standing timber), DP 10 (Cost of acquiring timber or right to take timber: other cases), DP 11 (Cost of timber), and GC 2 (Disposals of timber rights or standing timber), includes—

(i) to grant a licence or easement:

(ii) to grant a right to take timber:

(iii) to create a right to take timber:

(iv) to create a forestry right, as defined in the Forestry Rights Registration Act 1983, other than a right in favour of the proprietor:

(c) in sections CB 29 (Disposal of minerals) and DB 30 (Cost of certain minerals), includes—

(i) to grant a licence or easement:

(ii) to grant a right to take minerals from land:

(d) *[Repealed]*

(e) in sections CT 1, DT 2 to DT 4, DT 8 to DT 11, DT 13, DT 19, DZ 6, EJ 15, EJ 16, EJ 17, EZ 3, and GB 20 (which relate to mining),—

(i) means to sell or transfer an asset, voluntarily or involuntarily; and

(ii) includes to lose or destroy an asset:

(f) for depreciable property, includes destroy, withdraw, or let lapse, but does not include the following:

(i) for a patent application, conclude the patent application because a patent is granted in relation to the patent application:

(ib) for a design registration application, conclude the design registration application because a design registration is granted in relation to the design registration application:

(ii) for a geothermal well, have the well stop being available for use because section EE 6(4) (What is depreciable property) no longer applies:

(g) in subpart FC (Distribution, transmission, and gifts of property) means a disposal of property in the manner provided for in that subpart:

(h) for a partner,—

(i) includes surrendering or extinguishing some or all of their partner's interests:

(ii) does not include when their partner's interests may be treated as disposed of by operation of law because another partner disposes of that partner's interests, unless the partnership is finally dissolved by agreement of the partners, court order, or otherwise, and the partnership's business, ignoring section HG 2 (Partnerships are transparent), will not continue to be carried on in partnership:

(i) in sections GC 20 and GC 21 (which relate to purchase price allocation) includes all events in paragraphs (a) to (h) of this definition and the grant, amendment, or transfer of a property right or interest

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

(a) means an assignment, conveyance, delivery, payment, settlement, transfer, or other alienation of property, whether at law or in equity; and

(b) without limiting the generality of paragraph (a), includes—

(i) the issue of shares in a company:

(ii) the creation of a trust:

(iii) the grant or creation of a charge, lease, licence, mortgage, power, servitude, or other estate, interest, or right, in or over property:

(iv) the abandonment, discharge, forfeiture, release, or surrender of a contract, debt, or thing in action, or of an estate, interest, power, or right in or over property; and for this purpose a debt, or any other estate, interest, or right, is treated as having been released or surrendered when it becomes irrecoverable or unenforceable by action or for any reason ceases to exist:

(v) the exercise of a general power of appointment in favour of a person other than the holder of the power; and

(c) includes a disposition as defined in paragraph (a) or (b) by will or intestacy; and

(d) does not include a disclaimer of an interest under a disposition made during life or by will; and

(e) does not include a disclaimer of an interest under an intestacy

distant workplace is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects)

distinctive work clothing is defined in section CX 30(2) (Distinctive work clothing) for the purposes of sections CX 30 and CW 17CC (Payments for distinctive work clothing)

distribution is defined in section HC 14 (Distributions from trusts) for the purposes of the trust rules

district health board *[Repealed]*

dividend—

(a) is defined in sections CD 3 to CD 20 (which relate to income from equity) for the purposes of this Act, except for the definition of **investment society dividend**:

(b) in the RWT rules, does not include a dividend of the kind listed in section RE 2(5) (Resident passive income) and modified by section RE 2(6), as applicable:

(c) in the NRWT rules,—

(i) *[Repealed]*

(ii) includes an amount paid to a shareholder that is a company and a person associated with the company paying the amount, if the amount is excluded from dividend treatment generally only as a result of sections CD 26(2)(b) (Capital distributions on liquidation or emigration) and CD 44; and

(iii) does not include the amount of any imputation credit attached to the dividend:

(d) in subpart LP (Tax credits for supplementary dividends),—

(i) includes an amount paid to a shareholder that is a company and a person associated with the company paying the amount, if the amount is excluded from dividend treatment generally only as a result of sections CD 26(2)(b) and CD 44; and

(ii) does not include any non-cash dividend; and

(iii) does not include any dividend derived by a life insurer from a company treated as resident in New Zealand because of the Commissioner granting an application under section EY 49 (Non-resident life insurer becoming resident):

(e) in section GB 38 (When sections GB 35 to GB 37 apply to consolidated groups), subpart OE (Branch equivalent tax accounts (BETA)), the imputation rules, and the definitions of **benchmark dividend**, **company dividend statement**, **imputation credit**, **imputation ratio**, **pay**, and **shareholder dividend statement**, does not include any amount excluded from being a dividend under section CB 34(5) (Amounts derived by members from mutual associations) or treated as a dividend under section GB 23, or GB 25 (which relate to family-owned businesses and close companies):

(f) in section GB 38 (When sections GB 35 to GB 37 apply to consolidated groups), subpart OE (Branch equivalent tax accounts (BETA)), the imputation rules, and the definitions of **benchmark dividend**, **company dividend statement**, **imputation credit**, **imputation ratio**, **pay**, and **shareholder dividend statement**, does not include an amount treated as a dividend under section GB 1(3) (Arrangements involving dividend stripping)

dividend treated as interest means a dividend that is paid in relation to a share issued by a company that is at the time of payment—

(a) a company not resident in New Zealand; or

(b) a company whose constitution prohibits all of its income or property from being distributed to a proprietor, member, or shareholder of the company; or

(c) a company all the income of which is exempt income other than under section CW 9 (Dividend derived by company from overseas) or CW 10 (Dividend within New Zealand wholly-owned group); or

(d) a company that, in New Zealand, is engaged solely in the business of life insurance referred to in section EY 8(2)(c) (Meaning of life insurance)

donee organisation means an entity described in section LD 3(2) (Meaning of charitable or other public benefit gift) or listed in schedule 32 (Recipients of charitable or other public benefit gifts)

double tax agreement is defined in section BH 1 (Double tax agreements)

DRCD deferral date is defined in section RA 6(6) (Withholding and payment obligations for passive income) for the purposes of that section and sections CD 1, OB 9, OB 30, RA 15, RF 3, and RF 11BB (which relate to dividends, imputation credit accounts, and withholding and payment obligations)

dwelling—

(a) means any place configured as a residence or abode, whether or not it is used as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:

(ab) despite paragraph (a), for the purposes of subpart EE and the definitions of commercial building and commercial fit-out, means any place used predominantly as a place of residence or abode, including any appurtenances belonging to or enjoyed with the place:

(b) does not include any of the following, in whole or part:

(i) a hospital:

(ii) a hotel, motel, inn, hostel, or boarding establishment:

(iii) a serviced apartment for which paid services in addition to the supply of accommodation are provided to a resident, and in relation to which a resident does not have quiet enjoyment, as that term is used in section 38 of the Residential Tenancies Act 1986:

(iv) a convalescent home, nursing home, or hospice:

(v) a rest home or retirement village, except to the extent that, in relation to a relevant place, it is, or can reasonably be foreseen to be, occupied as a person's principal place of residence for independent living:

(vi) a camping ground:

(c) despite paragraph (b)(iii) and (v), for the purposes of section CB 16A (Main home exclusion for disposal within 2 years) and the definition of **residential land**—

(i) includes a serviced apartment described in paragraph (b)(iii):

(ii) does not include, in whole or part, a rest home or retirement village

early balance date has the meaning given in section YE 1(6) (References to balance dates and years)

early life regime application day means, for a life insurer that chooses to apply the amendments to the rules for life insurers made by the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009, for an income year that includes 1 July 2010, the first day of that income year

early-payment discount is defined in section RC 40 (Some definitions) for the purposes of sections RC 37 to RC 39 (which relate to discounts of income tax)

earner is defined in section MA 7 (Meaning of full-time earner and earner for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

economic rate is defined in section EE 67 (Other definitions)

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

effective interest is defined in section HA 43 (Meaning of effective interest)

effective look-through interest is defined in section HB 1(5) (Look-through companies are transparent)

election commencement year, for an interest holder and an elective attributing CFC, or elective attributing FIF, of the interest holder for an accounting period, means the first year for which the election under section EX 73 (Election that CFC not non-attributing active CFC or FIF not non-attributing active FIF) for the accounting period was effective

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

(a) the person is engaged as an electoral official, interpreter, or usher, or for any other purpose, for—

  (i) an election or poll held under the provisions of the Electoral Act 1993 or the Local Electoral Act 2001; or

  (ii) an election or poll to which any of the provisions of the Electoral Act 1993 or the Local Electoral Act 2001 applies; or

  (iii) an election or poll held simultaneously with and in the same premises as an election or poll referred to in subparagraph (i) or (ii); and

(b) the person is paid by the authority controlling the election or poll; and

(c) the person's payment is exclusively for work done or services rendered immediately before, on, or immediately after the days on which voting is held in New Zealand for the election or poll

election expiry date is defined in section HC 30(5) (Treatment of foreign trusts when settlor becomes resident) for the purposes of that section

elective attributing CFC, for an interest holder and an accounting period, means a CFC for which the interest holder has made an election under section

EX 73 (Election that CFC not non-attributing active CFC or FIF not non-attributing active FIF) that is effective for the accounting period

elective attributing FIF for an interest holder and an accounting period, means a FIF for which the interest holder uses the attributable FIF income method and has made an election under section EX 73 (Election that CFC not non-attributing active CFC or FIF not non-attributing active FIF) that is effective for the accounting period

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

eligible candidate means an eligible candidate as defined in section 67 of the Parliament Act 2025

eligible hedge is defined in section EM 8 (Some definitions) for the purposes of subpart EM (Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests)

eligible research and development expenditure is defined in section LY 5 (Eligible research and development expenditure)

emergency call is defined in section CX 34 (Meaning of emergency call)

emergency event—

(a) is defined in section 3(1) of the Tax Administration Act 1994 for the purposes of subpart FP (Tax relief for emergencies):

(b) for the purposes of section MB 13 (Family scheme income from other payments), means an event declared to be an emergency event by the Commissioner in a determination under section 91AAS of the Tax Administration Act 1994

emergency event *[Repealed]*

emergency event period is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

emigrating company is defined in section FL 1(1) (What this subpart does)

emissions unit means a unit as defined in section 4(1) of the Climate Change Response Act 2002

emissions unit shortfall year, for a person means an income year that—

(a) is an emissions unit shortfall year for the person under section ED 1B(9)(a) (Valuation of emissions units issued for zero price); and

(b) has not ceased to be an emissions unit shortfall year for the person under section ED 1B(10)(c)

employee—

(a) means a person who receives or is entitled to receive a PAYE income payment:

(ab) for the purposes of the FBT rules, includes a shareholder-employee:

(ac) despite paragraph (a), in sections CE 1, CE 1B, and CW 16B to CW 16F (which relate to accommodation provided in connection with employment), includes an employee provided with accommodation or an accommodation payment as described in section CE 1(3)(a) (Amounts derived in connection with employment):

(b) in sections CW 17, CW 17B, CW 17C, CW 17CB, CW 17CC, CW 17D, and CW 18 (which relate to expenditure, reimbursement, and allowances of employees) includes a person to whom section RD 3B or RD 3C (which relate to income other than PAYE) applies:

(c) in the FBT rules, and in the definition of **shareholder-employee** (paragraph (b)), does not include a person if the only PAYE income payment received or receivable is—

(i) a payment referred to in section RD 5(1)(b)(iii), (3), (3B), (6)(b), (bb), (bc), and (c) and (7) (Salary or wages):

(ii) a schedular payment referred to in schedule 4, parts A, I, and W (Standard rates of tax for schedular payments) for which the person is liable for income tax under section BB 1 (Imposition of income tax):

(d) is defined in section CW 26D (Meaning of employee) for the purposes of section CW 26C (Meaning of exempt ESS):

(db) does not include an owner of a look-through company or a person who has a look-through interest for a look-through company, unless the owner or person is a working owner:

(e) for an employer, means an employee of the employer

employee accommodation—

(a) means property that the person, or a company in the same wholly-owned group of companies as the person, provides to their employees or other workers for accommodation in connection with their employment or service:

(b) does not include accommodation provided to employees or other workers who are associated with the person, unless it is necessary for the person to provide the accommodation because of the nature or remoteness of a business carried on by them

employee share loan is defined in section CX 35 (Meaning of employee share loan)

employee share scheme is defined in section CE 7 (Meaning of employee share scheme)

employee share scheme beneficiary is defined in section CE 7C (Meaning of employee share scheme beneficiary)

employee's superannuation accumulation means the total superannuation contributions, together with any return on them, to which the complying fund rules apply, and are—

(a) employer's superannuation cash contributions:

(b) the amount of a tax credit under section MK 3 (Payment of tax credits) that is treated as a Crown contribution for an employee under section MK 5 (Crown contributions for members):

(c) withheld from the employee's salary or wages

employer—

(a) means a person who pays or is liable to pay a PAYE income payment:

(b) includes,—

(i) for an unincorporated body of persons other than a partnership, the manager or other principal officer:

(ii) for a partnership, each partner:

(iib) a look-through company:

(iii) for the estate of a deceased person, a trust, a company in liquidation, an assigned estate, or for any other property vested or controlled in a fiduciary capacity, each person in whom the property has become vested or to whom control of the property has passed:

(iv) the Crown:

(c) in the FBT rules, does not include a person if the only PAYE income payment that they pay or are liable to pay is—

(i) a payment referred to in section RD 5(1)(b)(iii), (3), (3B), (6)(b), (bb), (bc), and (c), and (7) (Salary or wages):

(ii) a schedular payment referred to in schedule 4, parts A, I, and W (Standard rates of tax for schedular payments):

(d) *[Repealed]*

(db) is defined in section CE 1(3)(a) (Amounts derived in connection with employment) for the purposes of that section and sections CE 1B, CW 16B to CW 16F, CZ 29 to CZ 30, and FP 22 (which relate to accommodation provided in connection with employment):

(dc) is defined in section CE 1(3)(b) for the purposes of sections CW 16B to CW 16F, CZ 29 to CZ 30, and FP 22:

(e) for an employee, means the employer of the employee

employer contribution has the same meaning as in the KiwiSaver Act 2006

employer monthly schedule *[Repealed]*

employer-sourced superannuation savings means—

(a) employer's superannuation cash contributions under section RA 5(1)(c) (Tax obligations for employment-related taxes) made on or after 1 April 2000 other than—

(i) those that are treated as salary and wages under section RD 68 (Choosing to have amount treated as salary or wages); or

(ii) those on which ESCT has been paid at the rate set out in schedule 1, part A, clause 10(a) of the Income Tax Act 2004 before that clause was replaced by a new clause 10(a) on 1 April 2007; and

(b) any return on those employer's superannuation contributions; and

(c) reserves, that is, employer's superannuation cash contributions under section RA 5(1)(c) made on or after 1 April 2000 that do not vest in a member of the superannuation fund and any return on those employer's superannuation cash contributions, as follows:

(i) for a superannuation fund with 10 or more unassociated members, reserves that have been allocated to a member of the superannuation fund, other than those allocated to an account of the member's contributions for smoothing investment returns; or

(ii) for all other superannuation funds, reserves

employer sponsored group policy *[Repealed]*

employer's superannuation cash contribution is defined in section RD 65(1) (Employer's superannuation cash contributions)

employer's superannuation contribution means a superannuation contribution made by an employer for the benefit of 1 or more of their employees

employer's workplace is defined in section CW 17CB(7B) (Payments for certain work-related meals) for the purposes of that section

employing company *[Repealed]*

employment has a meaning corresponding to the meaning of **employee**, and—

(a) includes the activities performed by the Governor-General, a member of Parliament, or a judicial officer that give rise to an entitlement to receive a PAYE income payment for the activities:

(b) is defined in section ME 2(1) (Meaning of employment for this subpart) for the purposes of subpart ME (Minimum family tax credit) and the definition of **full-time earner**

employment income means an amount that is income under section CE 1 (Amounts derived in connection with employment), and includes—

(a) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies:

(b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies

employment income information is defined in section 23C of the Tax Administration Act 1994

employment limitation is defined in section DA 2(4) (General limitations)

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

end date—

(a) is defined in section HR 12(7) (Non-exempt charities: treatment of tax-exempt accumulations) for the purposes of that section:

(b) is defined in section RA 15(3) (Payment dates for interim and other tax payments) for the purposes of that section

end investor is defined in section RE 10C(7) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section and sections RE 4 and RF 4

end value proportion is defined in section CW 3C (Certain partitions or subdivisions of land)

engaged in full-time work *[Repealed]*

entering owner—

(a) means a person who acquires an owner's interests for a look-through company:

(b) includes a person who already has owner's interests for a look-through company when they acquire another owner's interests

entering partner—

(a) means a person who acquires a partner's interests in a partnership:

(b) includes a person who is already a partner in the partnership when they acquire another partner's interests

entitlement period is defined in section MC 11(1) (Relationship periods and entitlement periods) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

entity is defined in section FH 15(1) (Definitions)

environmental restoration account is defined in section EK 23(3) (Other definitions) for the purposes of subpart EK (Environmental restoration accounts)

equity group is defined in section FE 16B(5) (Total group non-debt liabilities) for the purposes of that section

equity instrument is defined in section EW 15I(3) (Mandatory use of yield to maturity method for some arrangements) for the purposes of that section

ESCT—

(a) means employer's superannuation contribution tax; and

(b) relates to an employer's superannuation cash contribution; and

(c) refers to an amount payable as income tax under the ESCT rules

ESCT rate threshold amount, for an employer's superannuation cash contribution, means—

(a) for an employee employed by an employer for the whole of a tax year immediately before the tax year in which the employer's superannuation contribution is paid, the total amount of—

(i) salary or wages derived by the employee in the previous tax year; and

(ii) the gross amount of employer's superannuation contributions before ESCT is withheld that the employer paid on behalf of the employee in the previous tax year; or

(b) if paragraph (a) does not apply, the total amount of—

(i) salary or wages that the employer estimates will be derived by the employee in the tax year in which the contribution is paid; and

(ii) the gross amount of employer's superannuation contributions before ESCT is withheld that the employer estimates that they will pay on behalf of the employee in the tax year in which the contribution is paid

ESCT rules means the provisions listed in section RD 64 (ESCT rules and their application)

ESS deferral date is defined in section CE 2(9) (Benefits under employee share schemes) for the purposes of that section and sections RD 6 and RD 7B (which relate to amounts of tax for benefits under employee share schemes)

established activity *[Repealed]*

estate in relation to land, **interest** in relation to land, **estate or interest in land**, **estate in land**, **interest in land**, and similar terms—

(a) mean an estate or interest in the land, whether legal or equitable, and whether vested or contingent, in possession, reversion, or remainder; and

(b) include a right, whether direct or through a trustee or otherwise, to—

(i) the possession of the land (for example: a licence to occupy, as that term is defined in section 122 of the Land Transfer Act 2017):

(ii) the receipt of the rents or profits from the land:

(iii) the proceeds of the disposal of the land; and

(c) do not include a mortgage

estimated residual market value,—

(a) for an item of depreciable property, is defined in section EE 67 (Other definitions):

(b) for high-priced livestock, means its market value at the end of its estimated useful life, estimated reasonably as at the date of acquisition and based upon an assumption of normal and reasonable maintenance over its estimated useful life

estimated useful life,—

(a) for an item of depreciable property, is defined in section EE 63 (Meaning of estimated useful life):

(b) for high-priced livestock, means the period over which the livestock might reasonably be expected to be useful in deriving income or carrying on a business in New Zealand, taking into account—

(i) the passage of time, likely wear and tear, exhaustion, and obsolescence; and

(ii) an assumption of normal and reasonable maintenance:

(c) for a listed horticultural plant, means the period of time over which the listed horticultural plant might reasonably be expected to be useful to a person in deriving income or in carrying on a business in New Zealand, with the expectation based on an assumption of normal and reasonable maintenance:

(d) for a type of pasture, means the period of time over which the pasture might reasonably be expected to be useful to a person in deriving income or carrying on a farming or agricultural business on land in New Zealand

ETS unit *[Repealed]*

excepted financial arrangement—

(a) is defined in section EW 5 (What is an excepted financial arrangement?) for the purposes of this Act except the old financial arrangements rules; and

(b) is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

excepted residential land *[Repealed]*

excess credit amount *[Repealed]*

excess debt entity is defined in section FE 4 (Some definitions) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

excess debt outbound company is defined in section FE 4 (Some definitions) for the purposes of subpart FE (Interest apportionment)

excess expenditure—

(a) is defined in section CZ 8(2) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:

(b) is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section

excess tax payment, for a company at a time, and for the purposes of Part O (Memorandum accounts), means the amount at the time by which a payment made by or on behalf of the company to the Commissioner for income tax or provisional tax is more than the liability at the time of the company to pay income tax and provisional tax

exchange variation is defined in section CZ 3(5) (Exchange variations on 8 August 1975) for the purposes of that section

excluded ancillary tax means—

(a) imputation penalty tax:

(b) *[Repealed]*

(c) qualifying company election tax

(d) *[Repealed]*

(e) *[Repealed]*

excluded day *[Repealed]*

excluded depreciable property is defined in section EE 64 (Meaning of excluded depreciable property)

excluded fixed rate security means a fixed rate share issued by a company or a debenture issued by a company, if it is a stapled debt security and not a profit-related debenture, when the holder of the share or debenture does not have, because of it, any right to vote or participate in any shareholder decision-making, except to the extent of any such right that—

(a) arises only in circumstances in which the position of the holder of the share or debenture may be altered to the holder's detriment; and

(b) is granted to the holder of the share or debenture for the purpose of assisting the holder to prevent the alteration; and

(c) at the time of the issue of the share or debenture, is not expected to arise

excluded income is defined in section BD 1(3) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income)

excluded interest is defined in section HM 12(1B) (Income types) for the purposes of that section

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

(a) the directors of the company did not know and could not reasonably be expected to know that the option had been granted; or

(b) neither the grantor of the option nor any person associated with the grantor of the option at the time the option is granted holds a share in the company over which the option is granted at the time the option is

granted, whether directly or indirectly, but this paragraph does not apply in a case in which the grantor of the option is the company; or

(c) the option is granted on arm's length terms, without the grant having a purpose or effect of defeating the intent and application of any provision of this Act whose application is dependent on the measurement of voting and market value interests, and the holder of the option does not have, because of it, any right to vote or participate in any shareholder decision-making, except to the extent of any such right that—

(i) arises only in circumstances in which the position of the holder of the option in relation to it may be altered to the holder's detriment; and

(ii) is granted to the holder of the option for the purpose of assisting the holder to prevent the alteration; and

(iii) at the time of the issue of the option, is not expected to arise; or

(d) the price payable to acquire the share on the exercise of the option is equal to or not materially different from the market value of the share at the date of exercise, and the holder of the option does not have, because of it, any right to vote or participate in any shareholder decision-making, except to the extent of any such right that—

(i) arises only in circumstances in which the position of the holder of the option in relation to it may be altered to the holder's detriment; and

(ii) is granted to the holder of the option for the purpose of assisting the holder to prevent the alteration; and

(iii) at the time of the issue of the option, is not expected to arise; or

(e) the share is an excluded fixed rate security, subject to section YC 20 (Credit account continuity provisions: excluded fixed rate securities) in the case of the credit amount continuity provisions; or

(f) the option—

(i) relates to a pre-1991 budget security; and

(ii) was itself granted before 8.00 pm New Zealand Standard Time on 30 July 1991 (the **specified time**), or was granted under a binding contract entered into before the specified time no term of which is altered at any time after the specified time; and

(iii) is not an option any term of which is altered at any time after the specified time (whether under a provision for roll-over or extension or under an option held at the specified time by the option holder or the grantor of the option, or both, or any other person, or otherwise), except when the term is altered under a binding contract entered into before the specified time no term of which is altered at any time after the specified time

excluded preference share is defined in section YC 18B (Corporate reorganisations not affecting economic ownership) for the purposes of that section

exempt ESS is defined in section CW 26C (Meaning of exempt ESS)

exempt housing provider is defined in section DH 5 (Key terms)

exempt income is defined in section BD 1(2) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income)

exempt income limitation is defined in section DA 2(3) (General limitations)

exempt interest means interest that is—

(a) payable for a debt entered into under generally accepted commercial practice for the purchase of goods or services, if the purchase is made in the ordinary course of the purchaser's taxable activity; or

(b) payable under a hire purchase agreement, the definition of which applies, for this purpose, as if it did not contain paragraph (g); or

(c) exempt income under section CW 8 (Money lent to government of New Zealand); or

(d) payable under a specified lease or a finance lease; or

(db) payable in relation to a loan made under the small business cashflow scheme; or

(dc) payable in relation to the repayment of a grant under the COVID-19 resurgence support payments scheme, or another COVID-19 support payments scheme, as defined in section 3(1) of the Tax Administration Act 1994; or

(e) payable for bonus bonds or Post Office bonus bonds (as each of those terms is defined in section 2 of the Post Office Bank Act 1987); or

(f) payable on an overpaid levy under section 173 of the Accident Compensation Act 2001; or

(g) payable by the Commissioner under section 84 of the KiwiSaver Act 2006

exempt main home *[Repealed]*

exempt main home period limit *[Repealed]*

exempt Māori company *[Repealed]*

exempted predominant main home day *[Repealed]*

exemption certificate *[Repealed]*

existing business is defined in section EY 28 (Shareholder base other profit: profit participation policies that are existing business) for the purposes of that section and section EY 29 (Shareholder base other profit: profit participation policies that are new business)

existing farmer *[Repealed]*

existing privilege is defined in section 2(1) of the Crown Minerals Act 1991, and includes mining privilege and mining licence under the Mining Act 1971 and prospecting licence or mining licence under the Petroleum Act 1937

exit level, for a multi-rate PIE, means the relationship of the entity's tax liability to the value of the investor's interest described in section HM 62 (Exit levels for investors)

exit period, for an investor in a multi-rate PIE, means a period set out in section HM 63 (Exit periods)

exiting partner, for a partnership, means a person who disposes of interests in the partnership held by the person as a partner

expected life risk proportion is defined in section EY 25 (Premium smoothing reserving amount: non-participation policies not annuities) for the purposes of that section

expenditure—

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

(b) is defined in section DW 1(2) (Airport operators) for the purposes of that section:

(c) is defined in section RF 12D(3) (Determining amount of non-resident financial arrangement income) for the purposes of that section and sections RF 2B, RF 2C, RF 12E to RF 12J, and RZ 13 (which relate to the calculation of non-resident financial arrangement income)

expenditure on account of an employee is defined in section CE 5 (Meaning of expenditure on account of an employee)

exploration and development activities is defined in section CW 57(2) (Non-resident company involved in exploration and development activities) for the purposes of that section

exploration permit is defined in section 2 of the Crown Minerals Act 1991

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

exploratory well means a well in a permit area, drilled for the purpose of—

(a) locating petroleum; or

(b) confirming the existence, non-existence, quantity, or composition of petroleum; or

(c) ascertaining whether petroleum is recoverable in commercial quantities

exploratory well expenditure—

(a) means expenditure incurred by a petroleum miner in planning, drilling, testing, completing, and abandoning an exploratory well; and

(b) does not include residual expenditure

extended return date is defined in section IC 9(3) (Date for payment and notice to Commissioner) for the purposes of Part I (Treatment of tax losses)

extra pay is defined in section RD 7 (Extra pay)

fair dividend rate annual method means the method of calculating FIF income or loss under section EX 52 (Fair dividend rate annual method)

fair dividend rate hedge portion is defined in section EM 8 (Some definitions) for the purposes of subpart EM (Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests)

fair dividend rate method means the method of calculating FIF income or loss under—

(a) section EX 52 (Fair dividend rate annual method); or

(b) section EX 53 (Fair dividend rate periodic method)

fair dividend rate periodic method means the method of calculating FIF income or loss under section EX 53 (Fair dividend rate periodic method)

fair value method means a method under section EW 15D (IFRS financial reporting method) of calculating income or expenditure for an income year that takes into account movements in fair value as determined under IFRSs

family assistance credit *[Repealed]*

FamilyBoost tax credit is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

family credit abatement is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

family member means a family member as defined in section 68 of the Parliament Act 2025

family plus *[Repealed]*

family scheme means all the entitlements and tax credits for families arising under subparts MA to MG and MZ

family scheme income is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

family support *[Repealed]*

family tax credit is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

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

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

farm-in party, in relation to petroleum miner, means the person referred to in the definition of farm-out arrangement who has an arrangement as described in that definition with the petroleum miner

farm-out arrangement—

(a) means an arrangement between a petroleum miner or a mineral miner (the **farm-out party**) and a person (the **farm-in party**) under which the farm-in party agrees that they will incur expenditure in doing work or paying for work done in or for the permit area of the farm-out party's petroleum permit, exploration permit, prospecting permit, or mining permit, as applicable, (the **permit**), after the arrangement is made and, in return, they—

(i) acquire an interest in the farm-out party's permit:

(ii) receive a right or option to acquire an interest in the farm-out party's permit:

(iii) become entitled in another way to acquire an interest in the farm-out party's permit:

(iv) become entitled to a direct or indirect interest in petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:

(v) become entitled to a direct or indirect interest in the profits, however measured, from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:

(vi) become entitled to a direct or indirect right to reimbursement from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:

(vii) become entitled to a direct or indirect right to reimbursement from the profits, however, measured from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:

(viii) become entitled to a rental, royalty, or other consideration of whatever nature calculated by reference to petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:

(ix) become entitled to a rental, royalty, or other consideration of whatever nature calculated by reference to the profits, however, measured, from petroleum or a listed industrial mineral, as applicable, from the permit area of the farm-out party's permit:

(b) is defined in section CZ 8(2) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:

(c) is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section

farmland means land that—

(a) is being worked in the farming or agricultural business of the land's owner:

(b) because of its area and nature, is capable of being worked as a farming or agricultural business

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

FBT rules means the provisions listed in section RD 25 (FBT rules and their application), and **fringe benefit tax rules** has the same meaning

FDP *[Repealed]*

FDP account *[Repealed]*

FDP credit *[Repealed]*

FDP debit *[Repealed]*

FDP penalty tax *[Repealed]*

FDP ratio *[Repealed]*

FDP reference period *[Repealed]*

FDP rules *[Repealed]*

FDPA *[Repealed]*

FDPA company *[Repealed]*

feature film means a film that—

(a) is produced mainly for exhibition in a cinema; and

(b) is exhibited in 35mm gauge; and

(c) has a continuous running time of no less than 75 minutes

fee is defined in section RD 41(4) (Services) for the purposes of that section

FIF means a foreign investment fund as defined in section EX 28 (Meaning of FIF)

FIF income is defined in section CQ 5 (When FIF income arises)

FIF loss is defined in section DN 6 (When FIF loss arises)

FIF net loss, for a person and for an income year in which the person has a FIF loss, means the part of the FIF loss for which the person is denied a deduction because of section DN 8 (Ring-fencing cap on deduction: attributable FIF income method), but must instead deal with under Part I (Treatment of tax losses)

FIF rules means sections EX 28 to EX 72 (which relate to foreign investment funds)

FIF superannuation interest means, for a person and an income year (the **current year**), the rights in a foreign superannuation scheme held by the person as a beneficiary or member that the person acquires under an arrangement with the foreign superannuation scheme, if—

(a) the person enters the arrangement—

(i) when the person is a resident of New Zealand and is treated under no double tax agreement as being resident in a foreign country or territory; and

(ii) other than by a transaction described in section CF 3(21)(b) or (d) (Withdrawals from foreign superannuation scheme) and from a person who acquired the rights when being a non-resident or treated under a double tax agreement as being resident in a foreign country or territory; or

(b) the person enters the arrangement when the person is a non-resident, or is treated under a double tax agreement as being resident in a foreign country or territory, and—

(i) the rights held by the person in an income year (the **qualifying year**) ending before 1 April 2014 are an attributing interest and are treated by the person as an attributing interest in a return of income for the qualifying year filed before 20 May 2013; and

(ii) the rights held by the person for the period (the **qualifying period**) from the end of the qualifying year to the beginning of the current year are treated by the person as an attributing interest in returns of income for the income years in the qualifying period

fifteen percent capital reduction is defined in section CD 22(9) (Returns of capital: off-market share cancellations) for the purposes of that section

fifteen percent interest reduction is defined in section CD 22(9) (Returns of capital: off-market share cancellations) for the purposes of that section

filing taxpayer means a person, other than—

(a) a person who is a non-filing taxpayer for the applicable tax year:

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

film, except in section CC 9 (Royalties),—

(a) means a recording on any medium from which a moving image may by any means be produced; and

(b) includes a part of any such recording

film income means income of a person under section CC 10 (Films)

film production expenditure—

(a) means—

(i) an expenditure or loss incurred in producing a film:

(ii) an amount of depreciation loss on property used in producing the film:

(iii) an amount of depreciation loss from disposing of depreciable property used in producing the film allowed under section EE 48 (Effect of disposal or event); and

(b) does not include an expenditure incurred—

(i) in acquiring an asset for which a deduction for an amount of depreciation loss is allowed:

(ii) in acquiring a film right after the film is completed:

(iii) directly in marketing or selling a film

film reimbursement scheme is defined in section DS 4 (Meaning of film reimbursement scheme)

film right means a right or interest, including a future or contingent right or interest, of any of the following kinds:

(a) copyright in a film; or

(b) a licence relating to the copyright in a film; or

(c) an equitable right in the copyright in a film; or

(d) an equitable right in a licence relating to the copyright in a film; or

(e) any other right existing in or attaching to a film; or

(f) a right to income, or a share of income, from the rental, sale, use, or other exploitation of a film

final instalment, in relation to provisional tax, means the last instalment of provisional tax due in a transitional year

finance lease means a lease of a personal property lease asset entered into by a person on or after 20 May 1999 that—

(a) when the person enters the lease, involves or is part of an arrangement that involves—

(i) the transfer of the ownership of the asset to the lessee or an associate of the lessee during or at the end of the term of the lease:

(ii) the lessee or an associate of the lessee having the option of acquiring the asset for an amount that is likely to be substantially lower than the asset's market value on the date of acquisition:

(iii) a right of an associate of the lessee to acquire the asset, or a right of the lessor to require an associate of the lessee to acquire the asset, during the term of the lease under an arrangement that does not entitle the associate to receive all of the personal property lease payments that may fall due after the acquisition:

(b) when the person enters the lease or from a later time, involves a term of the lease that is more than 75% of the asset's estimated useful life as defined in section EE 63 (Meaning of estimated useful life):

(c) the person enters on or after 20 June 2007 and is, or is part of, an arrangement that, when the person enters the lease or when a change in the terms of the arrangement changes the allocation or size of the risks and rewards incidental to ownership of the lease asset,—

(i) involves the use of the asset outside New Zealand for all or most of the term of the lease; and

(ii) involves income of any person who is not the lessor, arising from the use of the asset by any person, that is exempt income, or excluded income, or non-residents' foreign sourced income; and

(iii) is a finance lease under NZ IFRS 16 for the lessor, or for a company that is in the same group of companies as the lessor and derives assessable income from the arrangement, or is an arrangement under which persons who do not include the lessor bear substantially all the risks and rewards incidental to ownership of the lease asset, determined as at the time the person enters the lease and taking into account later changes to the arrangement

finance-related deduction means a deduction of a company that is part of a consolidated group, calculated as if the company were not part of the group and determined under section FM 3 (Liability of consolidated groups and group companies) for an amount, other than an amount that arises only from movement in currency exchange rates, of—

(a) interest incurred:

(b) expenditure under the financial arrangements rules or the old financial arrangements rules

financial arrangement—

(a) is defined in section EW 3 (What is a financial arrangement?) for the purposes of this Act except the old financial arrangements rules; and

(b) is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

financial arrangements rules is defined in section EW 1(2) (What this subpart does)

financial asset has the same meaning as in NZIAS 32

financial assistance, in subpart HC (Trusts), for a person or trust, means assistance provided to or for the benefit of the person or trust that produces a financial benefit for which the person or trust provides less than market value,

and assistance is treated as having been provided for less than market value if—

(a) the assistance is provided at below market rates:

(b) an amount payable for the assistance is payable on demand and the right to demand is not exercised or is deferred

financial institution means a registered bank or an entity subject to the Deposit Takers (Credit Ratings, Capital Ratios, and Related Party Exposures) Regulations 2010 that must use IFRSs to prepare financial statements

financial institution special purpose vehicle *[Repealed]*

financial instrument is defined in section FH 15(1) (Definitions)

financial liability has the same meaning as in NZIAS 32

financial risk is defined in section EY 12 (Meaning of life reinsurance)

financial statements is defined in section 6 of the Financial Reporting Act 2013, but the references in that definition to an entity and to a reporting entity are to be read as references to a person

financial value is defined in section FE 20(1) (Financial value and regulatory value) for the purposes of sections FE 7, FE 19, and FE 21 to FE 23 (which relate to a New Zealand banking group's equity threshold)

financially independent means—

(a) in full employment—

(i) under a contract of service or apprenticeship that requires a person to work, whether on time or piece rates, no less than an average of 30 hours each week; or

(ii) as the self-employment of a person in a business, manufacture, profession, trade, or undertaking carried on for pecuniary profit for not less than an average of 30 hours each week; or

(iii) for any number of hours that is regarded as full-time employment for the purpose of an agreement, award, or contract relating to the employment; or

(b) in receipt of a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998 (SR 1998/277) or any regulations in substitution for those regulations; or

(c) receiving payments under a Government-assisted scheme that the chief executive of the administering department considers analogous to a benefit payable under the Social Security Act 2018 (as the term benefit is defined in Schedule 2 of that Act); or

(d) receiving a benefit as defined in Schedule 2 of the Social Security Act 2018; or

(e) receiving New Zealand superannuation equivalent assistance or veteran's pension equivalent assistance

first business day, in relation to provisional tax, means—

(a) the first day in an income year on which a person with a provisional tax liability derives income or incurs expenditure as a result of carrying on a taxable activity, if the person is not a natural person; and

(b) the day following the last day in an income year on which a person with a provisional tax liability derived income from employment, if the person is a natural person

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

first publication is defined in section EI 3(6) (Assigning or granting copyright) for the purposes of that section

first tracking date *[Repealed]*

fisher is defined in section EH 3(1)(b) (Persons to whom main income equalisation scheme applies)

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

fishing business—

(a) is defined in section EH 36 (Other definitions) for the purposes of this Act except the provision to which paragraph (b) refers:

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

fishing quota emissions unit means an emissions unit—

(a) transferred, under an allocation plan made under section 74 of the Climate Change Response Act 2002, to a person as an owner of individual transferable quota as defined in section 2 of the Fisheries Act 1996; and

(b) held continuously by the person since the issue

fixed establishment—

(a) means a fixed place of business in which substantial business is carried on by a person; and

(b) includes—

(i) a branch, factory, shop, or workshop in which, in each case, substantial business is carried on; and

(ii) a mine, oil well, quarry, or other place of natural resources subject to exploitation; and

(iii) an agricultural, forestry, or pastoral property; and

(c) does not include—

(i) the use of facilities solely for the purpose of the delivery, display, or storage of goods or merchandise belonging to a business; or

(ii) the maintenance of a fixed place of business solely for the purpose of acquiring goods or merchandise or for collecting information or for advertising for business

fixed life intangible property is defined in section EE 67 (Other definitions)

fixed principal financial arrangement—

(a) means a financial arrangement other than a variable principal debt instrument:

(b) is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

fixed-rate foreign equity means an interest (the **equity**) in the capital of a foreign company held by a company (the **holder**) in relation to which the foreign company makes distributions—

(a) at a rate that is a specific fixed percentage of the amount subscribed for the issue of the equity; or

(b) at a rate that—

(i) is a percentage of the amount subscribed for the issue of the equity; and

(ii) has a fixed relationship to economic, commodity, industrial, or financial indices, to banking rates of interest, or to general commercial rates of interest; or

(c) at a rate that would be given by paragraph (a) or (b) but for variations due to—

(i) a fixed relationship to a rate of income tax:

(ii) compensation to the holder for default by the foreign company:

(iii) compensation to the holder for expenditure or loss related to the holding of the equity and suffered by the holder or by a person associated with the holder; or

(d) equivalent to the payment of interest for money lent, having regard to—

(i) whether or not the equity is redeemable:

(ii) any security provided to the holder, including put or call options over the equity or an amount payable determined by reference to the amount of distributions payable:

(iii) the variability or lack of variability of the distributions payable

fixed-rate share,—

(a) in sections CD 22 (Returns of capital: off-market share cancellations), CX 55(4) (Proceeds from disposal of investment shares), GC 8, and GC 14 (which relate to transfer pricing arrangements between associated

persons), and in the definitions of **excluded fixed rate security** and **pre-1991 budget security**, means a share issued by a company if the only dividend payable on the share, disregarding any dividend payable on the issue of the share, and any imputation credits attached to any dividend, is payable at a rate that—

(i) is described in paragraph (b), (c), or (d); and

(ii) is not set with a purpose and does not have an effect of defeating the intent and application of any provision of this Act whose application is dependent on the measurement of voting and market value interests:

(b) for the purposes of paragraph (a)(i), the rate is a specific fixed percentage of the amount subscribed for the issue of the share:

(c) for the purposes of paragraph (a)(i), the rate is a percentage of the amount subscribed for the issue of the share that is determined by a fixed relationship to commodity, economic, financial, or industrial indices, or to banking rates or general commercial rates of interest:

(d) for the purposes of paragraph (a)(i), the rate is a percentage that could be of a kind referred to in paragraph (b) or (c) but for any variation in the rate of dividend that may occur only—

(i) by a fixed relationship to a rate of income tax; or

(ii) as may be necessary to compensate the shareholder for a default on the part of the paying company or expenditure or loss suffered by the shareholder, or a person associated with the shareholder, through holding the share; or

(iii) by a combination of the factors in subparagraphs (i) and (ii):

(e) *[Repealed]*

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

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

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

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

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

(i) a change in value of the other share occurs in a period that starts no more than 30 days before the share is converted and ends when

the share is converted, and the period was a term or condition of the share when the share was first issued:

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

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

(i) whether or not the share is redeemable:

(ii) any security provided to the shareholder, including put or call options over the share or any amount payable determined by reference to the amount of dividend payable:

(iii) the variability or lack of variability of the dividend payable:

(i) in section EX 46(10)(a) and subpart FE (Interest apportionment on thin capitalisation), means a share meeting the requirements of paragraph (f)(i) and (iii)

flat-owning company is defined in section CD 31(2) (Flat-owning companies) for the purposes of that section, section HA 6 (Corporate requirements), and the definition of **look-through company**

FMA means the Financial Markets Authority established under Part 2 of the Financial Markets Authority Act 2011

FMI settlement is defined in section RE 10C(2B) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section

Fonterra is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

foreign account information-sharing agreement means a double tax agreement that facilitates the automatic exchange by the parties of information relating to financial accounts, including—

(a) the *Agreement between the Government of New Zealand and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA* brought into force for New Zealand by the Double Tax Agreements (United States of America—FATCA) Order 2014 (LI 2014/209), as amended from time to time:

(b) the multilateral *Convention on Mutual Administrative Assistance in Tax Matters, as amended by 2010 Protocol* which was brought into force for New Zealand by the Double Tax Agreements (Mutual Administrative Assistance) Order 2013 (SR 2013/437), as amended from time to time

foreign ASAP means a financial arrangement that is an agreement for the sale and purchase of property or services and, at the time the ASAP is entered

into 50% or more of the consideration in New Zealand dollars is in a foreign currency, measured using spot rates at that time

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

(a) attributed CFC income:

(b) FIF income calculated under the attributed FIF income method

foreign attributed loss offsets *[Repealed]*

foreign bank is defined in section FG 1(2) (When this subpart applies) for the purposes of subpart FG (Treatment of notional loans to New Zealand branches of foreign banks)

foreign company means a company that—

(a) is not resident in New Zealand; or

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

foreign corporate limited partnership means an entity or group of persons that—

(a) meets the definition of **overseas limited partnership** in section 4 of the Limited Partnerships Act 2008; and

(b) is treated as a separate legal entity under the laws (other than taxation laws) of the country, territory, or jurisdiction where it is established

foreign country is defined in section DB 45(4) (Bribes) for the purposes of that section

foreign crew of fishing vessels instructions means the immigration instructions for foreign crew of fishing vessels, certified under section 22(1) of the Immigration Act 2009

foreign defined contribution scheme means a foreign superannuation scheme that operates on the principle of allocating contributions to the scheme on a defined basis to individual members

foreign dividend *[Repealed]*

foreign dividend company *[Repealed]*

foreign dividend company net earnings *[Repealed]*

foreign exempt entity is defined in section CW 12(4) (Proceeds of share disposal by qualifying foreign equity investor) for the purposes of that section

foreign exempt partnership is defined in section CW 12(4) (Proceeds of share disposal by qualifying foreign equity investor) for the purposes of that section

foreign exempt person is defined in section CW 12(4) (Proceeds of share disposal by qualifying foreign equity investor) for the purposes of that section

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

foreign group *[Repealed]*

foreign income tax is defined in section LJ 3 (Meaning of foreign income tax) for the purposes of Part L (Tax credits and other credits)

foreign investment fund is defined in section EX 28 (Meaning of FIF)

foreign investment PIE means a multi-rate PIE that—

(a) meets the requirements of sections HM 55C to HM 55H (which relate to the particular requirements for and treatment of foreign investment PIEs); and

(b) chooses under section HM 71B (Choosing to become a foreign investment PIE) to become a foreign investment zero-rate PIE or a foreign investment variable-rate PIE

foreign investment variable-rate PIE means a foreign investment PIE that—

(a) meets the requirements of section HM 19C (Modified rules for foreign investment variable-rate PIEs); and

(b) chooses under section HM 71B (Choosing to become a foreign investment PIE) to become a foreign investment variable-rate PIE

foreign investment vehicle means an entity that—

(a) has become a foreign investment vehicle under section HL 5(1) (Foreign investment vehicles); and

(b) has not ceased to be a foreign investment vehicle under section HL 5(2)

foreign investment zero-rate PIE means a foreign investment PIE that—

(a) meets the requirements of section HM 19B (Modified rules for foreign investment zero-rate PIEs); and

(b) chooses under section HM 71B (Choosing to become a foreign investment PIE) to become a foreign investment zero-rate PIE

foreign LTC holder means—

(a) a non-resident:

(b) a trustee of a trust, if the trust has a non-resident settlor, but only to the extent of the proportion of the trust's ownership interests that is equal to the proportion of settlements, by value, made by non-resident settlors, ignoring settlements arising from services provided for less than market value

foreign non-dividend income means income that—

(a) does not have a source in New Zealand; and

(b) is not a dividend; and

(c) is not FIF income calculated under the fair dividend rate method

foreign PIE equivalent is defined in section HM 3 (Foreign PIE equivalents)

foreign public official *[Repealed]*

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

foreign-sourced amount means an amount of income that is not treated as having a source in New Zealand under sections YD 4 (Classes of income treated as having New Zealand source) and YZ 1 (Source rule for interest)

foreign superannuation scheme means a superannuation scheme constituted outside New Zealand

foreign superannuation withdrawal means a benefit for a person from a foreign superannuation scheme to which section CF 3 (Withdrawals from foreign superannuation scheme) applies

foreign tax *[Repealed]*

foreign trust is defined in section HC 11 (Foreign trusts)

foreign withholding tax means a tax, other than a New Zealand tax, that—

(a) is withheld from an amount of income; and

(b) is of substantially the same nature as NRWT

forest land emissions unit means a pre-1990 forest land emissions unit, a post-1989 forest land emissions unit, or a forest sink emissions unit

forest sink emissions unit means an emissions unit issued to a person in relation to a forest sink covenant under section 67Y of the Forests Act 1949 entered by the person

forester is defined in section EH 3(1)(c) (Persons to whom main income equalisation scheme applies)

forest land unit *[Repealed]*

forestry assets is defined in section FC 6 (Forestry assets transferred to close relatives) for the purpose of that section

forestry business includes forestry activities carried on by a person for the purpose of deriving income in relation to an emissions unit

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

(a) acquiring land partly from the Crown, partly from the Maori owners, and partly from a holding company of the company; and

(b) carrying on a forestry business on the land

formation loss, for a PIE,—

(a) means an amount of tax loss or a loss balance arising from a period before the entity became a PIE as described in sections HM 66 to HM 70 (which relate to the treatment of formation losses); and

(b) includes a loss balance of a multi-rate PIE when the loss balance is carried forward under section HM 44(3) (Provisional tax calculation option) because the PIE—

(i) has chosen for an income year to calculate its income tax liability using the provisional tax calculation option under section HM 44; and

(ii) for the next corresponding tax year, chooses to use either the exit calculation option under section HM 42 (Exit calculation option) or the quarterly calculation option under section HM 43 (Quarterly calculation option) to calculate its income tax liability

former Financial Reporting Act is defined in section EZ 32F(4) (Applicable accounting standard for section EX 21E: former generally accepted accounting practice without IFRS) for the purposes of that section and section EX 21E

former Financial Reporting Standard 34 is defined in section EZ 32F(4) (Applicable accounting standard for section EX 21E: former generally accepted accounting practice without IFRS) for the purposes of that section and section EX 21E

former Financial Reporting Standard 35 is defined in section EZ 32F(4) (Applicable accounting standard for section EX 21E: former generally accepted accounting practice without IFRS) for the purposes of that section and section EX 21E

former financial reporting standards without IFRS is defined in section EZ 32F(4) (Applicable accounting standard for section EX 21E: former generally accepted accounting practice without IFRS) for the purposes of that section and section EX 21E

former generally accepted accounting practice without IFRS is defined in section EZ 32F(4) (Applicable accounting standard for section EX 21E: former generally accepted accounting practice without IFRS) for the purposes of that section and section EX 21E

forward contract,—

(a) in the financial arrangements rules, means—

(i) an agreement that is a conditional or an unconditional agreement to acquire or dispose of property, or obtain or supply services, if the agreement can be settled without the property being delivered or the services being performed:

(ii) an agreement that is a conditional or an unconditional agreement to acquire or dispose of foreign exchange or a financial arrangement:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

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

fringe benefit is defined in section CX 2 (Meaning of fringe benefit)

fringe benefit tax means fringe benefit tax payable under section RD 26 (Liability for FBT), and **FBT** has the same meaning

fringe benefit tax rules means the provisions listed in section RD 25 (FBT rules and their application) and **FBT rules** has the same meaning

full reinsurance is defined in section EY 12(2) (Meaning of life reinsurance)

full-time earner is defined in section MA 7 (Meaning of full-time earner for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

fully credited is defined in section CD 43(26) (Available subscribed capital (ASC) amount) for the purposes of that section

fully credited for conduit tax relief *[Repealed]*

fully imputed,—

(a) for the purposes of sections CB 26, CB 32C, CD 39, CW 10, EX 20B, RF 8, RF 10, and RF 11BB, and schedule 6, table 1B (which relate to distributions by PIEs and certain dividends), means the amount calculated under section RF 9(2) (When dividends fully imputed):

(b) for the purposes of sections CW 15, HA 14, HA 16, and HA 19 (which relate to dividends paid by qualifying companies), and RE 2 (Resident passive income) means the amount calculated under section HA 15(2) (Fully imputed distributions)

Fund investment entity means an entity that is formed or controlled by the Guardians of New Zealand Superannuation for the purpose of holding, facilitating, or managing the investments of the New Zealand Superannuation Fund

fund provider, for a person and a KiwiSaver scheme or a complying superannuation fund of which they are a member, means the trustees of the scheme or fund

further FDP *[Repealed]*

further income tax means an amount of tax by way of further income tax that a company may be liable to pay under—

(a) sections OB 65 to OB 70 (which relate to further tax payable by a company for a closing debit balance, or when the company stops being an ICA company):

(b) sections OK 21 or OK 22 (which relate to further tax payable by a Maori authority for a closing debit balance, or when it stops being a Maori authority)

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

FX hedge means a financial arrangement that is a hedge of foreign exchange risk

gaming-machine gambling means class 4 gambling, as defined in section 30 of the Gambling Act 2003, that utilises or involves a gaming machine

gaming-machine operator's licence means a class 4 operator's licence as defined in section 4 of the Gambling Act 2003

gaming-machine venue licence means a class 4 venue licence as defined in section 4 of the Gambling Act 2003

general insurance means insurance that is not life insurance

general insurance contract *[Repealed]*

general limitation means a rule described in any of section DA 2(1) to (6) (General limitations)

general partner—

(a) means a general partner of a limited partnership:

(b) includes a general partner of an **overseas limited partnership** as defined in section 4 of the Limited Partnerships Act 2008

general permission is defined in section DA 1(1) (General permission)

general power of appointment—

(a) includes a power or authority that—

(i) is conferred by will or conferred by a settlement during life or created in any other manner; and

(ii) is exercisable orally or by instrument made during life or by will or by any other means; and

(iii) enables its holder, or would enable its holder if they were of full capacity, to obtain or appoint or dispose of any property, or to charge any sum or money on any property, as the holder thinks fit for their own benefit; and

(b) does not include a power or authority—

(i) exercisable by a person in a fiduciary capacity under a disposition not made by them; or

(ii) exercisable as a mortgagee

generally accepted accounting practice is defined in section 8 of the Financial Reporting Act 2013

generally accepted accounting practice with IFRS is defined in section EZ 32F(4) (Applicable accounting standard for section EX 21E: former generally accepted accounting practice without IFRS) for the purposes of that section and section EX 21E

geothermal energy proving period means, for a person's geothermal well that is not used to exploit geothermal energy, a period—

(a) starting with the completion or acquisition of the well; and

(b) other than the case of the person disposing of the well to another person, ending when the well for the foreseeable future is not intended, and cannot reasonably be expected, to be used or available for use in—

(i) deriving assessable income:

(ii) carrying on a business for the purposes of deriving assessable income

geothermal well means a bore or well solely for the purpose of investigating or exploiting geothermal energy in New Zealand

gifting settlor is defined in section EX 46(12) (Limits on choice of calculation methods)

global anti-base erosion model rules means the model rules—

(a) set out in *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*, which is a document—

(i) approved by the OECD/G20 Inclusive Framework on BEPS on 14 December 2021; and

(ii) published by the OECD; and

(b) as amended from time to time, except any amendments to the definition of **minimum rate** in Article 10.1.1 of the model rules referred to in paragraph (a)

goods, in subparts LY (Research and development tax credits) and MX (Tax credits for R&D tax losses), in sections CX 1 (Goods and services tax), DB 2 (Goods and services tax), EA 3 (Prepayments), GB 56 (Arrangements involving research and development tax credits), GB 54 (Arrangements involving establishments), and YD 4B (Meaning of permanent establishment), and in the definitions of **R&D expenditure**, **R&D material**, and **services**, is defined in section 2 of the Goods and Services Tax Act 1985

government screen production payment *[Repealed]*

government stock is defined in section DZ 11(3) (Film reimbursement scheme on or before 30 June 2001) for the purposes of that section

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

grandparented charity means, for an entity, a tax charity that, before 3 May 2016,—

(a) is an owner of the entity:

(b) has entered into an arrangement to become an owner of the entity

grandparented consolidated company, for a company that is part of a consolidated group and for an income year (the **current income year**), means a company that before 17 May 2006 chose to form or join the consolidated group, when—

(a) the current income year is the 2005–06 or 2006–07 income year:

(b) the company carries on a business, and the total amount of the company's finance-related deductions allocated to the income year before the current income year (the **previous income year**) is—

(i) zero, because no deductions are allocated to the previous income year; or

(ii) less than 50% of the company's total deductions allocated to the previous income year, calculated as if the company were not part of the group and determined under section FM 3 (Liability of consolidated groups and group companies)

grandparented Maori authority means, for an entity, a Maori authority that, before 3 May 2016,—

(a) is an owner of the entity:

(b) has entered into an arrangement to become an owner of the entity:

(c) is a beneficiary of a trust that is an owner of the entity

grandparented residential interest *[Repealed]*

grandparented structure means, for a person, any item on the following list if the person acquired the item, or entered into a binding contract for the purchase or construction of the item, on or before 30 July 2009:

(a) barns, including barns (drying):

(b) carparks (buildings):

(c) chemical works:

(d) fertiliser works:

(e) powder drying buildings:

(f) site huts

grandparented structure *[Repealed]*

grandparented transitional loan *[Repealed]*

grandparenting income year is defined in section HA 5(5) (Elections to become qualifying company)

grandparenting start day is defined in section EY 30 (Transitional adjustments: life risk)

grant-related suspensory loan means a loan—

(a) that—

(i) is made by a public authority; and

(ii) is not a loan of the kind described in section CF 2(1) (Remission of specified suspensory loans); and

(iii) includes the term that the liability of the borrower may be wholly or partly remitted; or

(b) that is made by the Rural Banking and Finance Corporation of New Zealand as an irrigation suspensory loan and designated as such; or

(c) that is made by the Rural Banking and Finance Corporation of New Zealand as a West Coast drainage suspensory loan and designated as such

greater Christchurch is defined in section CZ 29(5) (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section

greenhouse gas unit means a unit that is—

(a) issued by reference to the sequestration, reduction, or avoidance of emission, of human-induced greenhouse gases; and

(b) verified to an internationally recognised standard

grey list means the list of countries in schedule 24, part A (International tax rules: grey list countries)

grey list company means a company that is resident under section YD 3 (Country of residence of foreign companies) in a grey list country if either—

(a) the company is liable in the country to income tax on the company's income because the company—

(i) is domiciled in the country:

(ii) is resident in the country:

(iii) is incorporated in the country:

(iv) has its place of management in the country:

(b) the company is organised under the laws of the country and the country—

(i) imposes on persons holding income interests in the company the liability for income tax on the company's income; and

(ii) under the laws of the country, is the source of 80% or more of the income of the company

grey list dividend *[Repealed]*

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

gross gambling proceeds means gross proceeds, as defined in regulation 3(1) of the Gambling (Class 4 New Proceeds) Regulations 2004, plus prizes

group funding debt means the amount calculated under section FE 23 (Banking group's funding debt)

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

(a) Public Trust Act 2001; or

(b) Trustee Companies Act 1967; or

(c) Public Trust Office Act 1957

group life master policy is defined in section EY 30 (Transitional adjustments: life risk)

group of companies is defined in section IC 3 (Common ownership: group of companies)

group of persons—

(a) includes 1 person:

(b) is defined in section CB 16A(5) (Main home exclusion for disposal within 2 years) for the purposes of subsection (4) of that section:

(c) is defined in section CB 16(5) (Residential exclusion from sections CB 6 to CB 11) for the purposes of subsection (4) of that section:

(d) is defined in section CB 19(2C) (Business exclusion from sections CB 6 to CB 11) for the purposes of subsection (2B) of that section

(e) *[Repealed]*

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

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

GST payable in sections CX 1 (Goods and services tax), DB 2 (Goods and services tax), and DB 3(3) (Determining tax liabilities), has the same meaning as **tax payable** in section 2 of the Goods and Services Tax Act 1985, but does not include interest payable under Part 7 of the Tax Administration Act 1994

GST ratio is defined in section RC 8(2) (GST ratio method)

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

(a) it is equal to the value of a personal property lease asset as agreed in the lease by the lessor and the lessee; and

(b) its receipt by the lessor, on the expiry of the term of the lease, is assured or guaranteed by the lessee

guarantor is defined in—

(a) section HB 11(12) (Limitation on deductions by persons with interests in look-through companies) for the purposes of that section:

(b) section HG 11(12) (Limitation on deductions by partners in limited partnerships) for the purposes of that section

guardian is defined in section HC 36(5) (Trusts and minor beneficiary rule) for the purposes of that section

hedge and **hedging** are defined in section EM 8 (Some definitions) for the purposes of subpart EM (Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests)

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

(a) chooses to value under the herd scheme; and

(b) values for an income year under sections EC 14 to EC 21 (which relate to the herd scheme)

herd scheme—

(a) means the livestock valuation method described in sections EC 14 to EC 21 (which relate to the herd scheme); and

(b) includes the livestock valuation method set out in—

(i) sections EC 14 to EC 21 of the Income Tax Act 2004; and

(ii) sections EL 5 and EL 6 of the Income Tax Act 1994; and

(iii) section 86A of the Income Tax Act 1976 as in force before its repeal by section 21 of the Income Tax Amendment Act (No 2) 1993; and

(iv) section 86D of the Income Tax Act 1976

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

herd value ratio means—

(a) the ratio calculated or recalculated under section EC 17 (Herd value ratio) or EC 18 (Inaccurate herd value ratio) for herd livestock other than livestock on the Chatham Islands:

(b) the adjustment set by the Commissioner under section EC 19 (Chatham Islands adjustment to herd value) for herd livestock on the Chatham Islands

higher credit value—

(a) is defined in section GB 35(4) (Imputation arrangements to obtain tax advantage) for the purposes of that section:

(b) is defined in section GB 42(4) (Maori authority credit arrangements to obtain tax advantage) for the purposes of that section

high-priced bloodstock is defined in section EC 39B(2) (Stud-founding bloodstock and related terms)

high-priced livestock means an animal of a type set out in schedule 17, column 1 (Types and classes of livestock) to which both the following apply:

(a) a person acquires it for an acquisition price that is at least—

(i) $500; and

(ii) 5 times the national average market value, in the income year of acquisition or in the previous income year, whichever is greater, for the class in schedule 17, column 2 in which the livestock is able to be classified at the end of the income year of acquisition; and

(b) at the time the person acquires it,—

(i) it is capable of being used for breeding; or

(ii) it is expected to be capable of being used for breeding when it reaches maturity

hire purchase agreement—

(a) means—

(i) an agreement under which goods are let or hired with an option to purchase, however the agreement describes the payments:

(ii) an agreement for the purchase of goods by instalment payments, however the agreement describes the payments, under which the person who agrees to purchase the goods is given possession of them before the total amount payable has been paid; and

(b) includes an agreement to sell goods at retail under which—

(i) the buyer grants security over the goods to the seller for some or all of the purchase price; and

(ii) the property in the goods passes to the buyer subject to the security, in which case the agreement is a hire purchase agreement made at the time the sale is made; and

(c) includes a sale and loan arrangement under which—

(i) a person lends money on the security of goods that have been bought or are to be bought at retail if some or all of the purchase price is paid out of the proceeds of the loan; and

(ii) the loan is made by the seller or by a third party, arranged by the seller, who is engaged in the business of lending money or who habitually lends money in the course of the third party's business, in which case the arrangement is a hire purchase agreement made at the time the loan is made; and

(d) does not include an agreement of a kind described in paragraph (a)(i) or (ii) under which property in the goods passes absolutely, to the person who agrees to purchase the goods, at the time of the agreement or at the time of delivery of the goods or at any time before delivery of the goods; and

(e) does not include an agreement made otherwise than at retail; and

(f) does not include an agreement to the extent to which the property that is the subject of the agreement is livestock or bloodstock

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

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

holder is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

holding company,—

(a) for a forestry company, means a company associated with the forestry company:

(b) *[Repealed]*

home *[Repealed]*

home ownership requirements *[Repealed]*

home vendor mortgage is defined in section LZ 8 (Meaning of home vendor mortgage) for the purposes of sections LZ 6 and LZ 7 (which relate to credits for interest on home vendor mortgages)

honorarium is defined in section CW 62B (Voluntary activities) for the purposes of that section

household member *[Repealed]*

housekeeper *[Repealed]*

housekeeping payments *[Repealed]*

hybrid entity is defined in section FH 15(1) (Definitions)

hybrid mismatch is defined in section FH 15(1) (Definitions)

hybrid mismatch legislation is defined in section FH 15(1) (Definitions)

hybrid mismatch report is defined in section FH 15(1) (Definitions)

ICA means imputation credit account

ICA company means a company that—

(a) is required by section OB 1 (General rules for companies with imputation credit accounts) to establish and maintain an imputation credit account; or

(b) is an Australian ICA company

identical goods, for the purposes of the FBT rules, for any goods, means other goods that are the same in terms of physical characteristics, quality, and reputation, except for minor differences in appearance that do not affect the value of the goods

identical share means a share that confers the same rights and imposes the same obligations on a holder as an original share

IFRS means a New Zealand Equivalent to International Financial Reporting Standard, in effect under the Financial Reporting Act 2013, and as amended from time to time or an equivalent standard issued in its place

IFRS 4 means the IFRS, numbered NZ IFRS 4, that relates to insurance contracts

IFRS 9 means the IFRS, numbered 9, that relates to financial reporting of financial assets and financial liabilities

IFRS 17 means the IFRS, numbered NZ IFRS 17, that relates to insurance contracts

IFRS designated FX hedge means a FX hedge that is designated, under IFRS rules, as a hedge for a foreign ASAP for which section EW 32(2B) (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) applies

IFRSE means an International Financial Reporting Standard approved by the International Accounting Standards Board, as amended from time to time

impaired credit adjustment is defined in section EW 15D(3) (IFRS financial reporting method) for the purposes of that section.

implementation date is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

improvement, for an item of depreciable property, is defined in section EE 67 (Other definitions)

improvements, in sections CB 7 (Disposal: land acquired for purposes of business relating to land) and CB 11 (Disposal within 10 years of improvement: building business), means improvements to land that—

(a) are not minor; and

(b) are made—

(i) by a person erecting a building or otherwise; or

(ii) by an associated person erecting a building or otherwise

imputation additional tax means an amount of tax arising under section OB 71 (Imputation additional tax on leaving group of companies) or OB 72 (Imputation additional tax on joining wholly-owned group)

imputation credit—

(a) means a credit referred to in section OA 5(2) (Credits):

(b) is further defined in section CD 16(4) (Certain dividends not increased by tax credits) for the purposes of that section:

(c) is further defined in section CD 17(4) (Credit transfer notice) for the purposes of that section

imputation credit account means the account referred to in section OA 2(1)(a) (Memorandum accounts)

imputation debit means a debit referred to in section OA 6(2) (Debits)

imputation group means, at a time, an imputation group formed under section FN 7 (Forming imputation groups)

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

imputation ratio means the ratio set out in section OB 60(3) (Imputation credits attached to dividends)

imputation rules means the provisions listed in section FN 2 (Imputation rules)

income, for a person, means income of the person under section BD 1(1) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income)

income derived from New Zealand *[Repealed]*

income from employment—

(a) means salary or wages or an extra pay:

(b) in sections DA 2(4) (General limitations) and DE 1 (What this subpart does), excludes payments referred to in section RD 5(1)(b)(iii) (Salary or wages) to the extent to which those payments are made to 1 of the following:

(i) a self-employed person, as defined in section 2 of that Act, under the Accident Compensation Act 1982; or

(ii) an earner in relation to compensation for loss of earnings other than as an employee, as defined under regulations made under section 167 of that Act, under the Accident Rehabilitation and Compensation Insurance Act 1992; or

(iii) a self-employed person, as defined in section 13 of that Act, under the Accident Insurance Act 1998, for compensation paid under schedule 1, part 2, clause 7 of that Act; or

(iv) a self-employed person, as defined in section 6 of the Act, under the Accident Compensation Act 2001, for compensation paid under schedule 1, part 2, clause 32 of that Act:

(c) in sections DA 2(4) and DE 1, includes—

(i) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies:

(ii) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies:

(d) in section DA 2(4), includes excluded income derived by a person from employment

income from forestry is defined in section EH 34 (Meaning of income from forestry)

income from mining *[Repealed]*

income from personal exertion *[Repealed]*

income interest,—

(a) for a foreign company, is defined in sections EX 8 to EX 13 (which relate to the calculation of a person's income interest):

(b) in subparts FE (Interest apportionment on thin capitalisation) and OE (Branch equivalent tax accounts (BETA)), and in the imputation rules, means an income interest of 10% or greater under the rules in sections EX 14 to EX 17 (which relate to the 10% threshold and variations in the income interest level)

income statement *[Repealed]*

income tax means income tax imposed under section BB 1 (Imposition of income tax) except to the extent to which it has a different meaning under section YA 2 (Meaning of income tax varied)

income tax liability—

(a) means, for a person,—

(i) an income tax liability for the person and a tax year calculated under subpart BC (Calculating and satisfying income tax liabilities), if subparagraph (ii) does not apply; or

(ii) income tax for the person and a tax year calculated under subpart HM (Portfolio investment entities), if the person is a multi-rate PIE; and

(b) in sections EF 5 (Use of money interest payable by person) and EF 6 (Different tax years), includes circumstances in which a person has no tax to pay or is entitled to a refund of tax

income year means,—

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

(b) for any other person, the tax year

income-tested benefit *[Repealed]*

increase in savings *[Repealed]*

independent living means occupancy of a place under an arrangement that—

(a) does not have a level of compulsory care:

(b) has a level of compulsory care that is merely incidental to the occupancy

indirect attributing interest, for a person with an income interest in a FIF, means the income interest that the person has in a second FIF if—

(a) the FIF has an income interest in the second FIF; and

(b) the income interest in the second FIF would be an attributing interest for the person if the person held the income interest directly

indirect income interest is defined in section EX 10 (Indirect income interests)

industrial artistic copyright means the copyright in an artistic work, if—

(a) the artistic work has been applied industrially, as provided by section 75 of the Copyright Act 1994; and

(b) section 75 of the Copyright Act 1994 provides for a special exception from copyright protection for the copyright in the artistic work; and

(c) the relevant period for the special exception, in section 75(1)(c) to (e) of the Copyright Act 1994, has not started

industry research co-operative *[Repealed]*

ineligible internal software development—

(a) means software development for the purpose of the internal administration of a person's business or an associate's business; but

(b) does not include software development if and to the extent to which—

(i) the software development is for the main purpose of disposing of the software or a right to use the software to recipients who are not associated with the person:

(ii) the software is an integral part of goods that the person disposes of in the ordinary course of business:

(iii) the software is developed for the purpose of providing services, and the main reason why the recipients of the services use the services is not the use of the person's computer technology or software itself, but rather the services themselves

ineligible technology expenditure—

(a) means, for a person, expenditure or loss that is incurred to acquire the right to use technology upon which a core research and development activity is based:

(b) includes expenditure or loss that is incurred to acquire the right to use technology, if the relevant research and development activities to which the technology relates are an extension, continuation, development, or completion of the activities that produced that technology

inflation-indexed instrument means an instrument under which a person lends money and an amount payable for the money lent is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand

inform, for a mode of communication, has the meaning set out in section 14B of the Tax Administration Act 1994

initial period is defined in section FZ 3(4) (Income of lessor under specified lease) for the purposes of that section

initial provisional tax liability, means—

(a) for a person who is not a natural person, a provisional tax liability for a tax year in which the person starts to derive income from a taxable activity when—

(i) they did not derive income from a taxable activity in any of the 4 previous tax years; and

(ii) they have residual income tax of $60,000 or more in the tax year; and

(b) for a person who is a natural person, a provisional tax liability for a tax year when—

(i) they did not have residual income tax of more than $5,000 in any of the 4 previous tax years; and

(ib) if 1 or more of the income years 2016–17, 2017–18, 2018–19, and 2019–20 (the **transitional years**) are included in the 4 previous tax years, they did not have residual income tax of more than $2,500 in the included transitional years; and

(ii) they have residual income tax of $60,000 or more in the tax year; and

(iii) in the tax year, they stopped deriving income from employment and then started to derive income from a taxable activity

initial treatment is defined in section CU 7(3) (Some definitions)

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

input tax—

(a) is defined in section 3A of the Goods and Services Tax Act 1985; and

(b) includes, for a supply, GST levied on goods entered for home consumption under the Customs and Excise Act 2018

instalment, in sections FZ 2 to FZ 4 (which relate to specified leases), and in the definitions of **instalment period** and **outstanding balance**, means an amount payable by a lessee, under a lease, by way of—

(a) repayment of some or all of a loan that a lessor is treated as having advanced under section FZ 2(2) (Effect of specified lease on lessor and lessee); or

(b) payment of interest; or

(c) both

instalment date means a date for payment of provisional tax for a tax year that is the day and month specified for a person with a provisional tax liability in schedule 3, part A (Payment of provisional tax and terminal tax)

instalment period is defined in section FZ 3(4) (Income of lessor under specified lease) for the purposes of that section

institution *[Repealed]*

insurance,—

(a) in section CR 3 (Income of non-resident general insurer) means insurance of a kind described in section CR 3(3):

(b) in section YD 8 (Apportionment of premiums derived by non-resident general insurers) means insurance of a kind described in section YD 8(4)

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

insured person, in sections CR 3, HD 16, and YD 8 (which relate to non-resident general insurers),—

(a) in relation to general insurance as described in sections CR 3(3)(a) and YD 8(4)(a), means a person who is liable to pay a premium to an insurer for the insurance and is entitled by the payment of the premium to make a claim against the insurer:

(b) in relation to a guarantee against risk as described in sections CR 3(3)(b) and (c) and YD 8(4)(b) and (c), means a person who is liable to pay a premium to an insurer for the guarantee, whether or not the payment of the premium entitles the person to make a claim against the insurer

insurer—

(a) means a person who assumes liability under a contract of insurance:

(b) in sections CR 3, DW 3, HD 16, HD 17, and YD 8 (which relate to non-resident general insurers),—

(i) in relation to general insurance as described in sections CR 3(3)(a) and YD 8(4)(a), means a person who provides the insurance and to whom an insured person is liable to pay a premium:

(ii) in relation to a guarantee against risk as described in sections CR 3(3)(b) and (c) and YD 8(4)(b) and (c), means a person who provides the guarantee and to whom an insured person is liable to pay a premium

intellectual property includes—

(a) anything that results from research or development (for example, a prototype):

(b) rights related to intellectual property (for example, a right to distribute an item for which there is a patent):

(c) intellectual property of a category that is set out in Part 2 of the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, also known as the *TRIPS Agreement*

interest,—

(a) for a person's income,—

(i) means a payment made to the person by another person for money lent to any person, whether or not the payment is periodical and however it is described or calculated; and

(ii) does not include a redemption payment; and

(iii) does not include a repayment of money lent:

(b) for the RWT rules and the NRWT rules, includes a redemption payment:

(bb) for the NRWT rules and a related-party debt,—

(i) includes an amount that is taken into account under section EW 15 (What is included when spreading methods used) and paid by a person in relation to money lent to the person; and

(ii) excludes a repayment of the money lent:

(c) in sections DB 6 (Interest: not capital expenditure), DB 7 (Interest: most companies need no nexus with income), and DB 8 (Interest: money borrowed to acquire shares in group companies),—

(i) includes expenditure incurred under the financial arrangements rules or the old financial arrangements rules; and

(ii) does not include interest to which section DB 1(1)(e) (Taxes, other than GST, and penalties) applies:

(cb) in relation to an amount made available by a foreign bank, includes interest arising under subpart FG (Treatment of notional loans to New Zealand branches of foreign banks):

(d) in relation to land, **interest in land**, **estate or interest in land**, and similar terms are defined under the definition of **estate**

interest expenditure is defined in section DG 5 (Meaning and treatment of interest expenditure for this subpart) for the purposes of subpart DG (Expenditure related to use of certain assets)

interest instalment date means an instalment date—

(a) on which an instalment of provisional tax is due and payable under section RC 9 (Provisional tax payable in instalments); and

(b) after which, except in a case to which section 120KC(1) of the Tax Administration Act 1994 applies, an instalment amount that is overpaid or underpaid attracts use of money interest, a late payment penalty, or a shortfall penalty, as applicable

interested shareholder is defined in section HD 15(9) (Asset stripping of companies) for the purposes of that section

intermediary means a person described in section RP 2 or RP 17 (which relate to PAYE intermediaries and tax pooling intermediaries) for the purposes of subpart RP (Intermediaries)

internal software development *[Repealed]*

internal software development controller *[Repealed]*

internal software development expenditure—

(a) means, for a person, expenditure or loss that is incurred on developing software; but

(b) does not include expenditure or loss that is incurred for the purpose of developing software, if—

(i) the person's main purpose is disposing of the software or a right to use the software to recipients who are not associated with the person:

(ii) the software is an integral part of goods that the person disposes of in the ordinary course of business:

(iii) the expenditure or loss is for ineligible internal software development

internal software development group *[Repealed]*

international aircraft is defined in section EE 67 (Other definitions)

international organisation is defined in section CW 22(3) (Amounts derived by overseas experts and trainees in New Zealand by government arrangement) for the purposes of that section

international tax rules means—

(a) the following provisions:

(i) *[Repealed]*

(ii) *[Repealed]*

(iii) subpart CQ (Attributed income from foreign equity):

(iv) *[Repealed]*

(v) subpart DN (Attributed losses from foreign equity):

(vi) subpart EX (Controlled foreign company and foreign investment fund rules):

(vii) section FM 6(4) (Some general rules for treatment of consolidated groups):

(viii) sections GB 7 to GB 16 (which relate to avoidance arrangements):

(ix) section GC 4 (Disposals and acquisitions of FIF attributing interests):

(x) subpart IQ (Attributed controlled foreign company net losses and foreign investment fund net losses):

(xi) sections LK 1 to LK 7 (which relate to foreign tax credits and CFCs):

(xii) *[Repealed]*

(xiii) section YA 2 (Meaning of income tax varied):

(xiv) *[Repealed]*

(xv) *[Repealed]*

(xvi) section YD 3 (Country of residence of foreign companies); and

(b) section 61 of the Tax Administration Act 1994

interposed residential property holder *[Repealed]*

interposed residential property percentage *[Repealed]*

investment activity is defined in section MB 3 (When person carries on 1 or more businesses or investment activities) for the purpose of that section

investment income is defined in section RE 10C(8) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section and sections RE 4 and RF 4

investment society dividend means—

(a) a dividend declared by a friendly society; or

(b) a dividend declared by a registered society as defined in section 2 of the Industrial and Provident Societies Act 1908; or

(c) for a building society,—

(i) a dividend declared by the society; or

(ii) some tangible or intangible benefit that a member or a shareholder receives for disposing to the society of a share in the society; the benefit may or may not be relief from an obligation and may or may not be convertible into money

investor means,—

(a) for a group investment fund, a person who is entitled, by reason of the terms of the trust under which the group investment fund is established, to the income from the money, investments, and other property of the group investment fund:

(b) for a portfolio investment entity, is defined in section HM 4 (Who is an investor?)

(c) *[Repealed]*

investor class, for a portfolio investment entity, is defined in section HM 5 (What is an investor class?)

investor interest,—

(a) for an investor in a portfolio investment entity, means an interest in the entity that gives the holder an entitlement to a distribution of proceeds from the entity's investments:

(b) is defined in section EM 8 (Some definitions) for the purposes of subpart EM (Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests)

in-work payment *[Repealed]*

in-work tax credit is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

issue,—

(a) for a financial arrangement, means the act of creating the financial arrangement:

(b) is defined in section YZ 1 (Source rule for interest) for the purposes of that section

issuer is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

joint venture agreement, for an airport operator,—

(a) means an agreement made between an airport authority and the Crown acting by and through the Minister of Transport under section 94 of the Civil Aviation Act 1990; and

(b) includes any other agreement of a similar nature made between the Crown and an airport authority, whether or not the airport authority was, at the time the agreement was made, an airport authority, and whether

or not the agreement was made before the commencement of the Civil Aviation Act 2023

jurisdictional attributed income is defined in section IQ 2B(9) (Effect of attributed CFC net loss and some FIF net loss from before first affected year) for the purposes of that section and section LK 5B (Credits from tax year before first affected year)

jurisdictional BE income is defined in section IQ 2B(9) (Effect of attributed CFC net loss and some FIF net loss from before first affected year) for the purposes of that section and section LK 5B (Credits from tax year before first affected year)

jurisdictional income ratio is defined in section IQ 2B(9) (Effect of attributed CFC net loss and some FIF net loss from before first affected year) for the purposes of that section and section LK 5B (Credits from tax year before first affected year)

Kāinga Ora–Homes and Communities means Kāinga Ora–Homes and Communities established by the Kāinga Ora–Homes and Communities Act 2019

KiwiSaver calculation period *[Repealed]*

KiwiSaver contributions means a contribution required to be deducted under Part 3, subpart 1 of the KiwiSaver Act 2006

KiwiSaver scheme has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013

know-how includes trade secrets, confidential information, and information with commercial value

Kyoto unit *[Repealed]*

land—

(a) includes any estate or interest in land:

(b) includes an option to acquire land or an estate or interest in land:

(c) does not include a mortgage:

(d) is defined in section CB 19(3) (Business exclusion from sections CB 6 to CB 11) for the purposes of that section:

(e) *[Repealed]*

(f) in the definitions of **permit area**, **petroleum mining asset**, **prospecting expenditure**, and **residual expenditure**,—

(i) means all land within the territorial limits of New Zealand; and

(ii) includes land below the territorial sea of New Zealand or any other waters within the territorial limits of New Zealand; and

(iii) includes the continental shelf; and

(iv) includes the seabed and subsoil below any sea that is beyond the territorial sea of New Zealand but that, by New Zealand legis-

lation and under international law, has been or may be designated as an area in which the rights of New Zealand relating to natural resources may be exercised

land investment company means a company that, in a tax year,—

(a) is not a portfolio investment entity; and

(b) on 80% or more of the days in the corresponding income year on which the company has property with a market value of $100,000 or more, owns property that—

(i) consists of interests in land or shares in a land investment company that does not own, directly or indirectly, shares in the company; and

(ii) has a market value of 90% or more of the market value of all the property of the company; and

(c) meets the requirements of section HM 12 (Income types)

land loss is defined in section HM 65(3) (Use of land losses of investor classes) for the purposes of that section

land provisions means the following provisions:

(a) sections CB 7 to CB 11 (which relate to certain land transactions), except CB 8 (Disposal: land used for landfill, if notice of election):

(b) section CB 15 (Transactions between associated persons):

(bba) section CC 1B (Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence):

(bbab) section EE 67 (Other definitions):

(bb) section EI 4B (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence):

(c) sections FB 3 to FB 5 (which relate to the transfer of land on a settlement of relationship property)

land sales provisions is defined in section EL 3 (Definitions for this subpart) for the purposes of subpart EL (Allocation of deductions for excess residential land expenditure)

LAQC *[Repealed]*

large budget film grant means a payment that—

(a) is in the nature of a large budget screen production grant or post-production digital and visual effects grant; and

(b) is made in relation to a film or television production; and

(bb) is sourced from funds provided by the Ministry of Business, Innovation and Employment; and

(c) is authorised by the New Zealand Film Commission in relation to a company that—

(i) is resident in New Zealand:

(ii) has a permanent establishment in New Zealand

large budget screen production grant *[Repealed]*

large business AIM-capable system means an AIM-capable accounting system approved by the Commissioner under section 124ZD of the Tax Administration Act 1994 for use by an approved class of taxpayers with annual gross income of more than $5,000,000

large multinational group, for an income year or a period set by the Commissioner under section 78G of the Tax Administration Act 1994, means a consolidated accounting group that, in the income year or period,—

(a) has a member resident in New Zealand or income with a source in New Zealand; and

(b) has a member resident in a country or territory other than New Zealand; and

(c) in the preceding income year or period, has annual consolidated group revenue equal to or exceeding the exemption threshold referred to in paragraph 5.53 of the OECD transfer pricing guidelines

late balance date has the meaning given in section YE 1(7) (References to balance dates and years)

lease—

(a) means a disposition that creates a leasehold estate:

(b) in sections DZ 9 (Premium paid on land leased before 1 April 1993) and EZ 8 (Premium paid on land leased before 1 April 1993),—

(i) means a disposition by which a leasehold estate is created; and

(ii) includes a licence:

(c) for the purposes of subpart EE (Depreciation), includes a licence to occupy:

(d) in sections EJ 10 (Personal property lease payments), EJ 10B (IFRS leases), EX 21(30) and (31) (Attributable CFC amount and net attributable CFC income or loss: calculation rules), FA 6 to FA 11 (which relate to finance leases), FZ 2 to FZ 4 (which relate to specified leases) and in the definitions of **cost price** (paragraphs (b) to (e)), **finance lease**, **guaranteed residual value**, **initial period**, **instalment**, **lessee** (paragraph (b)), **lessor** (paragraph (b)), **operating lease**, **outstanding balance**, **personal property lease asset**, **specified lease**, and **term of the lease**,—

(i) means an agreement under which a lessor transfers to a lessee for the term of the lease a personal property lease asset or the right

to possess a personal property lease asset in consideration for a personal property lease payment; and

(ii) includes a sublease; and

(iii) includes a licence to use intangible property; and

(iv) includes a hire or bailment; and

(v) includes an arrangement for the leasing of a personal property lease asset to the lessee or an associated person under 2 or more consecutive or successive leases, treated for this purpose as 1 lease, if the entitlement of the lessee or associated person to each consecutive or successive lease is, when the lessee enters the arrangement, essentially unconditional or conditional on the payment of predetermined fees; and

(vi) does not include a hire purchase agreement, the definition of which applies, for this purpose, as if it did not contain paragraph (f); and

(vii) does not include an assignment of a hire purchase agreement, the definition of which applies, for this purpose, as if it did not contain paragraph (f):

(e) is defined in section GC 5(5) (Leases for inadequate rent) for the purposes of that section:

(f) in the financial arrangements rules, means—

(i) a lease as described in paragraph (d):

(ii) an arrangement relating to property that is land, livestock, or bloodstock and that would be a lease as described in paragraph (d) if the property were a personal property lease asset:

(iii) an occupation right agreement as defined in the Retirement Villages Act 2003

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

legacy superannuation fund means a scheme that previously qualified as a widely-held superannuation fund and is either—

(a) a restricted workplace savings scheme as designated by the Financial Markets Conduct (Designation of Restricted Schemes) Order 2016; or

(b) treated as a registered scheme that is a superannuation fund by section 59A(1)(b) of the National Provident Fund Restructuring Act 1990

legal and equitable rights is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation restructure)

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

obligation of the financial arrangement or the excepted financial arrangement is—

(a) acknowledged formally by the creditor; or

(b) acknowledged formally by a duly appointed trustee or agent of the creditor; or

(c) established by legal judgment

legal expenses is defined in section DB 62 (Deduction for legal expenses) for the purposes of that section

legal life is defined in section EE 67 (Other definitions)

lending person means a person—

(a) whose main business activity is lending funds or leasing personal property to persons who are not associated with the person; or

(b) who is a member of a group whose main business activity is lending funds or leasing personal property to persons who are not associated with any member of the group

less than 10% holder is defined in section YC 15(3) (Directors' knowledge of failure to meet requirements of continuity provision) for the purposes of that section

lessee,—

(a) for a lease as described in paragraph (c) of the definition of **lease**, includes the holder of a licence to occupy:

(b) for a lease as described in paragraph (d) of the definition of **lease**,—

(i) means a person who leases a personal property lease asset from a lessor; and

(ii) includes a trustee or assignee of the person:

(c) for a hire purchase agreement, means the person who obtains the use of, or the right to use, the hire purchase asset under the agreement

lessor,—

(a) for a lease as described in paragraph (c) of the definition of **lease**, includes the grantor of a licence to occupy:

(b) for a lease as described in paragraph (d) of the definition of **lease**,—

(i) means a person who assembles, manufactures, purchases, or otherwise acquires a personal property lease asset and leases it to a lessee; and

(ii) includes a trustee or assignee of the person:

(c) for a hire purchase agreement,—

(i) means the person who grants to the lessee the use of, or the right to use, a hire purchase asset under the agreement; and

(ii) includes an assignee of the person in relation to the hire purchase agreement

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

levy body researcher means an industry organisation to which a levy is payable under an Act

liabilities—

(a) is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation restructure):

(b) is defined in section HR 12(6) (Non-exempt charities: treatment of tax-exempt accumulations) for the purposes of that section

licence-specific assets is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section

licensed early childhood service is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

licensed early childhood service fees is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

licensed non-bank deposit taker means a licensed NBDT as defined in section 4 of the Non-bank Deposit Takers Act 2013

licensed security holder is defined in section RL 4(8) (How much RLWT?) for the purposes of section RL 4

life financial reinsurance is defined in section EY 12 (Meaning of life reinsurance)

life fund PIE means a separate identifiable fund forming part of a life insurer that—

(a) meets the requirements of section HM 7 (Requirements); and

(b) chooses to become a PIE under section HM 71 (Choosing to become PIE); and

(c) has not chosen to cancel PIE status under section HM 29 (Choosing to cancel status); and

(d) holds investment subject to life insurance policies under which benefits are directly linked to the value of the investments held in the fund

life insurance is defined in sections EY 8 (Meaning of life insurance) and EY 14 (Life insurance and life reinsurance: how sections relate)

Life Insurance Fund means a Life Insurance Fund as defined in section 15 of the Life Insurance Act 1908 and, for a life insurer, means the life insurer's Life Insurance Fund

life insurance policy—

(a) is defined in sections EY 9 (Meaning of life insurance policy) and EY 14 (Life insurance and life reinsurance: how sections relate); and

(b) when referred to in relation to a life insurer, means a life insurance policy under which the life insurer is the insurer

life insurance rules *[Repealed]*

life insured means—

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

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

life insurer—

(a) is defined in sections EY 10 (Meaning of life insurer) and EY 14 (Life insurance and life reinsurance: how sections relate):

(b) is defined in section CX 11(3) (Employment-related loans: loans by life insurers) for the purposes of that section:

(c) in section YC 17 (Demutualisation of insurers), and in the FBT rules, means a person carrying on a business of providing life insurance

life reinsurance is defined in sections EY 12 (Meaning of life reinsurance) and EY 14 (Life insurance and life reinsurance: how sections relate)

life reinsurance policy—

(a) is defined in sections EY 13 (Meaning of life reinsurance policy) and EY 14 (Life insurance and life reinsurance: how sections relate); and

(b) when referred to in relation to a life reinsurer, means a life reinsurance policy under which the life reinsurer is the reinsurer

life reinsurer is defined in sections EY 12(5) (Meaning of life reinsurance) and EY 14 (Life insurance and life reinsurance: how sections relate)

life risk means an actuarially determined risk contingent on human life

life risk component—

(a) means—

(i) for a premium paid under a life insurance policy, the amount of the premium that gives rise to income derived by the life insurer for providing services, including the bearing of life risk:

(ii) for a claim payable under a life insurance policy, the amount of the claim that gives rise to deductions for the life insurer for providing services, including the bearing of life risk:

(b) does not include an amount that is a savings component

limitation rule is defined in section DD 1(3) (Entertainment expenditure generally)

limited attribution company is a company that is—

(a) a building society:

(b) a co-operative company registered under Part 2 or 3 of the Co-operative Companies Act 1996:

(c) a listed company:

(d) a widely-held company:

(e) a foreign company that is not a closely-held company

limited non-transaction shares is defined in section CD 34B (Distributions to members of co-operative companies)

limited partner means a limited partner of a limited partnership or an **overseas limited partnership** as defined in section 4 of the Limited Partnerships Act 2008

limited partnership—

(a) means a limited partnership registered under the Limited Partnerships Act 2008; and

(b) includes an **overseas limited partnership** as defined in section 4 of that Act; and

(c) despite paragraph (a) or (b), does not include a listed limited partnership or a foreign corporate limited partnership

limited partnership deduction is defined in section HG 11(12) (Limitations on deductions by partners in limited partnerships) for the purposes of that section

limited partnership net deduction *[Repealed]*

limited-recourse amount is defined in section GB 48(2) (Defined terms for sections GB 45 and GB 46) for the purposes of sections GB 45 and GB 46 (which relate to arrangements involving money not at risk)

limited-recourse arrangement is defined in section DB 31(5B) (Bad debts) for the purposes of that section

limited-recourse loan is defined in section GB 48(3) (Defined terms for sections GB 45 and GB 46) for the purposes of sections GB 45 and GB 46 (which relate to arrangements involving money not at risk)

lines trust means a trustee of a trust that—

(a) has had shares allocated or transferred to or vested in it, being shares in—

(i) an energy company as defined in section 2(1) of the Energy Companies Act 1992 under an approved establishment plan under that Act:

(ii) a company under section 76 of the Energy Companies Act 1992:

(iii) a company to which have been transferred assets and liabilities of the Crown under section 16 of the Southland Electricity Act 1993; and

(b) continues to hold shares described in paragraph (a) or continues to have the same class of beneficiaries for which the trust was established

liquidation, for a company,—

(a) includes—

(i) removal of the company from the register of companies under the Companies Act 1993; and

(ii) termination of the company's existence under any other procedure of New Zealand or foreign law; and

(b) includes, in references in this Act to anything occurring on liquidation, anything occurring—

(i) during the period that starts with a step that is legally necessary to achieve liquidation, including the appointment of a liquidator or a request of the kind referred to in section 318(1)(d) of the Companies Act 1993; and

(ii) for the purpose of enabling liquidation

listed company means, at any time, a company any shares in which are at that time quoted on an official list of a recognised exchange

listed horticultural plant, in sections DO 5 to DO 9 (which relate to deductions relating to horticultural plants) and sections FP 1 and FP 12 (which relate to tax relief for emergencies),—

(a) means a horticultural plant, tree, vine, bush, cane, or similar plant that is cultivated on land, that is of a type that is listed in a determination made by the Commissioner under section 91AAB of the Tax Administration Act 1994:

(b) does not include—

(i) a tree planted mainly for the purposes of timber production:

(ii) a tree or other similar plant planted mainly for the purposes of ornamentation:

(iii) a vine planted mainly for the purposes of producing grapes for wine production

listed industrial mineral is defined in section CU 8 (Meaning of listed industrial mineral)

listed limited partnership means an entity or group of persons that is listed on a recognised exchange, and that entity or group of persons—

(a) is a limited partnership registered under the Limited Partnerships Act 2008; or

(b) meets the definition of **overseas limited partnership** in section 4 of that Act

listed PAYE intermediary *[Repealed]*

listed PIE means a company that—

(a) is listed on a recognised exchange in New Zealand or meets the requirements of section HM 18 (Requirements for listed PIEs: unlisted companies) or is unlisted but has not lost PIE status under section HM 28 (When listed PIE no longer meets requirements), is delisted without notice of election, or has exit period expire; and

(b) meets the requirements of section HM 7 (Requirements); and

(c) *[Repealed]*

(d) *[Repealed]*

(e) is not a life fund PIE; and

(f) has not chosen under section HM 2(3) (What is a portfolio investment entity?) to become a multi-rate PIE

listed research provider *[Repealed]*

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

living alone payment *[Repealed]*

Lloyd's of London means a person who is a Lloyd's underwriter who carries on insurance business referred to in section 200 of the Insurance (Prudential Supervision) Act 2010 under a licence issued to Lloyd's under section 205 of that Act

loan,—

(a) has the same meaning as **money lent**:

(b) in sections CD 27 (Property made available intra-group) and CD 39 (Calculation of amount of dividend when property made available) and in the FBT rules, includes any amount that a person advances or gives as principal under a financial arrangement, but not an excepted financial arrangement:

(c) *[Repealed]*

(d) is defined in section CZ 3(5) (Exchange variations on 8 August 1975) for the purposes of that section

local authority—

(a) means a local authority as defined in the Local Government Act 2002:

(b) includes—

(i) the administering body, as defined in the Reserves Act 1977, of any reserve classified under the Act as a recreation reserve or a scenic reserve:

(ii) an airport authority, other than an airport company, as defined in the Airport Authorities Act 1966:

(iii) the Aotea Centre Board of Management established by the Auckland Aotea Centre Empowering Act 1985:

(iv) the council of the Auckland Institute and Museum constituted under the Charitable Trusts Act 1957:

(v) the Canterbury Museum Trust Board continued in existence by section 5(1) of the Canterbury Museum Trust Board Act 1993:

(vi) the Otago Museum Trust Board continued in existence by section 5(1) of the Otago Museum Trust Board Act 1996:

(vii) Auckland Transport (as established by section 38 of the Local Government (Auckland Council) Act 2009):

(viii) other than for the purposes of section CW 39(4) (Local authorities), Auckland Regional Holdings as established by section 18 of the Local Government (Auckland) Amendment Act 2004:

(ix) the New Zealand Local Government Funding Agency Limited while it is a council-controlled organisation within the meaning of section 6(1) of the Local Government Act 2002:

(ixa) *[Repealed]*

(x) the Auckland Council Independent Maori Statutory Board established by section 81 of the Local Government (Auckland Council) Act 2009

logbook term is defined in section DE 8 (Logbook term)

long-term bailment is defined in section EC 27 (Some definitions) for the purposes of subpart EC (Valuation of livestock)

look-through company means an entity—

(a) that is described in paragraph (a) of the definition of **company**; and

(b) that, treating the entity as a company for the purposes of this definition, is resident in New Zealand under section YD 2 (Residence of companies); and

(c) that is not treated under, or for the purposes of, a double tax agreement as not resident in New Zealand; and

(d) for which there are 5 or fewer look-through counted owners, treating look-through counted owners who are relatives, ignoring any later death or dissolution of marriage, union, or relationship, as 1 person; and

(e) for which all owners have only look-through interests; and

(eb) for which an owner that is a trustee of a trust does not make a distribution to a company that is directly or indirectly a beneficiary of the trust, unless the company is—

(i) a grandparented Maori authority for the entity:

(ii) a tax charity that has no control or influence in relation to the operation of the entity and no control or influence in relation to the distributions of the trust; and

(ec) for which no owner is a tax charity, unless the tax charity is a grandparented charity for the entity; and

(ed) for which an owner that is a trustee of a trust does not make a distribution of income to a tax charity that is a beneficiary of the trust, unless the tax charity has no control or influence in relation to the operation of the entity and no control or influence in relation to the distributions of the trust; and

(ee) for which no owner is a Maori authority, unless the Maori authority is a grandparented Maori authority for the entity; and

(ef) for which an owner that is a trustee of a trust does not make a distribution to a Maori authority that is directly or indirectly a beneficiary of the trust, unless the Maori authority is a grandparented Maori authority for the entity; and

(eg) that, treating the entity as a company for the purposes of this definition, in the case where more than 50% of the total ownership interests in the entity are held by foreign LTC holders, the entity has a foreign-sourced amount for the income year that is not more than—

(i) $10,000; or

(ii) if 20% of the entity's gross income for the year (the **20% gross amount**) is greater than $10,000, the 20% gross amount; and

(f) that is not a flat-owning company; and

(g) for which an election under section HB 13 (Valid elections) has been received by the Commissioner

look-through company deduction is defined in section HB 11(12) (Limitation on deductions by persons with interests in look-through companies)

look-through counted owner means, for an entity, a person who—

(a) is a natural person that—

(i) *[Repealed]*

(ii) has a look-through interest for the entity:

(b) is a natural person who has derived, as beneficiary income of a trust, income that arose from a direct or indirect beneficial interest in a look-through interest for the entity for the current income year or 1 of the last 3 income years:

(bb) is a natural person who,—

(i) on or after the first day of the 2017–18 income year, receives a distribution (the **distribution**) from a trust, other than a distribution sourced from income derived by the trust before the 2017–18 income year; and

(ii) the distribution is received in the current income year, or 1 of the last 3 income years if the relevant year is after the 2016–17 income year; and

(iii) the trust has a direct or indirect beneficial interest in a look-through interest for the entity in the current income year, or 1 of the last 3 income years if the relevant year is after the 2016–17 income year:

(c) is a trustee of a trust that—

(i) has a look-through interest for the entity or has a direct or indirect beneficial interest in a look-through interest for the entity, treating co-trustees as 1 person; and

(ii) has no beneficiary that is a look-through counted owner:

(d) is a natural person that has a voting interest or a market value interest in relation to a company that has derived, as beneficiary income from a trust, income that arose from a direct or indirect beneficial interest in a look-through interest for the entity for the current income year or 1 of the last 3 income years

look-through interest means a person's shares in an entity, or in a look-through company (**LTC**) treating the look-through company as a company for the purposes of this definition, if—

(a) *[Repealed]*

(b) every other shareholder has the same rights, proportionally, as the person in relation to a distribution by the entity or LTC; and

(c) the entity or LTC has only shareholders that are natural persons, or trustees

loss—

(a) includes an amount of depreciation loss, except when any of paragraphs (b) to (d) applies:

(b) means an attributed CFC loss when used in the expression "attributed CFC income or loss":

(c) means a net attributable FIF loss when used in the expression "net attributable FIF income or loss":

(d) means a FIF loss when used in the expression "FIF income or loss"

loss-attributing qualifying company *[Repealed]*

loss balance, for a tax year,—

(a) means the sum of all tax loss components—

(i) arising in the tax year and included in the tax loss for the tax year under section IA 2(3) and (4) (Tax losses), to the extent not used under section IA 3(1) to (3) or IA 4(1)(a) (which relate to the first use and to particular losses):

(ii) arising in an earlier tax year and carried forward under section IA 3(4) to the tax year, to the extent not used under section IA 3(1) to (3) or IA 4(1)(a):

(b) does not include a tax loss component included in a company's loss balance at the end of the tax year if the requirements of section IA 5(2) and (3) (Restrictions on companies' loss balances carried forward: continuity of ownership), as modified by sections IZ 4 to IZ 6 (which relate to tax losses for tax years before 1992), or IB 3(2) (When tax loss components of companies carried forward despite ownership continuity breach), have not been met

loss period is defined in section IQ 7(4) (When group membership lacking in loss period) for the purposes of that section

low-turnover trader is defined in section EB 13(2) (Low-turnover valuation) for the purposes of subpart EB (Valuation of trading stock (including dealer's livestock))

lump sum payment is defined in section EI 3(6) (Assigning or granting copyright) for the purposes of that section

MACA means **Maori authority credit account**

main benefit means any of the following:

(a) a main benefit, as defined in paragraph (a) of the definition of **main benefit** in schedule 2 of the Social Security Act 2018:

(b) main benefit equivalent assistance

main benefit equivalent assistance means special assistance granted under—

(a) clause 9 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a main benefit, as defined in paragraph (a) of the definition of **main benefit** in schedule 2 of the Social Security Act 2018; or

(b) clause 11 of that programme

main deposit is defined in section EH 36 (Other definitions)

main home means, for a person, the 1 dwelling—

(a) that is mainly used as a residence by the person (a **home**); and

(b) with which the person has the greatest connection, if they have more than 1 home

main home person *[Repealed]*

main income equalisation account is defined in section EH 36 (Other definitions)

main income equalisation deposit, in subpart MB (Adjustment of net income for family scheme), means a payment under section EH 4 (Main deposit) made to the Commissioner on or after 1 April 2011 for which a deduction is allowed under section DQ 1 (Main income equalisation scheme)

main income equalisation refund, in subpart MB (Adjustment of net income for family scheme), means a refund under sections EH 8 to EH 26 (which relate to refunds from main income equalisation accounts), to the extent to which the refund—

(a) relates to a deposit made on or after 1 April 2011; and

(b) is not interest payable under section EH 6 (Interest on deposits in main income equalisation account)

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

main maximum deposit is defined in section EH 35 (Meaning of main maximum deposit)

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

(a) owns, or has the right to acquire, at least 10% of the ordinary shares of the company:

(b) has the power to control, directly or indirectly, at least 10% of the ordinary shares of the company:

(c) owns, or has the right to acquire, at least 10% of the voting interests in the company:

(d) has the power to control, directly or indirectly, at least 10% of the voting interests in the company:

(e) has, in any other way, 10% or more of the control of the company

Maori authority means a person who has made an election under section HF 11 (Choosing to become Maori authority)

Maori authority credit, for a distribution by a Maori authority, means—

(a) a credit referred to in section OA 5(8) (Credits):

(b) the amount treated as attached to the distribution under section RE 24 (When amount of tax treated as Maori authority credit)

Maori authority credit account means the account referred to in section OA 2(1)(g) (Memorandum accounts)

Maori authority credit account return means a return that must be filed under section 70B of the Tax Administration Act 1994

Maori authority credit ratio means the ratio set out in section OK 19 (Maori authority credits attached to distributions)

Maori authority debit means a debit referred to in section OA 6(8) (Debits)

Maori authority rules means the provisions listed in section HF 1(2) (Maori authorities and the Maori authority rules)

Māori excepted land—

(a) means—

(i) Māori customary land, Māori freehold land, or Crown land reserved for Māori, or land set aside as a Māori reservation, as the relevant terms are defined in Te Ture Whenua Maori Act 1993:

(ii) land provided as a residence to a shareholder or beneficiary of a Maori authority or of an entity eligible to become a Maori authority, to the extent to which the land is either owned in whole or in part, directly or indirectly by that Maori authority or entity (**owner A**), or owned in whole or in part, directly or indirectly by a Maori authority or an entity eligible to become a Maori authority that is a co-owner of the land with owner A:

(iii) land, owned directly or indirectly by a Maori authority or an entity eligible to become a Maori authority, to the extent to which the land is from a Treaty of Waitangi settlement relating to that Maori authority or entity, including by exercising a right of first refusal under such a settlement:

(b) does not include land described in paragraph (a)(iii), if the land is held as lessee, and the lessee is not owned, directly or indirectly, by the relevant Maori authority or the relevant entity eligible to become a Maori authority

Maori incorporation is defined in section 4 of the Maori Land Act 1993

Maori investment company means a company that is incorporated for the purpose of acquiring shares or debentures issued by a forestry company for an unpaid purchase amount for Maori land acquired by the forestry company from the Maori owners

Maori land means Maori freehold land as defined in the Maori Land Act 1993

Maori owners—

(a) means the persons who have a beneficial interest in Maori land acquired by a forestry company; and

(b) includes every trustee for a Maori owner, the Maori Trustee, and every Maori incorporation that has a beneficial interest in the land

Māori rollover trust is defined in section FD 2 for the purposes of that section

market interest is defined in section RD 35(5) (Employment-related loans: value using market interest rates) for the purposes of that section

market value,—

(a) for a share or option quoted on the official list of a recognised exchange, at the time, means an amount equal to the middle market quotation at the time for a share or option having the same terms as the share or option to be valued, unless the quotation is not a fair reflection of the market value, having regard at the time to the matters referred to in paragraph (e) of the definition of **recognised exchange**:

(b) for a share or option not quoted on the official list of a recognised exchange at the time, means the amount that a willing purchaser would pay to acquire the share or option in an arm's length acquisition at the time and that is determined using a method that—

(i) conforms with commercially acceptable practice; and

(ii) may, in appropriate cases, have regard to the present value at the time of the company's anticipated income or cash flows and the realisable value at the time of the company's assets; and

(iii) results in a valuation that is fair and reasonable:

(bba) is defined in section CW 26DB (Meaning of market value) for the purposes of exempt ESSs

(bbab) is defined in section CE 7CB (Meaning of market value) for the purposes of employee share schemes

(bb) is defined in section DG 3(4) (Meaning of asset for this subpart) for the purposes of subpart DG (Expenditure related to use of certain assets):

(c) in subpart EB (Valuation of trading stock (including dealer's livestock)), does not include any GST that would be charged on the disposal by a person of their trading stock if the disposal would be a taxable supply:

(d) is defined in section EX 70 (Market value of life policy and superannuation entitlements) for certain purposes of sections EX 28 to EX 72 (which relate to the FIF rules):

(e) is defined in section RD 27(3) (Determining fringe benefit values) for the purposes of that section:

(f) is defined in section RD 40(3) (Goods) for the purposes of that section

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

(a) means an occasion or situation in which, at the time, the company has on issue a debenture—

(i) that is not an excluded fixed rate security or pre- 1991 budget security; and

(ii) to which section FA 2 (Recharacterisation of certain debentures) or FA 2B (Stapled debt securities) applies:

(b) also means an occasion or situation in which, at the time,—

(i) the company has on issue a share that is not an excluded fixed rate security or a pre-1991 budget security; and

(ii) the payment of a dividend is guaranteed or secured to the holder by some person other than the company; and

(iii) the directors of the company know or could reasonably be expected to know at the time that the payment of a dividend is so guaranteed or secured:

(c) also means an occasion or situation in which, at the time, an option exists that—

(i) is not an excluded option; and

(ii) is to acquire a share in the company; and

(iii) is granted by the company or a person other than the company:

(d) also means an occasion or situation in which, at the time, an option exists that—

(i) is not an excluded option; and

(ii) is to require a person to acquire a share in the company:

(e) also means an occasion or situation in which, at the time, an arrangement or a series of related or connected arrangements exists that—

(i) relates to shares or options over shares in the company issued by the company or any other person; and

(ii) has a purpose or effect of defeating the intent and application of any provision of this Act whose application is dependent on the measurement of voting and market value interests:

(f) does not exist under any of paragraphs (a) to (e) if, at the time, no share in the company has a value higher than zero, except for an excluded fixed rate security or a pre-1991 budget security, and no option over a share in the company has a value higher than zero, except for an excluded option:

(g) also means an occasion or situation in which, at the time,—

(i) under any of paragraphs (a) to (e), a direct market value circumstance exists for another company (the **shareholder company**); and

(ii) the shareholder company is associated with the company; and

(iii) under section YC 4 (Look-through rule for corporate shareholders), any fraction of any market value interest held, or treated under section YC 4 as held, by the shareholder company in the company is treated as held by any other person

market value interest—

(a) means, for a person and a company and a time, the percentage market value interest that the person is treated as holding in the company at the time under sections YC 2 to YC 20 (which relate to the measurement of company ownership):

(ab) means, for a person and a limited partnership that is treated as a company under section YB 14(4) (Tripartite relationship) or YB 16B (Limited partnerships treated as companies) and a time, and for the purposes of determining whether the limited partnership is associated under section YB 2(2) (Two companies) with a company for which a market value circumstance exists, the partnership share the person has in a right, obligation, or other property, status, or thing of the limited partnership:

(b) is further defined in section HA 44 (Measuring effective interests) for the purposes of subpart HA (Qualifying companies (QC)) and the definition of **effective interest**

master fund means—

(a) a group investment fund that derives category A income; or

(b) a public unit trust

maturity,—

(a) in the financial arrangements rules, means,—

(i) for an agreement for the sale and purchase of property or services or an option, the date on which the agreement or option ends:

(ii) for any other financial arrangement, the date on which the last payment contingent on the financial arrangement is made:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

maximum account balance is defined in section EK 23 (Other definitions) for the purposes of subpart EK (Environmental restoration accounts)

maximum deficit debit *[Repealed]*

maximum payment is defined in section EK 22 (Meaning of maximum payment) for the purposes of subpart EK (Environmental restoration accounts)

maximum permitted ratio, for an imputation credit or a Maori authority credit, means a ratio calculated under section OA 18 (Calculation of maximum permitted ratios)

maximum pooling value is defined in section EE 65 (Meaning of maximum pooling value)

measurement period, for an income year of a reporting bank, means 1 of the measurement periods for the income year described in section FE 8 (Measurement dates) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

member,—

(a) in sections CD 33(1) (Payments corresponding to notional distributions of producer boards and co-operative companies) and OB 73 to OB 75 (which relate to imputation credit accounts of statutory producer boards), and in the definitions of **levy** and **produce transactions**, for a statutory producer board and for an income year, means a person who—

(i) is resident in New Zealand; and

(ii) carries on in the year a farming or agricultural or other business in relation to which the board has special statutory functions; and

(iii) is liable to pay a levy to the board for the year or enters into produce transactions with the board during the year:

(b) *[Repealed]*

(c) in subpart HE (Mutual associations) in relation to a statutory producer board and to an income year, means a person who—

(i) is liable for the year to pay a levy to the statutory producer board; or

(ii) during the year, supplies produce or goods to the statutory producer board, in terms of the body's primary statutory functions:

(d) is defined in section RE 30(10) (When unincorporated bodies have RWT-exempt status) for the purposes of that section:

(e) in the Maori authority rules, means a person, or group of persons, who is—

(i) a shareholder of a Maori authority that is a company:

(ii) a beneficiary of a Maori authority that is the trustees of a trust

member credit contribution, for a person, means the total of the following amounts:

(a) an amount of a superannuation contribution to the person's KiwiSaver scheme or complying superannuation fund that is subject to the KiwiSaver scheme rules or complying fund rules, as applicable, other than—

(i) an employer's superannuation cash contribution made for the person:

(ii) a contribution withdrawn under a mortgage diversion facility provided for in regulations made under section 229 of the KiwiSaver Act 2006:

(iib) Crown contribution (as that term is defined in the KiwiSaver Act 2006) for the person:

(iii) an amount accounted for under paragraph (b):

(iv) a superannuation contribution that was transferred from an Australian complying superannuation scheme and contributed to a KiwiSaver scheme:

(b) an amount received and held for the person by the Commissioner that is an amount to which section 73, 74, or 75 of the KiwiSaver Act 2006 applies, other than—

(i) an employer's superannuation cash contribution made for the person:

(ii) an amount received and held by the Commissioner but not paid to the provider of the person's KiwiSaver scheme in the relevant member credit year unless the amount has not been paid because of the person's death or because of a refund under section 113 of the KiwiSaver Act 2006

member's contribution, in relation to a superannuation fund,—

(a) means a member's contribution to the fund; and

(b) includes any return on the contribution

memorandum account means an account listed in section OA 2(1) (Memorandum accounts)

mineral—

(a) means all minerals and metals; and

(b) includes clay, coal, gravel, kauri gum, precious stones, sand, and stone

mineral miner is defined in section CU 6 (Meaning of mineral miner)

mineral mining asset is defined in section CU 9 (Some definitions)

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

(a) 3 seats, each of which—

(i) is designed for the seating of 2 or more adult persons; and

(ii) is permanently fixed to the motor vehicle; and

(iii) is neither collapsible nor capable of being folded down; or

(b) more than 3 seats, of which not less than 3 are each—

(i) designed for the seating of 2 or more adult persons; and

(ii) permanently affixed to the motor vehicle; and

(iii) neither collapsible nor capable of being folded down

minimum family tax credit is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

minimum market value interest—

(a) is defined in section IA 5(6) (Restrictions on companies' loss balances carried forward: continuity of ownership) for the purposes of Part I (Treatment of tax losses):

(b) is defined in section LP 4(3) (Continuity rules for carrying credits forward) for the purposes of that section:

(c) is defined in section LY 8(4) (Carry forward for remaining research and development tax credits) for the purposes of that section

minimum QC interest is defined in section HA 6(5) (Corporate requirements) for the purposes of that section

minimum voting interest—

(a) is defined in section IA 5(6) (Restrictions on companies' loss balances carried forward: continuity of ownership) for the purposes of Part I (Treatment of tax losses):

(b) is defined in section LP 4(3) (Continuity rules for carrying credits forward) for the purposes of that section:

(c) is defined in section LY 8(4) (Carry forward for remaining research and development tax credits) for the purposes of that section

mining company *[Repealed]*

mining development expenditure is defined in section DU 11 (Meaning of mining development expenditure)

mining exploration expenditure is defined in section DU 10 (Meaning of mining exploration expenditure)

mining holding company *[Repealed]*

mining operations is defined in section CU 7(1) (Some definitions)

mining or prospecting right is defined in section CU 9(4) (Some definitions)

mining outgoing excess *[Repealed]*

mining permit is defined in section 2 of the Crown Minerals Act 1991

mining permit area *[Repealed]*

mining prospecting expenditure is defined in section DU 9 (Some definitions)

mining prospecting information is defined in section DU 9(2) (Some definitions)

mining purposes *[Repealed]*

mining rehabilitation expenditure is defined in section DU 12 (Meaning of mining rehabilitation expenditure)

mining share *[Repealed]*

mining venture *[Repealed]*

Minister means the Minister of Finance

minister of religion is defined in—

(a) section CE 1E(6) (Exception: accommodation provided to ministers of religion) for the purposes of that section:

(b) section CZ 33(8) (Transitional exception for accommodation provided to ministers of religion) for the purposes of that section

minor is defined in section HC 35(3) (Beneficiary income of minors) for the purposes of that section and sections HC 36, HC 37, LE 4, and LF 2 (which relate to beneficiary minors)

mismatch amount is defined in section FH 15(1) (Definitions)

mismatch situation is defined in section FH 15(1) (Definitions)

mixed-age female breeding animals is defined in section FP 23(8) (Livestock destroyed because of emergency events) for the purposes of that section

mixed-ownership enterprise means an entity specified in schedule 36, part B (Government enterprises)

money,—

(a) in section GB 48 (Defined terms for sections GB 45 and GB 46), in the financial arrangements rules, and in the definition of **security payment**, includes—

  (i) money's worth, whether or not convertible into money:

  (ii) the right to money, including the deferral or cancellation of some or all of an obligation to pay money:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

money lent means—

(a) an amount of money that a person lends in some way, including by depositing it in an account, whether or not the lending is secured or evidenced in writing:

(b) an amount of credit that a person gives, including by not enforcing a debt, whether or not the giving is secured or evidenced in writing:

(c) an amount of money that a person lends, or credit that a person gives, under an obligation or arrangement, whether or not secured or evidenced in writing:

(d) an amount of money that goes from a person (**person A**) to another person (**person B**) in consideration for person B's promise to pay person A an amount of money and that is less than the amount that person B promises to pay person A. For the purposes of this paragraph,—

(i) money goes from person A when it is paid to person B:

(ii) person B's promise is not required to be secured or evidenced in writing:

(iii) person B includes any other person with whom person B is an associated person:

(e) for the purposes of the NRWT rules and a related-party debt, when paragraphs (a) to (d) do not apply, an amount that is taken into account under section EW 15 (What is included when spreading methods used) that provides funding to a person

monthly instalment plan is defined in section EZ 30(3) (Base premium for 1998–99 premium year under the Accident Insurance Act 1998) for the purposes of that section

mortality profit *[Repealed]*

mortality profit formula *[Repealed]*

mortgage means a mortgage, charge, or other security, whether legal or equitable

motor vehicle,—

(a) in subpart DE (Motor vehicle expenditure), means a motor vehicle that—

(i) is a road vehicle, whenever or however used; and

(ii) is not a trailer; and

(iii) is of the kind ordinarily used for the carriage of persons or the transport or delivery of goods or animals:

(b) in the FBT rules, and in the definition of **car**,—

(i) is defined in section 2(1) of the Land Transport Act 1998; and

(ii) does not include a vehicle the gross laden weight of which is more than 3500 kilograms

multinational top-up tax means tax payable under subpart HP (Taxation of members of certain multinational groups)

multi-rate PIE means a company, superannuation fund, or group investment fund that—

(a) meets the requirements of section HM 7 (Requirements); and

(b) chooses to become a PIE under section HM 71 (Choosing to become PIE); and

(c) has not chosen to cancel PIE status under section HM 29 (Choosing to cancel status); and

(d) is not a benefit fund PIE

(e) *[Repealed]*

mutual transaction means a transaction of the kind described in section HE 2 (Classes of mutual transaction) entered into between an association and its members, or with members and other persons who are not members

national average market value, for a class of livestock and for an income year, means the national average market value determined under section EC 15 (Determining national average market values) for livestock of the class for the income year

national minimum price threshold is defined in section EC 39B(5) (Stud-founding bloodstock and related terms)

national standard cost scheme means the livestock valuation method specified in section EC 22 (National standard cost scheme)

natural person—

(a) does not include a natural person who is acting in the capacity of trustee:

(b) is further defined in section FE 4 (Some definitions) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

natural resource includes—

(a) land:

(b) water:

(c) air:

(d) soil or subsoil below land, water, or air:

(e) a mineral:

(f) a geographic or geological feature:

(g) a part of the electromagnetic spectrum:

(h) a form of energy:

(i) a living organism, whether naturally or artificially generated:

(j) an ecosystem:

(k) a right to or interest in an item referred to in any of the preceding paragraphs

net asset balance is defined in section DG 11(7) (Interest expenditure: close companies) for the purposes of subpart DG (Expenditure related to use of certain assets)

net assets is defined in section HR 12 (Non-exempt charities: treatment of tax-exempt accumulation) for the purposes of that section

net attributable CFC income, for a foreign company and for an accounting period, means the amount calculated for the accounting period under section EX 20C(1)(a) (Net attributable CFC income or loss)

net attributable CFC loss, for a foreign company and for an accounting period, means the amount calculated for the accounting period under section EX 20C(1)(b) (Net attributable CFC income or loss)

net attributable FIF income, for a FIF and for an accounting period, means an amount of zero or more calculated for the accounting period under section EX 50(3) (Attributable FIF income method)

net attributable FIF loss, for a FIF and for an accounting period, means an amount of less than zero calculated for the accounting period under section EX 50(3) (Attributable FIF income method)

net family scheme income is defined in section ME 3 (Meaning of net family scheme income) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

net gambling proceeds means net proceeds as defined in section 4 of the Gambling Act 2003

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

net loss means a net loss for a tax year calculated under section BC 4 (Net income and net loss) and reduced by the amount extinguished by the Commissioner under section MX 5 (Cancellation of R&D tax losses) and section 177C(5) of the Tax Administration Act 1994

net mining loss is defined in section IS 1(3) (General treatment of mineral miners' net losses) for the purposes of subpart IS (Mineral miners' and petroleum miners' tax losses)

new asset is defined in section EZ 24 (Meaning of new asset)

new asset transferee is defined in section DI 3 (Meaning of new asset transferee)

new build land *[Repealed]*

new business is defined in section EY 29 (Shareholder base other profit: profit participation policies that are new business) for the purposes of that section

new company tax rate person,—

(a) means a person who uses a 28% basic tax rate for the 2011–12 income year or later income years:

(b) includes, for the purposes of subpart OZ (Terminating provisions), a multi-rate PIE:

(c) does not include, for the purposes of subpart RZ (Terminating provisions), a multi-rate PIE

new investment asset is defined in section DI 4 (Meaning of new investment asset)

new personal tax rate person means a person whose basic rate of income tax is calculated under schedule 1, part A, clause 1 for the 2010–11 income year or a later income year

new reporting standard is defined in section DB 35 (Some definitions) for the purposes of section DB 34 (Research or development)

new start grant *[Repealed]*

new tax rate person *[Repealed]*

New Zealand includes—

(a) the continental shelf:

(b) the water and the air space above any part of the continental shelf that is beyond New Zealand's territorial sea, as defined in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977, if and to the extent to which—

(i) any exploration or exploitation in relation to the part, or any natural resource of the part, is or may be undertaken; and

(ii) the exploration or exploitation, or any related matter, involves, or would involve any activity on, in, or in relation to the water or air space

New Zealand banking group, for a registered bank, means the New Zealand banking group referred to in sections FE 36 and FE 36B (which identify the members of a New Zealand banking group) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

New Zealand business, in relation to a life insurer not resident in New Zealand, means the part of the business of the life insurer that consists of life insurance policies or life reinsurance policies offered or entered into in New Zealand

New Zealand emissions unit means a New Zealand unit as defined in section 4(1) of the Climate Change Response Act 2002

New Zealand Growth Capital Partners Limited means the company called New Zealand Growth Capital Partners Limited that is listed in Schedule 2 of the Crown Entities Act 2004

New Zealand net equity, for a New Zealand banking group is the amount referred to in section FE 21 (Banking group's New Zealand net equity) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

New Zealand-new asset is defined in section EZ 25 (Meaning of New Zealand-new asset)

New Zealand partnership means a partnership that—

(a) is a limited partnership registered under the Limited Partnerships Act 2008; or

(b) has 50% or more of its partners' interests in capital, by value, held by New Zealand residents; or

(c) has its centre of management in New Zealand ignoring section HG 2

New Zealand repatriation amount *[Repealed]*

New Zealand resident—

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

(i) section EY 49 (Non-resident life insurer becoming resident):

(ii) sections YD 1 to YD 3B (which relate to residence):

(b) is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

New Zealand superannuation—

(a) means any of the following:

(i) New Zealand superannuation payable under Part 1 of the New Zealand Superannuation and Retirement Income Act 2001:

(ii) New Zealand superannuation equivalent assistance; and

(b) includes—

(i) *[Repealed]*

(ii) *[Repealed]*

(iii) *[Repealed]*

(c) does not include—

(i) portable New Zealand superannuation; or

(ii) a supplement or benefit paid or payable under any of sections 65 (accommodation supplement), 85 (disability allowance), 90 (funeral grants, *see also* regulations made under section 427), and 96 (temporary additional support) of the Social Security Act 2018

New Zealand superannuation equivalent assistance means special assistance granted under clause 9 or 10 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to New Zealand superannuation, ignoring paragraph (a)(ii) of the definition of **New Zealand superannuation**

New Zealand superannuitant, for a tax year,—

(a) means a person who receives New Zealand superannuation in the tax year; and

(b) does not include a person who receives New Zealand superannuation—

(i) before 9 November 2020 (which is the commencement date of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020) at a rate specified in clause 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001; or

(ii) on or after 9 November 2020 at a rate specified in clause 1 of Part 2 of Schedule 1 of the New Zealand Superannuation and Retirement Income Act 2001

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

New Zealand unit *[Repealed]*

Niue International Trust Fund means the trust governed by the Deed concerning the Niue International Trust Fund dated 25 October 2006 and signed by Her Majesty the Queen in right of New Zealand and the Governments of Niue and Australia

nominal share is defined in section EW 46C (Consideration when debt remitted within economic group) for the purposes of that section

nominated company,—

(a) for a consolidated group, means the company described in section FM 34 (Nominated companies) for the time being nominated as agent of the group under section FM 35 (Forming consolidated group):

(b) for an imputation group, means the company described in section FN 6 (Nominated companies) for the time being nominated as agent of the group under section FN 7 (Forming imputation groups)

nominee, in sections RE 7 and RE 8 (which relate to resident passive income paid to trustees and nominees) means a person described in section YB 21(2) (Transparency of nominees)

non-attributing active CFC is defined in section EX 21B (Non-attributing active CFCs)

non-attributing Australian CFC is defined in section EX 22 (Non-attributing Australian CFCs)

non-business researcher *[Repealed]*

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

(a) an unconditional payment in money; or

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

non-complying trust is defined in section HC 12 (Non-complying trusts)

non-concessionary rate of interest, for an employment-related loan made on or before 31 March 1985, means the rate of interest declared by regulations

to be the non-concessionary rate of interest for the period of 12 consecutive months, ending on 31 March, in which the loan was made

non-contingent fee means a fee that—

(a) is for services provided for a person becoming a party to a financial arrangement; and

(b) is payable whether or not the financial arrangement proceeds

non-creditable dividend *[Repealed]*

non-discretionary trust is defined in section HC 16(8) (Ordering rule for distributions from non-complying and foreign trusts) for the purposes of that section

non-eligible assets is defined in section EM 8 (Some definitions)

non-executive director is defined in section CD 20(4) (Benefits of shareholder-employees or directors)

non-filing taxpayer, for a person and a tax year, means—

(a) a person whose only income having a source in New Zealand for the tax year is a schedular payment derived in their capacity as a non-resident entertainer and who chooses not to file a return of income for the tax year; or

(b) a person who, for the tax year, derives only non-resident passive income referred to in section RF 2(3) (Non-resident passive income); or

(c) a person whose only income having a source in New Zealand for the tax year is a payment derived in their capacity as a non-resident seasonal worker

non-fungible token means a cryptoasset that contains unique distinguishing identification codes or metadata

non-IFRS designated FX hedge means a forward contract for the sale or purchase of foreign currency—

(a) for which a person uses *Determination G14B: forward contracts for foreign exchange and commodities: an expected value approach* under the financial arrangements rules; and

(b) entered into by the person after the start of the first income year for which an election described in section EW 33B(2)(b) (Foreign ASAPs: designated FX hedges) applies; and

(c) entered into by the person for the sole purpose of hedging the foreign exchange risk of a foreign ASAP for which section EW 32(2C), (2D), or (2E) (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) applies, and the person enters into the foreign ASAP after the start of the first income year for which an election described in section EW 33B(2)(b) applies

non-integral fee means a fee or transaction cost that, for the purposes of financial reporting under IFRSs, is not an integral part of the effective interest rate of a financial arrangement

non-Kyoto greenhouse gas unit *[Repealed]*

non-listed horticultural plant, in section DO 4 (Improvements to farm land) and schedule 20, part A, item 9 (Expenditure on farming, horticultural, aquacultural, and forestry improvements)—

(a) means—

(i) a horticultural plant, tree, vine, bush, cane, or similar plant that is cultivated on land, that is not a listed horticultural plant:

(ii) a tree or other similar plant planted mainly for the purposes of ornamentation:

(b) does not include a tree planted mainly for the purposes of timber production

non-participating redeemable share is defined in section CD 22(9) (Returns of capital: off-market share cancellations)

non-refundable tax credit means—

(a) a tax credit under subpart LC (Tax credits for natural persons):

(ab) a tax credit under section LD 4 (Tax credits for payroll donations):

(b) a tax credit under subpart LJ (Tax credits for foreign income tax):

(c) a tax credit under subpart LK (Tax credits relating to attributed controlled foreign company income):

(d) *[Repealed]*

(e) a tax credit under subpart LR (Tax credits for policyholder income):

(f) an amount in a person's branch equivalent tax account that the person chooses, under Part O (Memorandum accounts), to credit in payment of income tax:

(fb) a tax credit under sections LS 2, LS 3(2), and LS 4(2) (which relate to multi-rate PIEs and certain of their investors), if the person having the tax credit is a natural person not having the tax credit as a beneficiary of a trust, but this paragraph does not apply to the extent to which the tax credit is taken into account in an adjustment under section HM 36B(2) (Calculating PIE schedular income adjustments for natural person investors):

(g) a tax credit under sections LS 3(3) and (4) and LS 4(3) and (4) and under section LS 1 (Tax credits for multi-rate PIEs) to the extent to which it arises under section HM 51 (Use of foreign tax credits by PIEs)

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

non-resident aircraft operator is defined in section CW 56(3) (Non-resident aircraft operators) for the purposes of that section

non-resident company means a company that is not a New Zealand resident

non-resident contractor, in the PAYE rules, means a person who—

(a) is not resident in New Zealand under subpart YD (Residence and source in New Zealand); and

(b) undertakes under a contract, agreement, or arrangement (other than a contract of service or apprenticeship)—

(i) to perform services of any kind in New Zealand:

(ii) to supply the use, or right to use, in New Zealand any personal property or services of another person; and

(c) is not a non-resident entertainer

non-resident crew member is defined in section CW 21(2) (Amounts derived by visiting crew of pleasure craft) for the purposes of that section

non-resident entertainer is defined in section CW 20(4) (Amounts derived by visiting entertainers including sportspersons) for the purposes of that section, and in the PAYE rules, means a person who—

(a) is not resident in New Zealand under subpart YD (Residence and source in New Zealand); and

(b) undertakes a Part F activity

(c) *[Repealed]*

non-resident financial arrangement income is defined in section RF 2C(2) (Meaning of non-resident financial arrangement income) for the purposes of the NRWT rules

non-resident investment company *[Repealed]*

non-resident mining operator *[Repealed]*

non-resident owning body, for a company and an income year, means a group consisting of 2 or more members who are each a non-resident and who each hold ownership interests in the company or have a linked trustee holding ownership interests in the company such that—

(a) if the company, for each member of the group, owes money to the member (the **member debt**), or to the member's linked trustee (the **trustee debt**), or to a company (the **subsidiary**) in which the member or a linked trustee has ownership interests (the **subsidiary debt**),—

(i) the member debt for a member, expressed as a fraction of the total member debt for the company, corresponds to the ownership interests or direct ownership interests held by the member, expressed as a fraction of the ownership interests or direct ownership interests held by the members of the group:

(ii) the requirements of subparagraph (i) would be met if each or 1 or more members of the group were treated as holding the ownership interests in the company held by the member, and by linked trustees, and were treated as being owed the member debt, the trustee debt, and an amount for subsidiary debt equal to the product of the subsidiary debt and the ownership interest held in the subsidiary:

(b) the company is not a widely-held company and the company is funded for the income year under an arrangement between the members of the group concerning debt (the **member-linked funding**) under financial arrangements meeting the requirements of section FE 18(3B)(b)(i) to (iii) (Measurement of debts and assets of worldwide group) for the members:

(c) the company has member-linked funding provided in a way recommended to, or implemented for, the members as a group by a person

non-resident passive income is defined in section RF 2 (Non-resident passive income)

non-resident person is defined in section CW 22(3) (Amounts derived by overseas experts and trainees in New Zealand by government arrangement) for the purposes of that section

non-resident seasonal worker means a non-resident person for whom immigration instructions, certified under section 22 of the Immigration Act 2009, allow them to be employed in New Zealand under—

(a) the recognised seasonal employer (RSE) instructions; or

(b) the foreign crew of fishing vessels instructions

non-resident taxpayer is defined in section HD 26(2) (Agency in relation to non-residents generally) for the purposes of sections HD 27 and HD 28 (which relate to employers and certain payments)

non-resident trader means a person who—

(a) is in New Zealand; and

(b) carries on business here without having a fixed and permanent place of business or home here

non-residential building *[Repealed]*

non-residents' foreign-sourced income is defined in section BD 1(4) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income)

non-residents' foreign-sourced income limitation is defined in section DA 2(6) (General limitations)

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

non-standard accounting year has the meaning given in section YE 1(5) (References to balance dates and years)

non-standard balance date has the meaning given in section YE 1(5) (References to balance dates and years)

non-standard income year has the meaning given in section YE 1(5) (References to balance dates and years)

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

normal retiring age is defined in section CW 26E (Meaning of normal retiring age) for the purposes of section CW 26C (Meaning of exempt ESS)

North Island adverse weather event means any of the following weather events:

(a) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:

(b) Cyclone Gabrielle, which crossed the North Island of New Zealand during the period commencing on 12 February 2023 and ending on 16 February 2023:

(c) severe weather in the Nelson-Tasman region that resulted in a state of emergency being declared under the Civil Defence Emergency Management Act 2002, beginning on 17 August 2022 and ending on 31 August 2022

North Island flooding events—

(a) means flooding and other damage that occurred in an affected area caused by any of the following weather events:

  (i) Cyclone Hale, which crossed the North Island of New Zealand during the period commencing on 8 January 2023 and ending on 12 January 2023:

  (ii) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:

  (iii) Cyclone Gabrielle, which crossed the North Island of New Zealand during the period commencing on 12 February 2023 and ending on 16 February 2023; and

(b) includes circumstances where damage caused by any of the events listed in paragraph (a) is exacerbated by a subsequent weather event

notice is defined in section 3(1) of the Tax Administration Act 1994

notice of entitlement means a notice issued under section 80KD(2) of the Tax Administration Act 1994

notice period is defined in section FM 38(6) (Notice requirements on forming or joining consolidated group) for the purposes of that section

notified investor rate, for a multi-rate PIE and an investor, means an investor rate notified under section HM 60 (Notified investor rates) or a notified investor rate under section HM 58 (Transition of rate for certain investors)

notified foreign investor means an investor in a foreign investment PIE who—

(a) meets the requirements of sections HM 55D(3) and (4) (Requirements for investors in foreign investment PIEs); and

(b) notifies the PIE under section HM 55D(2) that they wish to be treated as a notified foreign investor

notify—

(a) means to give notice; and

(b) for a mode of communication, has the meaning set out in section 14C or 14D of the Tax Administration Act 1994, as appropriate

notional offshore investment amount, for a reporting bank, is the amount referred to in section FE 22(2) (Notional offshore investment) for the purposes of section FE 21(14) (Banking group's New Zealand net equity)

notional sale price is defined in section FA 10(2) (Treatment when lease ends: lessor acquiring asset) for the purposes of that section

novelty *[Repealed]*

NRFAI due date is defined in section RF 2C(7) (Meaning of non-resident financial arrangement income) for the purposes of sections RF 2C(5)(a)(ii) and RF 12F(3)(b)(ii)

NRWT means non-resident withholding tax and refers to an amount payable as income tax under the NRWT rules

NRWT rules means the provisions listed in section RF 1 (NRWT rules and their application)

NZ IFRS 16 means New Zealand Equivalent to International Financial Reporting Standard 16, in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place

NZIAS 2 means New Zealand Equivalent to International Accounting Standard 2, in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place

NZIAS 8 means New Zealand Equivalent to International Accounting Standard 8, in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place

NZIAS 17 *[Repealed]*

NZIAS 23 means New Zealand Equivalent to International Accounting Standard 23, in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place

NZIAS 28 means New Zealand Equivalent to International Accounting Standard 28 in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place

NZIAS 31 means New Zealand Equivalent to International Accounting Standard 31 in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place

NZIAS 32 means New Zealand Equivalent to International Accounting Standard 32, in effect under the Financial Reporting Act 2013 and as amended from time to time, or an equivalent standard issued in its place

NZIAS 39 *[Repealed]*

NZIAS 41 is defined in section EB 6(3) (Cost) for the purposes of that section

OECD transfer pricing guidelines means guidelines published by the Organisation for Economic Co-operation and Development as OECD (2022), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022*, OECD Publishing, Paris

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

(a) the contract or policy is executed in New Zealand; or

(b) the insurer under the contract or policy—

  (i) is resident in New Zealand; or

  (ii) has a fixed establishment in New Zealand; or

  (iii) has an agent in New Zealand

offered or was offered or entered into, in sections CR 3B, EY 12, EY 48, and YD 8B (which relate to life insurance and life reinsurance), has the same meaning as **offered or entered into in New Zealand**

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

offshore development *[Repealed]*

offshore permit area is defined in section CW 57 (Non-resident company involved in exploration and development activities) for the purposes of that section

offshore RLWT person means, for the purposes of subpart RL (Residential land withholding tax),—

(a) a natural person, if—

  (i) the person is a New Zealand citizen who is outside New Zealand and they have not been in New Zealand within the last 3 years:

(ii) the person holds a residence class visa granted under the Immigration Act 2009, and they are outside New Zealand and have not been in New Zealand within the last 12 months:

(iii) the person is not a New Zealand citizen and they do not hold a residence class visa granted under the Immigration Act 2009:

(b) a person that is a trustee of a trust, if—

(i) more than 25% of the trustees of the trust are offshore RLWT persons:

(ii) more than 25% of the people that have the power to appoint or remove a trustee of the trust, or to amend the trust deed, are offshore RLWT persons:

(iii) all natural person beneficiaries and all natural person discretionary beneficiaries of the trust are offshore RLWT persons:

(iv) all beneficiaries and all discretionary beneficiaries of the trust are offshore RLWT persons:

(v) a beneficiary, including a discretionary beneficiary (a **beneficiary**), that is an offshore RLWT person has received a distribution from the trust in 1 of the last 4 years before the relevant disposal of residential land and, if the beneficiary is a natural person, the total distributions to the beneficiary for the relevant year are more than $5,000:

(vi) the trust has disposed of residential land within 4 years before the relevant disposal of residential land and the trust has a beneficiary, including a discretionary beneficiary, that is an offshore RLWT person:

(c) a person, other than a statutory trustee company, if—

(i) the person is incorporated outside New Zealand:

(ii) the person is not a natural person and is registered outside New Zealand:

(iii) the person is constituted under foreign law:

(iv) the person is a company or a limited partnership and more than 25% of the company's directors or of the limited partnership's general partners are offshore RLWT persons:

(v) the person is a company and more than 25% of the company's shareholder decision-making rights are held directly or indirectly by offshore RLWT persons:

(vi) the person is a limited partnership or a look-through company (**LTC**), and more than 25% of the partnership's partnership shares or of the LTC's effective look-through interests are held directly or indirectly by offshore RLWT persons

old company tax rate means a 30% or 33% basic tax rate applying before the 2011–12 income year

old financial arrangements rules means—

(a) the following provisions:

(i) sections EZ 33 to EZ 52 (which relate to the old financial arrangements rules):

(ii) section FF 2 (Financial arrangements) of the Income Tax Act 2004, as that section was before the commencement of the Taxation (Accrual Rules and Other Remedial Matters) Act 1999:

(iii) sections RA 11 and RA 12 (which relate to adjustments to correct errors); and

(b) the following provisions of the Tax Administration Act 1994:

(i) section 60 (as in force before the enactment of section 70 of the Taxation (Accrual Rules and Other Remedial Matters) Act 1999):

(ii) section 90

old reporting standard is defined in section DB 35 (Some definitions) for the purposes of section DB 34 and subpart MX (which relate to research and development)

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

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

(b) before the transaction, no arrangement existed between the shareholder and the company for the company to acquire the share; and

(c) the acquisition is not a treasury stock acquisition to which section CD 25 (Treasury stock acquisitions) applies, but this paragraph does not limit the application of section CD 25(2) to (6); and

(d) it includes an acquisition of the company's shares on the recognised exchange that is undertaken by an associated person under an arrangement for the associate to acquire the shares in lieu of the company

onshore development *[Repealed]*

operating lease means, except in section EW 15I(1)(b)(iib) (Mandatory use of yield to maturity method for some arrangements), a lease that—

(a) is not a finance lease; and

(b) is entered into on or after 20 May 1999

operational allowance is defined in section CW 23(4) (Income for military or police service in operational area) for the purposes of that section

operational area is defined in section CW 23(4) (Income for military or police service in operational area) for the purposes of that section

operational expenditure is defined in section DU 11(4) (Meaning of mining development expenditure) for the purposes of that section and section IS 2 (Treatment of net losses resulting from certain expenditure)

option, in sections FB 10 (Continuity provisions: shares and options), GB 5 (Arrangements involving trust beneficiaries), and YC 2, YC 3, YC 5, YC 8, and YC 9 (which relate to the measurement of company ownership), and in the definitions of **excluded option, market value** (paragraphs (a) and (b)), **market value circumstance** (paragraphs (c) to (f)), **pre-1991 budget security, recognised exchange**, and **shareholder decision-making right**, includes an agreement for sale at a time when beneficial ownership of the property sold has not completely passed to the purchaser

ordering rule means the rule set out in section CD 23(1) (Ordering rule and slice rule) for calculating the amount of available subscribed capital per share

original share means a share in a company that is described as the original share in the definition of **returning share transfer**

originator is defined in section HR 9BAA (Meaning of originator) for the purposes of sections HR 9, HR 9BA, HR 9B, HR 10, HR 10B, HZ 9, and HZ 10 (which relate to debt funding special purpose vehicles), and the definition of **debt funding special purpose vehicle**

orphan's benefit means any of the following:

(a) an orphan's benefit payable under section 43 of the Social Security Act 2018:

(b) orphan's benefit equivalent assistance

orphan's benefit equivalent assistance means special assistance granted under clause 9 or 12 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an orphan's benefit payable under section 43 of the Social Security Act 2018

other amortisation provision means a provision of this Act that has similar intent and application to sections EE 1 (What this subpart does), EZ 7 (Acquiring patent rights before 1 April 1993), and EZ 8 (Premium paid on land leased before 1 April 1993)

other income is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

out-of-town secondment is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects)

output tax is defined in section 2 of the Goods and Services Tax Act 1985

outstanding balance,—

(a) in section FA 10 (Treatment when lease ends: lessor acquiring asset), includes principal, interest, and penalties that are owing by the lessee to the lessor on the date that the lease is terminated

(b) is defined in section FZ 2(9) (Effect of specified lease on lessor and lessee) for the purposes of sections FZ 2 and FZ 3 (which relate to specified leases)

outstanding claims reserve, for an insurer to which a following paragraph applies, means—

(a) for an insurer who uses IFRS 4, the amount of the insurer's outstanding claims liability for general insurance contracts, excluding contracts having premiums to which section CR 3 (Income of non-resident general insurer) applies, as that liability is measured under Appendix D, paragraphs 5.1 to 5.2.12 of IFRS 4 for the insurer's financial statements less the amount of reinsurance and non-reinsurance recoveries receivable, as measured for the financial statements:

(ab) for a general insurer who uses IFRS 17, the amount of the insurer's liability for incurred claims for general insurance contracts, excluding contracts having premiums to which section CR 3 applies, as that liability is measured for the insurer's financial statements, reduced by the amount, measured for the insurer's financial statements, of reinsurance recoveries and non-reinsurance recoveries receivable in relation to the incurred claims:

(b) for a life insurer, the amount that would be the life insurer's outstanding claims reserve under section EY 24(3), (4), and (5) (Outstanding claims reserving amount: non-participation policies not annuities) for general insurance contracts, excluding contracts having premiums to which section CR 3 applies, if section EY 24(3), (4), and (5) were modified so as to apply to general insurance contracts and reinsurance contracts, instead of to life insurance policies and reinsurance contracts:

(c) for a life insurer and life insurance contracts, the amount calculated under section EY 24(3) and (4) for the outstanding claims reserve and for part-year transfers of life insurance contracts under section EY 5 (Part-year tax calculations):

(d) for transfers of general insurance contracts to an insurer, the amount calculated under section CR 4(3)(a)(iii) (Income for general insurance outstanding claims reserve) or DW 4(4B) and (4C) (Deduction for general insurance outstanding claims reserve) to which section ED 3(1B) (Part-year calculations for transfers: general insurance OCR) applies

overseas eligible expenditure *[Repealed]*

overseas pension is defined in section CW 28(2) (Pensions) for the purposes of that section

overtime is defined in section CW 17C(6) (Payments for overtime meals and certain other allowances) for the purposes of that section

own,—

(a) for land, means to have an estate or interest in the land, alone or jointly or in common with any other person:

(b) for the ownership of depreciable property, is defined in sections EE 2 to EE 5 (which relate to depreciation)

ownership continuity breach is defined in section IB 2 (Meaning of ownership continuity breach) for the purposes of subpart IB (Carrying forward companies' loss balances: continuity of business activities)

ownership interest, in a company,—

(a) means—

(i) a voting interest in the company determined by applying section YC 4(2) (Look-through rule for corporate shareholders):

(ii) a market value interest in the company determined by applying section YC 4(5):

(b) for the purposes of subpart FE (Interest apportionment on thin capitalisation), is measured under sections FE 38 to FE 41 (which provide for the measurement of ownership interests in companies)

owner's associate is defined in section HB 11(12) (Limitation on deductions by persons with interests in look-through companies) for the purposes of that section

owner's interests means the relevant interests in rights and obligations and other property, status, and things that a person who has an effective look-through interest for a look-through company has as a result of applying section HB 1 (Look-through companies are transparent) or otherwise

paid work *[Repealed]*

parental entitlement period means the period of time described in section MD 11(1)(b)(i) (Entitlement to parental tax credit)

parental tax credit is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

Part F activity is defined in schedule 4, part F, clause 7 (Standard rates of tax for schedular payments)

partial reinsurance is defined in section EY 12(3) (Meaning of life reinsurance)

participating share is defined in section CD 22(9) (Returns of capital: off-market share cancellations) for the purposes of that section

partner, in relation to a partnership,—

(a) means a person who is a member of the partnership:

(b) includes—

(i) a limited partner of a limited partnership:

(ii) a general partner of a limited partnership:

(iii) a joint venturer or a co-owner, if they make the relevant choice to be treated as partnership

partner's associate is defined in section HG 11(12) (Limitation on deductions by partners in limited partnerships) for the purposes of that section

partner's interests means the relevant interests in rights and obligations and other property, status, and things that a partner has as a result of applying section HG 2 (Partnerships are transparent)

partnership means—

(a) a group of 2 or more persons who have, between themselves, the relationship described in section 8(1) of the Partnership Law Act 2019:

(b) a joint venture, if the joint venturers all choose to be treated as a partnership for the purposes of this Act and the Tax Administration Act 1994:

(c) co-owners of property, other than persons who are co-owners only because they are shareholders of the same company, or settlors, trustees, or beneficiaries of the same trust, if the co-owners all choose to be treated as a partnership for the purposes of this Act and the Tax Administration Act 1994:

(d) a limited partnership

partnership share means, for a particular right, obligation, or other property, status, or thing, the share that a person has in the partnership

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

pay,—

(a) for an amount and a person, includes—

(i) to distribute the amount to them:

(ii) to credit them for the amount:

(iii) to deal with the amount in their interest or on their behalf, in some other way:

(b) for a dividend that is a bonus issue, means to issue shares or to give credit for the shares comprising the bonus issue:

(bb) is defined in section LD 4(7) (Tax credits for payroll donations) for the purposes of that section and section LD 8(1) (Meaning and ranking of

payroll donation) and for section 124ZG of the Tax Administration Act 1994:

(c) is defined in section RD 51(6) (Calculation of all-inclusive pay) for the purposes of that section:

(d) has the meaning set out in section RF 12E (When non-resident financial arrangement income treated as paid) for the purposes of the NRWT rules

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

payday has the meaning given in section 3(1) of the Tax Administration Act 1994

PAYE means pay-as-you-earn and refers to an amount payable as income tax under the PAYE rules

PAYE income payment is defined in section RD 3 (PAYE income payments)

PAYE income payment form *[Repealed]*

PAYE income payment form period *[Repealed]*

PAYE intermediary, for an employer, means—

(a) a person who—

(i) is accredited as a PAYE intermediary by the Commissioner under section 124I of the Tax Administration Act 1994; and

(ii) has entered an agreement with the employer, applying to employees of the employer, that has been approved by the Commissioner under section 124O of that Act; and

(iii) has entered into agreements that have been approved by the Commissioner under section 124O of that Act with not less than 10 employers:

(b) a person who—

(i) no longer meets the requirements of paragraph (a); and

(ii) has responsibilities under section RP 2(3) (PAYE intermediaries)

PAYE-related overpayment means an amount described in section RD 8B(1) (Treatment of PAYE-related overpayments)

PAYE rules means the provisions listed in section RD 2(1) (PAYE rules and their application)

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

payment relating to incapacity for work is defined in section CW 34(2) (Compensation payments) for the purposes of that section

payroll donation is defined in section LD 8 (Meaning and ranking of payroll donation)

PCA *[Repealed]*

PCA company *[Repealed]*

PCA person *[Repealed]*

penalties and interest is defined in section HD 15(9) (Asset stripping of companies) for the purposes of that section

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

period of continuous work—

(a) is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects); and

(b) is given an extended meaning in section CW 16D(4) (Accommodation expenditure: conferences and overnight stays) for the purposes of that section

period of restriction *[Repealed]*

permanent establishment is defined in section YD 4B (Meaning of permanent establishment)

permanent forestry business means the forestry activities, as defined in the Climate Change Response Act 2002, carried on in relation to land by a person having entitlements and obligations relating to the land under a permanent forestry scheme

permanent forestry income, for a person, means the income for a permanent forestry business—

(a) relating to a permanent forestry scheme; and

(b) derived by the person from—

(i) receiving an emissions unit under the permanent forestry scheme; or

(ii) entering into a transaction in relation to an emissions unit received under the permanent forestry scheme

permanent forestry scheme means—

(a) the permanent forest sink initiative under which an owner of post-1989 forest land who entered into a forest sink covenant that was registered under section 67ZD of the Forests Act 1949 in relation to the land was entitled under the covenant to receive emissions units, other than under section 64 of the Climate Change Response Act 2002, for the land and was liable under the covenant to surrender emissions units to the Crown when required:

(b) the scheme under which a person who is registered under the Climate Change Response Act 2002 as a participant in permanent forestry relating to post-1989 forest land is entitled to receive emissions units for

the land and is liable to surrender emissions units to the Crown when required by that Act

permit is defined in section 2 of the Crown Minerals Act 1991

permit area means an area of land, and may include more than 1 area, of, as applicable,—

(a) a petroleum permit:

(b) a mining permit or an existing privilege referred to in paragraphs (a) and (b) of the definition of existing privilege in section 2(1) of the Crown Minerals Act 1991

permit-specific asset is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section

permitted withdrawal means a withdrawal permitted under the KiwiSaver scheme rules as defined in section 4 of the KiwiSaver Act 2006 or under the complying fund rules

person—

(a) is defined in section EH 3(2) (Persons to whom main income equalisation scheme applies) for the purposes of the main income equalisation scheme:

(b) is defined in section EH 37(2) (Persons to whom adverse event income equalisation scheme applies) for the purposes of the adverse event income equalisation scheme:

(c) is defined in section EH 63(2) (Persons to whom thinning operations income equalisation scheme applies) for the purposes of the thinning operations income equalisation scheme

personal injury by accident *[Repealed]*

personal property, in sections CB 4 (Personal property acquired for purpose of disposal) and CB 5 (Business of dealing in personal property) does not include land

personal property lease asset—

(a) means any personal property subject to a lease; and

(b) does not include any livestock or bloodstock

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

personal service rehabilitation payment, for a person, means an amount paid for the person's benefit—

(a) under section 81(3), 372, or 374 of the Accident Compensation Act 2001; and

(b) by the Accident Compensation Corporation or an employer that is an accredited employer as defined in section 181 of that Act; and

(c) in providing to a person—

(i) a key aspect of rehabilitation referred to in section 81(1)(b), (c), (e), or (g) (relating to attendant care, child care, home help, and training for independence) of that Act:

(ii) a key aspect of rehabilitation referred to in section 81(1)(h) (relating to transport for independence) of that Act to the extent provided by paragraph (a)(i) of the definition of **transport for independence** in schedule 1, clause 12 of that Act:

(iii) similar rehabilitation referred to in an earlier Act corresponding to that Act

petroleum is defined in section 2 of the Crown Minerals Act 1991

petroleum development expenditure—

(a) means expenditure incurred by a petroleum miner that—

(i) directly concerns a permit area; and

(ii) is for acquiring, constructing, or planning petroleum mining assets; and

(b) does not include—

(i) residual expenditure; or

(ii) petroleum exploration expenditure; or

(iib) expenditure that relates to an amount for which a deduction is allowed under section DT 7B (Resuming commercial production: petroleum development expenditure), except as provided in that section

(iii) other expenditure allowed as a deduction under any provision of this Act, other than a provision in subpart DT (Petroleum mining expenditure) or DZ (Terminating provisions), and allocated to the income year in which the expenditure is incurred

petroleum exploration expenditure—

(a) means—

(i) exploratory well expenditure; and

(ii) prospecting expenditure; and

(iii) expenditure to acquire an existing privilege that is a prospecting licence granted under Part 1 of the Petroleum Act 1937, a prospecting permit for petroleum, or an exploration permit for petroleum; and

(b) does not include—

(i) residual expenditure; or

(ii) expenditure that is required by section DT 6 (Expenditure on petroleum mining assets) to be treated as petroleum development expenditure

petroleum miner is defined in section CT 6 (Meaning of petroleum miner)

petroleum mining asset is defined in section CT 7 (Meaning of petroleum mining asset)

petroleum mining company *[Repealed]*

petroleum mining development is defined in section EJ 20 (Meaning of petroleum mining development) for the purposes of sections EJ 12 and EJ 12B (which relate to petroleum development expenditure)

petroleum mining development expenditure is defined in section DZ 3(4) (Petroleum mining: development expenditure from 1 October 1990 to 15 December 1991) for the purposes of that section

petroleum mining operations is defined in section CT 6B (Meaning of petroleum mining operations)

petroleum mining permit is defined in section 2 of the Crown Minerals Act 1991

petroleum permit means—

(a) an exploration permit for petroleum:

(b) a prospecting permit for petroleum:

(c) a petroleum mining permit:

(d) an existing privilege that is a prospecting licence or mining licence granted under Part 1 of the Petroleum Act 1937

petroleum-related depreciable property is defined in section EE 67 (Other definitions)

PFSI forestry business *[Repealed]*

PFSI forestry income *[Repealed]*

physical cost of production is defined in section DZ 11(3) (Film reimbursement scheme on or before 30 June 2001) for the purposes of that section

PIE means a portfolio investment entity

PIE rules means—

(a) the following provisions:

(i) section BC 7(4) (Income tax liability of person with schedular income):

(ii) section CB 26 (Disposal of certain shares by portfolio investment entities):

(iii) section CP 1 (Attributed income of investors in multi-rate PIEs):

(iv) sections CX 55 to CX 57 (which relate to excluded income of investors in PIEs):

(v) sections DB 53 to DB 54B (which relate to losses of certain investors in PIEs):

(vb) section EX 20B(3)(o) (Attributable CFC amount):

(vi) subpart HM (Portfolio investment entities):

(vii) section IA 7(10) (Restrictions relating to ring-fenced tax losses):

(viii) IC 3(2B) to (2D) (Common ownership: group of companies):

(ix) subpart LS (Tax credits for multi-rate PIEs and investors):

(x) section OB 9B (ICA attributed PIE income with imputation credit):

(b) sections 28B, 28D, 31B, 31C, 33(1C), 38(1B), 57B, and 61(1C) of the Tax Administration Act 1994

PIE schedular income is defined in section HM 36B (Calculating PIE schedular income adjustments for natural person investors) for the purposes of that section and sections CX 56 and HM 6 (which relate to attributed PIE income and the treatment of investors) and the definition of **residual income tax**

plant does not include an item that is structural in relation to a building

plant variety rights means proprietary rights granted for a plant variety under the Plant Variety Rights Act 1987 or similar rights given similar protection under the laws of a country or territory other than New Zealand

planting is defined in section DO 8 (Meaning of planting and plot) for the purposes of sections DO 5 to DO 8 (which relate to horticultural plants)

pleasure craft is defined in section CW 21(2) (Amounts derived by visiting crew of pleasure craft) for the purposes of that section

plot is defined in section DO 8 (Meaning of planting and plot) for the purposes of sections DO 5 to DO 8 (which relate to horticultural plants)

policy liabilities is defined in section EY 29(8) (Shareholder base other profit: profit participation policies that are new business) for the purposes of section EY 29

policyholder base means, for a life insurer, the base for policyholder base income and allowable deductions and to which income of a particular source or nature, and tax credits received are apportioned under section EY 4 (Apportionment of income of particular source or nature, and of tax credits)

policyholder base allowable deductions means policyholder base allowable deductions described in section EY 2(2) (Policyholder base)

policyholder base income means policyholder base income described in section EY 2(1) (Policyholder base)

policyholder base income tax liability *[Repealed]*

policyholder credit *[Repealed]*

policyholder credit account *[Repealed]*

policyholder debit *[Repealed]*

policyholder FDP ratio *[Repealed]*

policyholder income *[Repealed]*

policyholder income formula *[Repealed]*

policyholder net loss *[Repealed]*

policyholder unvested liabilities means benefits that are allocated to policyholders of profit participation policies but are not vested in a specific policyholder

pool is defined in section EE 67 (Other definitions)

pool method is defined in section EE 67 (Other definitions)

poolable property is defined in section EE 66 (Meaning of poolable property)

portable New Zealand superannuation means New Zealand superannuation paid or payable overseas under—

(a) section 26(2)(a) of the New Zealand Superannuation and Retirement Income Act 2001, or under section 26(2)(b) where the superannuitant is residing in a country to which section 26(1)(a) of that Act applies; or

(b) section 31 of the New Zealand Superannuation and Retirement Income Act 2001; or

(c) section 380 (orders adopting reciprocity agreements) of the Social Security Act 2018

portable veteran's pension means a veteran's pension paid or payable overseas under—

(a) section 182(1)(a) of the Veterans' Support Act 2014, or under section 182(1)(b) where the pensioner is residing in a country to which section 181(a) of that Act applies; or

(b) section 191 of the Veterans' Support Act 2014; or

(c) section 380 (orders adopting reciprocity agreements) of the Social Security Act 2018

portfolio allocation period *[Repealed]*

portfolio calculation period *[Repealed]*

portfolio class fraction *[Repealed]*

portfolio class investment value *[Repealed]*

portfolio class net income *[Repealed]*

portfolio class net loss *[Repealed]*

portfolio class taxable income *[Repealed]*

portfolio class taxable loss *[Repealed]*

portfolio defined benefit fund *[Repealed]*

portfolio entity formation loss *[Repealed]*

portfolio entity investment *[Repealed]*

portfolio entity tax liability *[Repealed]*

portfolio investment means an investment of an entity in an item of property of a type to which section HM 11 (Investment types) refers

portfolio investment entity means—

(a) a multi-rate PIE:

(b) a listed PIE:

(c) a benefit fund PIE:

(d) a life fund PIE:

(e) a foreign investment PIE that is either a foreign investment zero-rate PIE or a foreign investment variable-rate PIE

portfolio investment-linked life fund means a separate identifiable fund forming part of a life insurer, that—

(a) holds investments subject to life insurance policies under which benefits are directly linked to the value of the investments held in the fund; and

(b) has become a portfolio investment entity under section HL 13 (Becoming portfolio investment entity); and

(c) has not ceased to be a portfolio investment entity under section HL 15 (Ceasing to be portfolio investment entity)

portfolio investor allocated income *[Repealed]*

portfolio investor allocated loss *[Repealed]*

portfolio investor class *[Repealed]*

portfolio investor exit period *[Repealed]*

portfolio investor interest *[Repealed]*

portfolio investor interest fraction *[Repealed]*

portfolio investor proxy *[Repealed]*

portfolio investor rate *[Repealed]*

portfolio land company *[Repealed]*

portfolio listed company *[Repealed]*

portfolio tax rate entity *[Repealed]*

possession includes a use that is in fact or effect substantially exclusive

post-1989 forest land means post-1989 forest land as defined in section 4(1) of the Climate Change Response Act 2002

post-1989 forest land emissions unit, for a person, means an emissions unit transferred under section 64 of the Climate Change Response Act 2002 for growing trees on post-1989 forest land—

(a) to the person and held continuously by the person from the transfer:

(b) to another person (the **recipient**), who at the time of the transfer is a party to a forestry rights agreement as defined in the Forestry Rights Registration Act 1983 with the person, and—

(i) transferred by the recipient to the person, under a provision of the forestry rights agreement relating to the allocation of income or emissions units between the recipient and the person; and

(ii) held continuously by the person from the transfer by the recipient

post-1989 forest land unit *[Repealed]*

post-treaty tax rate means the rate of tax, after taking into account the overriding effect of a relevant double tax agreement, if there is one, as provided by section BH 1 (Double tax agreements)

pre-1983 investments is defined in section HR 3(8) (Definitions for section HR 2: group investment funds) for the purposes of section HR 2 (Group investment funds)

pre-1990 forest land means pre-1990 forest land as defined in section 4(1) of the Climate Change Response Act 2002

pre-1990 forest land emissions unit, for a person, means an emissions unit transferred under Part 4, subpart 2 of the Climate Change Response Act 2002 in relation to pre-1990 forest land—

(a) to the person and held continuously by the person from the transfer:

(b) to another person (the **appointee**), as a person appointed under section 73 of that Act or as a person representing iwi that are claimants under a Treaty of Waitangi settlement, and—

(i) transferred by the appointee to the person, as a person (the **claimant**) who at the time of the transfer to the appointee is a claimant under a Treaty of Waitangi settlement involving the pre-1990 forest land or as an agent for the claimant; and

(ii) held continuously by the person, as the agent or the claimant, from the transfer by the appointee:

(c) to another person (the **recipient**), who at the time of the transfer is a party to a forestry rights agreement as defined in the Forestry Rights Registration Act 1983 with the person, and—

(i) transferred by the recipient to the person, under a provision of the forestry rights agreement relating to the allocation of income or emissions units between the recipient and the person; and

(ii) held continuously by the person from the transfer by the recipient

pre-1990 forest land unit *[Repealed]*

pre-1991 budget security means a fixed-rate share, or a debenture to which section FA 2 (Recharacterisation of certain debentures) applies, that—

(a) was itself issued by the company before 8.00 pm New Zealand Standard Time on 30 July 1991 (the **specified time**), or was issued under a binding contract entered into before the specified time no term of which is altered at any time after the specified time; and

(b) is not a share or debenture any term of which is altered at any time after the specified time, whether under a provision for roll-over or extension or under an option held at the specified time by the shareholder or debenture holder or the company or both or by any other person or otherwise, except when the term is altered under a binding contract entered into before the specified time no term of which is altered at any time after the specified time

pre-imputation income year means an income year that started before the 1987–88 income year

premier yearling sale is defined in section EC 39B(4) (Stud-founding blood-stock and related terms)

premium,—

(a) for life insurance,—

(i) means any consideration, however described, payable under a life insurance policy to a life insurer; and

(ii) does not include interest on an unpaid premium; and

(iii) does not include consideration received by a life insurer for the transfer of life insurance business:

(b) in sections CR 3, HD 16, HD 17, and YD 8 (which relate to non-resident general insurers), for general insurance or guarantee against risk, means an amount payable in relation to the contract of insurance or guarantee, as applicable, entered into by the insured person:

(c) in section EZ 8 (Premium paid on land leased before 1 April 1993) and for the purposes of section DZ 9 (Premium paid on land leased before 1 April 1993),—

(i) includes a payment in the nature of a fine, a payment for goodwill attaching to the land, and a payment in consideration of the grant, transfer, or renewal of the lease; and

(ii) does not include rent

premium loading *[Repealed]*

premium loading formula *[Repealed]*

premium payback amount means an amount of life risk component premium refunded in accordance with the terms and conditions of the relevant life insurance policy or the discretion of the life insurer

prepaid expenditure means expenditure to which section EA 3 (Prepayments) applies

prescribed means—

(a) prescribed by regulations under this Act; or

(b) prescribed by the Commissioner

prescribed amount *[Repealed]*

prescribed interest is defined in section RD 34(3) (Employment-related loans: value using prescribed interest rates) for the purposes of that section

prescribed investor rate, for a multi-rate PIE and an investor, means an applicable tax rate set out in schedule 6, tables 1 and 1B (Prescribed rates: PIE investments and retirement scheme contributions), modified as necessary by section HM 56(2) (Prescribed investor rates: schedular rates) or HM 57B (Prescribed investor rates for new residents)

prescribed period *[Repealed]*

prescribed proportion *[Repealed]*

prescribed rate of interest means the rate of interest declared by regulations made under section RA 21(3) (Regulations) to be the rate applying to employment-related loans

present value (gross), for a life insurer calculating the outstanding claims reserving amount for a claim under an insurance contract, has the meaning given by section EY 24(5) (Outstanding claims reserving amount: non-participation policies not annuities)

present value (net) means—

(a) a present value calculated using the risk-free rate of return as the discount rate, net of tax; but

(b) face value, if the whole discount period is less than a year

price—

(a) is defined in section RD 40(3) (Goods) for the purposes of that section:

(b) is defined in section RD 41(4) (Services) for the purposes of that section:

(c) in sections RD 42 and RD 43 (which relate to goods provided with staff discount), for a registered person who may claim input tax for goods provided to an employee, means the GST-inclusive price

primary producer co-operative company is defined in section CZ 7(4) (Primary producer co-operative companies: 1987–88 income year) for the purposes of that section

principal caregiver is defined in section MC 10 (Principal caregiver) for the purposes of the child tax credit, WFF tax credit, in-work tax credit, and parental tax credit

principal settlor means, for a trust, a settlor whose settlements for the trust are the greatest or greatest equal, by market value

private domestic worker means a person employed by any other person if—

(a) the employer is the occupier, or 1 of the occupiers, of a dwellinghouse or other premises used exclusively for residential purposes; and

(b) the employment is for the performance of work in or about the dwellinghouse or premises or the garden or grounds belonging to the dwellinghouse or premises; and

(c) the employment is not for a business carried on by the employer or an occupation or calling of the employer; and

(d) the employment is not regular full-time employment

private limitation is defined in section DA 2(2) (General limitations)

private or domestic agreement for the sale and purchase of property is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

private use—

(a) for a motor vehicle, is defined in section CX 36 (Meaning of private use):

(b) for the purposes of subpart DG (Expenditure related to use of certain assets), is defined in section DG 4 (Meaning of private use for this subpart)

pro rata cancellation, for shares of the same class in a company, means the cancellation of—

(a) all the shares in the class; or

(b) part only of the shares in the class if the cancellation does not alter any person's voting interest, or market value interest, if a market value circumstance exists at the time in relation to the company, in the company, determined as if no other class of shares existed; or

(c) part only of the shares in the class if the cancellation results from an offer from the company to all shareholders in the class and the resulting cancellation would have met paragraph (b) if each shareholder who received the offer accepted it in full

produce transactions,—

(a) in section CD 33 (Payments corresponding to notional distributions of producer boards and co-operative companies), subpart HE (Mutual associations), and sections OB 73 and OB 74 (which relate to imputation

credit accounts of statutory producer boards), and in the definition of **member** (paragraph (a)), means transactions that—

(i) are between a statutory producer board and its members; and

(ii) involve the acceptance by the board from its members, in terms of the board's primary statutory functions, of produce that is trading stock or goods that are trading stock:

(b) in sections CD 33, OB 78, and OB 79 (which relate to imputation credit accounts of co-operative companies), and in the definition of **shareholder** (paragraph (c)), means transactions that—

(i) are between a co-operative company and its shareholders; and

(ii) involve the acceptance of produce that is trading stock or goods that are trading stock; and

(iii) are purchases or other acquisitions of the produce or goods by the company from its shareholders, if a principal activity of the company involves the acceptance of such produce or goods from its shareholders:

(c) in sections CD 33, OB 78, OB 79, and OB 82, and in the definition of **shareholder** (paragraph (c)), also means transactions that—

(i) are between a co-operative company and its shareholders; and

(ii) involve the supply of produce that is trading stock or goods that are trading stock; and

(iii) are sales or other disposals of the produce or goods by the company to its shareholders, if a principal activity of the company involves the supply of such produce or goods to its shareholders

producer board has the same meaning as **statutory producer board**

profit is defined in section DB 28(6) (Amount from land affected by change and not already in income) for the purposes of that section

profit distribution plan—

(a) means a scheme comprising 1 or more steps undertaken by a company by which it—

(i) notifies some or all of its shareholders that shares are to be issued on a particular date; and

(ii) gives the notified shareholders an option to have some or all of the shares issued to them repurchased by the company:

(b) does not include an issue of shares under an employee share scheme or an exempt ESS

profit participation policy—

(a) means a class of life insurance policy—

(i) that has an asset base; and

(ii) in which each policy provides that the policyholder's entitlement is to an actuarially determined share of the profits of the life insurer's business, relating to the class, that are available to the life insurer for allotment to shareholders or policyholders; and

(iii) in which each policy provides for the transfer from the available profits, for the benefit of the life insurer's shareholders, of an amount equal to a proportion, calculated using a formula, of the policyholder's entitlement to the profits referred to in subparagraph (ii):

(b) includes a class of life insurance policy that substantially meets the requirements of paragraph (a) and that has a guarantee by the life insurer that capital invested will be returned or that a minimum return on capital will be paid, if—

(i) the life insurer has irrevocably chosen that the class be treated as a profit participation policy; and

(ii) the Commissioner receives a notice of the election before the start of the first income year to which it relates:

(c) does not include a life insurance policy that covers life risk and is—

(i) life reinsurance:

(ii) a multiple life policy, as defined in section EY 30(14) (Transitional adjustments: life risk):

(iii) a workplace group policy, as defined in section EY 30(15)

profit-related debenture is defined in section FA 2(4) (Recharacterisation of certain debentures)

profit-sharing arrangement means an arrangement under which—

(a) a person (**person A**) makes specified livestock available, without specifying a fee for doing so, to another person (**person B**) who carries on a business in which the livestock are used; and

(b) any return or compensation that person A receives for making the livestock available depends on the profits of the business; and

(c) person A participates in the profits and losses of the business; and

(d) if a partnership between person A and person B arises, person A is bound by the requirements of the Partnership Law Act 2019 for third parties

project of limited duration is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects)

projected qualifying non-transaction shareholding is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

projected transactions shareholding—

(a) is defined in section CD 34B(7) (Distributions to members of co-operative companies) for the purposes of that section:

(b) is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

property,—

(a) in subpart EE (Depreciation), includes consents granted in or after the 1996–97 tax year under the Resource Management Act 1991:

(ab) in subpart FB (Transfers of relationship property), is defined in section FB 1B(b) (Meaning of settlement of relationship property and property):

(ac) in subpart FC (Distribution, transmission, and gifts of property), is defined in section FC 1(2) (Disposals to which this subpart applies):

(b) in the financial arrangements rules, and in the definitions of **agreement for the sale and purchase**, **forward contract**, **right**, **short-term agreement for sale and purchase**, **short-term option**, and **specified option** does not include a financial arrangement or foreign exchange:

(c) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

proportional debt ratio is defined in section EW 46C (Consideration when debt remitted within economic group) for the purposes of that section

proportional ownership ratio is defined in section EW 46C (Consideration when debt remitted within economic group) for the purposes of that section

proportional-stapling company means a company if—

(a) each share in the company that is not a stapled debt security and not a fixed-rate share (a **participating share**) is stapled to a stapled debt security; and

(b) for each participating share in the company, the amount payable for the issue of its stapled debt security is the same proportion of the available subscribed capital calculated under the slice rule of the participating share as it is for each other participating share

prospecting expenditure—

(a) means expenditure to identify land likely to contain exploitable petroleum deposits or occurrences; and

(b) includes prospecting for petroleum by electrical, geochemical, gravimetric, magnetic, radioactive, seismic, or other geological methods; and

(c) does not include residual expenditure

prospecting permit is defined in section 2 of the Crown Minerals Act 1991

prospective bloodstock breeder is defined in section EC 39B(3) (Stud-founding bloodstock and related terms)

protected Best Start tax credit, for a person, means an amount of family scheme income derived in the way set out in section MG 4 (Person receiving protected Best Start tax credit)

protected family support *[Repealed]*

protected family tax credit, for a person, means an amount of family scheme income derived in the way set out in section MD 14 (Person receiving protected family tax credit)

protective right is defined in section CD 22(9) (Returns of capital: off-market share cancellations) for the purposes of that section

provisional rate is defined in section EE 67 (Other definitions)

provisional tax means an amount payable as provisional tax under the provisional tax rules

provisional tax rules means the provisions listed in section RC 2 (Provisional tax rules and their application)

PSR period is defined in section EY 23 (Reserving amounts for life insurers: non-participation policies)

public authority—

(a) means every department or instrument of the Executive Government of New Zealand; and

(b) includes the Public Trust and the Maori Trustee; and

(bb) includes the New Zealand Lottery Grants Board, the Office of the Clerk of the House of Representatives, the Ombudsman, the Parliamentary Commissioner for the Environment, and the Parliamentary Service; and

(bc) includes the Official Assignee, other than in their capacity as a trustee; and

(c) includes the Christmas Island Phosphate Commission, incorporated in Australia by the Christmas Island Agreement Act 1949 of the Parliament of Australia and continued under the Christmas Island Agreement Act 1958; and

(d) is further defined in section CW 38(6) (Public authorities) for the purposes of that section; and

(e) does not include a mixed-ownership enterprise

public entertainer is defined in section CW 19(3) (Amounts derived during short-term visits) for the purposes of that section

public official *[Repealed]*

public project asset is defined in section FE 4B (Meaning of public project asset, public project debt, and public project participant debt)

public project debt is defined in section FE 4B (Meaning of public project asset, public project debt, and public project participant debt)

public project participant debt is defined in section FE 4B (Meaning of public project asset, public project debt, and public project participant debt)

public purpose Crown-controlled company means—

(a) a company that is listed in schedule 35 (Public purpose Crown-controlled companies); or

(b) a company (the **wholly-owned subsidiary**) that has 100% of its shares owned directly or indirectly by a company that is listed in schedule 35 if the wholly-owned subsidiary's primary purpose is the carrying out of a public policy objective of the Government of New Zealand

public transport fare is defined in section CX 19C (Certain public transport) for the purposes of that section

public unit trust means—

(a) a unit trust that has 100 or more unit holders, treating all associated persons as 1 person, who are—

  (i) unit trust managers who hold units in the ordinary course of their activities in relation to the unit trust; or

  (ii) persons with an interest of 25% or less in the unit trust, treating all associated persons as 1 person; or

  (iii) persons with an interest of 25% or more in the unit trust, treating all associated persons as 1 person, if their interest is 25% or more because of unusual or temporary circumstances, such as the recent establishment or forthcoming termination of the unit trust, and if the unit trust would meet the requirements of any of paragraphs (b), (c), (d), and (e); or

(b) a unit trust whose unit holders are any 1 or more of the following:

  (i) a public unit trust as described in paragraph (a) or this paragraph:

  (ii) a group investment fund:

  (iii) a life insurance company:

  (iv) a superannuation fund:

  (v) a unit trust manager, trustee, or person nominated by the manager or the trustee who holds units in the ordinary course of management activities in relation to the unit trust:

  (vi) a person with an interest of 5% or less in the unit trust, treating all associated persons as 1 person:

  (vii) a person with an interest of 5% or more in the unit trust, treating all associated persons as 1 person, if their interest is 5% or more because of unusual or temporary circumstances, such as the recent

establishment or forthcoming termination of the unit trust, and if the unit trust would meet the requirements of any of paragraphs (a), (c), (d), and (e); or

(c) a unit trust that has less than 100 unit holders if it could reasonably be regarded as a widely-held investment vehicle for direct investment by members of the public despite its number of unit holders or investors; or

(d) a unit trust that has less than 100 unit holders if it has less than 100 unit holders or investors because of unusual or temporary circumstances, such as its recent establishment or forthcoming termination, and if it would otherwise meet the requirements of any of paragraphs (a), (b), (c), and (e); or

(e) a unit trust that has less than 100 unit holders if it could reasonably be regarded as a vehicle mainly for investment by widely-held vehicles for direct investment that are 1 or more of the following:

(i) unit trusts; or

(ii) group investment funds; or

(iii) life insurance companies; or

(iv) superannuation funds; or

(v) portfolio investment entities

QC continuity period is defined in section HA 6(5) (Corporate requirements) for the purposes of that section

QCP transitional process is defined in section HZ 4B(7) (Qualifying companies: transition into partnership)

QCST transitional process is defined in section HZ 4D(4) (Qualifying companies: transition into sole traderships)

qualifying asset is defined in section EZ 28 (Meaning of qualifying asset)

qualifying capital value is defined in section EZ 26 (Meaning of qualifying capital value)

qualifying company is defined in section HA 2 (Meaning of qualifying company)

qualifying company election tax means the amount described in section HA 40 (Liability for qualifying company election tax)

qualifying debenture means—

(a) a debenture issued by a forestry company for an unpaid purchase amount for land acquired by the forestry company from the Crown or the Maori owners or a holding company of the forestry company; or

(b) a debenture issued by a forestry company for capitalised interest derived from a debenture described in paragraph (a); or

(c) a debenture issued by a forestry company for money lent to the forestry company by a holding company for any of the following purposes:

(i) financing expenditure by the forestry company on planting or maintaining trees; or

(ii) meeting administrative overheads, rates, rent, insurance premiums, or other expenses of the same kind; or

(iii) paying interest on money borrowed for the purposes of the forestry business and employed as capital in the business; or

(d) a debenture issued by a forestry company for capitalised interest derived from a debenture described in paragraph (c); or

(e) a debenture issued by a forestry company for capitalised interest derived from a debenture described in paragraph (b) or (d); or

(f) a debenture issued by a Maori investment company to a shareholder of the company or a trustee for a shareholder

qualifying electoral candidate *[Repealed]*

qualifying event *[Repealed]*

qualifying foreign equity investor is defined in section CW 12(4) (Proceeds of share disposal by qualifying foreign equity investor) for the purposes of that section

qualifying improvement is defined in section EZ 27 (Meaning of qualifying improvement)

qualifying non-transaction shares is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

qualifying resident foreign trustee *[Repealed]*

qualifying share premium is defined in section CD 43(28) (Available subscribed capital (ASC) amount) for the purposes of that section

quarantined amount means the amount described in section LK 1(3) (Tax credits relating to attributed CFC income) for the purposes of Part L (Tax credits and other credits)

quarter means a period of 3 consecutive calendar months that ends with the last day of March, June, September, or December

quarterly FDR hedging ratio is defined in section EM 8 (Some definitions) for the purposes of subpart EM (Hedging of currency movements in Australian non-attributing shares and attributing FDR method interests)

R&D expenditure, for a person, means expenditure incurred by the person for goods and services to the extent to which the goods and services relate to research or development and the intellectual property and know-how resulting

from the research or development vests in the person, solely or jointly, but does not include—

(a) expenditure for goods and services to the extent to which they relate to an activity described in schedule 22 (Proscribed R&D activities):

(b) expenditure for goods and services used by the person to—

(i) provide a service of research or development to a person who is in the business of providing services of research or development:

(ii) further another person's research or development activities:

(c) expenditure for which no deduction is available for the income year:

(d) expenditure for or under a financial arrangement:

(e) expenditure for the acquisition or transfer of intangible property, core technology, intellectual property, or know-how

R&D group means a group of entities that meets the requirements of section MX 1(2) (When this subpart applies)

R&D loss tax credit means a credit of tax under subpart MX (Tax credits for R&D tax losses)

R&D material, for a person, means goods or services provided to the person, to the extent to which the goods and services are provided to the person as part of a service of research or development and the intellectual property and know-how resulting from the research or development will vest in the person, solely or jointly, but does not include goods and services to the extent to which they—

(a) relate to activity described in schedule 22 (Proscribed R&D activities):

(b) are used by the person to—

(i) provide a service of research or development:

(ii) further another person's research or development activities

R&D repayment tax means a tax liability payable under section MX 7 (Reinstatement of R&D tax losses and R&D repayment tax)

rail vehicle is defined in section CX 19C (Certain public transport) for the purposes of that section

Railways assets is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation restructure)

Railways assets and liabilities is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation restructure)

Railways liabilities is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation restructure)

Railways vesting is defined in section EZ 68 (Definitions) for the purposes of sections CW 65, EZ 64 to EZ 67, and YC 18C (which relate to New Zealand Railways Corporation restructure)

ratio instalment date means an instalment date of a person who uses a GST ratio for a tax year, and is an instalment date for a payment in relation to which no amount of use of money interest or penalties apply other than a late payment penalty or a shortfall penalty

real property includes a permit as defined in the Crown Minerals Act 1991

rebuilding—

(a) is defined in section CZ 29(5) (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section:

(b) is defined in section CZ 29B (Accommodation expenditure: North Island flooding events) for the purposes of that section:

(c) for the purposes of subpart FP (Tax relief for emergencies), includes—

(i) extending, repairing, improving, subdividing, or converting any land, infrastructure, or other property; and

(ii) rebuilding communities

recognised exchange, at any time,—

(a) means a recognised exchange market in New Zealand or anywhere else in the world that at the time has the features described in paragraphs (c) to (e); and

(b) includes a recognised exchange market that at the time is approved for the purposes of this definition by the Commissioner, having had regard to the features described in paragraphs (c) to (e); and

(c) for the purposes of paragraphs (a) and (b), the first feature is that the exchange market brings together buyers and sellers of shares or options over shares; and

(d) for the purposes of paragraphs (a) and (b), the second feature is that the exchange market involves the listing of prices, whether by electronic media or other means, at which persons are willing to buy or sell shares or options; and

(e) for the purposes of paragraphs (a) and (b), the third feature is that the exchange market provides a medium for the determination of arm's length prices likely to prove fair and reasonable, having regard to—

(i) the number of participants in the market or having access to the market; and

(ii) the frequency of trading in the market; and

(iii) the nature of trading in the market, including how prices are determined and transactions are effected; and

(iv) the potential or demonstrated capacity of a person or persons significantly to influence the market; and

(v) any significant barriers to entry to the market; and

(vi) any discrimination on the basis of quantity bought and sold unless based on the risks involved, the transaction costs, or economies of scale

recognised seasonal employer (RSE) instructions means the recognised seasonal employer (RSE) instructions, certified under section 22(1) of the Immigration Act 2009

recognised seasonal employment scheme *[Repealed]*

recourse property is defined in—

(a) section HB 11(12) (Limitation on deductions by persons with interests in look-through companies) for the purposes of that section:

(b) section HG 11(12) (Limitation on deductions by partners in limited partnerships) for the purposes of that section

recovery—

(a) is defined in section CZ 29(5) (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section:

(b) is defined in section CZ 29B (Accommodation expenditure: North Island flooding events) for the purposes of that section:

(c) for the purposes of subpart FP (Tax relief for emergencies), includes restoration and enhancement

redemption payment means the amount by which a payment made on the redemption of a commercial bill by the person who issued it is more than the money lent to the person, **issue**, in this definition, having the meaning given to it by section 2 of the Bills of Exchange Act 1908

reduced deficit debit *[Repealed]*

redundancy payment *[Repealed]*

refundability cap is defined in section LA 5(5B) (Treatment of remaining credits) for the purposes of that section

refundable tax credit means a tax credit under a provision that is listed in section LA 6(1)(a) to (j) (Remaining refundable credits: PAYE, RWT, and certain other items)

registered as a charitable entity *[Repealed]*

registered bank means a registered bank as defined in section 2 of the Banking (Prudential Supervision) Act 1989

registered person is defined in section 2 of the Goods and Services Tax Act 1985

registered security is defined in section 86F of the Stamp and Cheque Duties Act 1971

regulatory value is defined in section FE 20(2) (Financial value and regulatory value) for the purposes of section FE 19 (Banking group's equity threshold)

reimbursement payment is defined in section CW 35(2) (Personal service rehabilitation payments) for the purposes of that section and sections DF 4, LB 7, and RD 20B (which relate to personal service rehabilitation payments)

reinsurance contract includes—

(a) a cover note:

(b) a renewal of a reinsurance contract

reinsurance grandparenting start day is defined in section EZ 62 (Reinsurance transition: life financial reinsurance may be life reinsurance)

reinvestment profit *[Repealed]*

related is defined in section FH 15(1) (Definitions)

related activity *[Repealed]*

related by employment is defined in section EY 11(14) (Superannuation schemes providing life insurance) for the purposes of that section

related company is defined in section GC 5(5) (Leases for inadequate rent) for the purposes of that section

related employer is defined in section RD 51(6) (Calculation of all-inclusive pay) for the purposes of that section

related-party debt is defined in—

(a) section RF 12H (Meaning of related-party debt) for the purposes of the NRWT rules:

(b) section RF 12H(1), otherwise

related person is defined in section CZ 9B (Available capital distribution amount: 1988 to 2010) for the purposes of that section

relationship agreement, for a person, means—

(a) an agreement for the purpose of Part 6 of the Property (Relationships) Act 1976 that is made on or after 28 July 1983 by the person with another person:

(b) an order under section 25 of the Property (Relationships) Act 1976 that is made by a court on or after 28 July 1983 in relation to the person and another person

relationship period is defined in section MC 11(1) (Relationship periods and entitlement periods) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

relative,—

(a) for the purposes of only this Act, other than in section HC 36 (Trusts and minor beneficiary rule) and the definition of **look-through company**, means a person connected with another person by—

(i) being within the second degree of blood relationship to the other:

(ii) being in a marriage, civil union, or de facto relationship with the other:

(iii) being in a marriage, civil union, or de facto relationship with a person who is within the second degree of blood relationship to the other:

(iv) *[Repealed]*

(v) being the trustee of a trust under which a relative has benefited or is eligible to benefit:

(b) is defined in section HC 36(5) for the purposes of only that section:

(bb) in the definition of **look-through company**, means a person connected with another person by any of the means described in paragraph (a)(i) to (iv):

(c) *[Repealed]*

relevant balance date is defined in section GB 45 (Arrangements involving money not at risk) for the purposes of that section

relevant period is defined in section YC 13(3) (Corporate spin-outs) for the purposes of that section

relinquishment,—

(a) for a petroleum permit, means the abandonment, expiry, forfeiture, revocation, or surrender of the permit otherwise than for a replacement permit; and

(b) for an existing privilege applying to a mining licence under the Petroleum Act 1937, includes the expiry of the initial term without an extension of the initial term or an extension of a specified term

remaining deduction—

(a) is defined in section EJ 4(6) (Expenditure incurred in acquiring film rights in feature films) for the purposes of that section:

(b) is defined in section EJ 5(4) (Expenditure incurred in acquiring film rights in films other than feature films) for the purposes of that section:

(c) is defined in section EJ 8(5) (Film production expenditure for films other than New Zealand films) for the purposes of that section

removal or restoration operations *[Repealed]*

rent is defined in section GC 5(5) (Leases for inadequate rent) for the purposes of that section

repairs, in sections CC 2 (Non-compliance with covenant for repair) and DB 21 (Amounts paid for non-compliance with covenant for repair), includes painting and general maintenance

replaced area fraction is defined in section DO 9 (Meaning of replaced area fraction and diminished value) for the purposes of sections DO 5 and DO 6 (which relate to horticultural plants)

replacement cost is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

replacement employee share scheme is defined in section CE 7D (Meaning of replacement employee share scheme)

replacement ETS unit *[Repealed]*

replacement forest land emissions unit means an emissions unit acquired by a person if—

(a) the person has previously disposed of a post-1989 forest land emissions unit or forest sink emissions unit other than by—

  (i) surrender under the Climate Change Response Act 2002:

  (ii) transfer to the Crown under a forest sink covenant under section 67Y of the Forests Act 1949; and

(b) the person has not since the disposal acquired another emissions unit that replaces the post-1989 forest land emissions unit or forest sink emissions unit

replacement payment, for a returning share transfer, means a payment to a person of an amount that is—

(a) economically equivalent to a dividend or part of a dividend for an original share:

(b) increased by an imputation credit attached to the payment

replacement permit—

(a) means a petroleum permit obtained in whole or part exchange for another petroleum permit over the same or part of the same area; and

(b) includes a sequential series of replacement permits to the extent to which each permit in the series replaces the previous permit in the series

replacement plant, in sections DO 6, DO 7, and DO 9 (which relate to horticultural plants) means a listed horticultural plant that replaces a listed horticultural plant, whether or not it is of the same type of listed horticultural plant

replacement property is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

reportable income is defined in section 22D(3) of the Tax Administration Act 1994, except as provided for in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

reporting bank is defined in section FE 4 (Some definitions) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

reporting standard *[Repealed]*

representative means a person approved by the Commissioner under section 124D of the Tax Administration Act 1994 as a person who acts on behalf of another person in relation to their tax affairs or social policy entitlements and obligations

request, for a mode of communication, has the meaning set out in section 14B of the Tax Administration Act 1994

required interest *[Repealed]*

resale royalty has the same meaning as in section 4 of the Resale Right for Visual Artists Act 2023

research is defined in section DB 35 (Some definitions) for the purposes of that section, section DB 34, and subpart MX (which relate to research and development)

research and development activities *[Repealed]*

research and development activity is defined in section LY 2 (Key terms)

research and development contractor—

(a) means, for a research and development activity and a person (**person A**), another person (the **contractor**) that performs the research and development activity on behalf of person A:

(b) does not include a levy body researcher

research and development loan scheme means the research and development loan scheme established by Ministerial direction to Callaghan Innovation under section 112 of the Crown Entities Act 2004, notice number 2020–go2811

research and development project *[Repealed]*

research and development tax credit means a tax credit under section LY 1 (Research and development tax credits)

resident foreign trustee *[Repealed]*

resident group member is defined in section IQ 2B(9) (Effect of attributed CFC net loss and some FIF net loss from before first affected year) for the purposes of that section and section LK 5B (Credits from tax year before first affected year)

resident imputation subgroup has the meaning given in section FN 8(2) (Trans-Tasman imputation groups and resident imputation subgroups)

resident in Australia, for a company, means being resident under section YD 2(1) (Residence of companies) if Australia were treated as being New Zealand for the purposes of that section

resident in New Zealand and **resident of New Zealand** have the same meaning as **New Zealand resident**

resident mining operator *[Repealed]*

resident passive income—

(a) is defined in section RE 2(1) (Resident passive income); and

(b) unless the context otherwise requires, includes RWT required to be withheld under the RWT rules

residential building *[Repealed]*

residential income is defined in section EL 3 (Definitions for this subpart) for the purposes of subpart EL (Allocation of deductions for excess residential land expenditure)

residential land—

(a) means—

(i) land that has a dwelling on it, unless the land is farmland or is used predominantly as business premises:

(ii) land for which the owner has an arrangement that relates to erecting a dwelling, unless the land is farmland or is used predominantly as business premises:

(iii) bare land that may be used for erecting a dwelling under rules in the relevant operative district plan, unless the bare land is farmland or is used predominantly as business premises; and

(b) includes land that has a dwelling on it, if it is used by a person predominantly as business premises for a business of supplying accommodation and the dwelling is not a main home for the person or 1 or more other persons referred to in section CB 16A(1) (Main home exclusion for disposal within 2 years)

residential land company *[Repealed]*

residential land purchase amount means, in relation to residential land located in New Zealand, an amount paid or payable for the disposal of the land, but excludes a deposit or part payment (the **part-amount**) if deposits and part payments, including the part-amount, total, in aggregate, less than 50% of the purchase price for the land

residential land-rich entity is defined in section EL 3 (Definitions for this subpart) for the purposes of sections EL 16 to EL 19 (which relate to the calculation of interests in interposed entities)

residential land wholly-owned group member *[Repealed]*

residential mortgage backed security *[Repealed]*

residential portfolio is defined in section EL 3 (Definitions for this subpart) for the purposes of subpart EL (Allocation of deductions for excess residential land expenditure)

residential purposes is defined in section CB 18(3) (Residential exclusion from section CB 14) for the purposes of that section

residential rental property is defined in section EL 3 (Definitions for this subpart) for the purposes of subpart EL (Allocation of deductions for excess residential land expenditure)

resident's restricted amalgamation is defined in section FO 3(1) (Resident's restricted amalgamations) for the purposes of the amalgamation rules

residual expenditure means—

(a) expenditure for which a person is allowed a deduction under section DB 33 (Scientific research):

(b) expenditure incurred for—

(i) an application fee payable to the Crown for a petroleum permit, exploration permit, mining permit, or prospecting permit; or

(ii) insurance premiums, royalties paid under the Petroleum Act 1937 or the Crown Minerals Act 1991, land tax under the Land Tax Act 1976, or rates; or

(iii) a lease of land or buildings; or

(iv) a financial arrangement to which the old financial arrangements rules apply:

(c) interest

residual income tax, for a person and for a tax year, means the positive amount, if any, that remains after subtracting from the person's income tax liability for the tax year, the following amounts

(a) the amount of any credit allowed against the income tax liability for tax paid by—

(i) a trustee for the person as a beneficiary; or

(ii) an agent for the person as a principal:

(b) the amount of any credit allowed against the income tax liability under—

(i) section LB 1 (Tax credits for PAYE income payments):

(ii) section LB 3 (Tax credits for resident withholding tax):

(iii) section LB 5 (Tax credits for non-resident withholding tax):

(iiib) section LB 6 (Tax credits for RSCT):

(iiibb) section LB 6B (Tax credits for RLWT):

(iiic) section LC 13 (Tax credits for independent earners):

(iv) section LE 1 (Tax credits for imputation credits):

(v) *[Repealed]*

(vb) *[Repealed]*

(vi) section LJ 2 (Tax credits for foreign income tax):

(vii) section LK 1 (Tax credits relating to attributed CFC income):

(viii) section LK 6 (Use of tax credits by group companies):

(ix) section LO 1 (Tax credits for Maori authority credits):

(x) section LY 1 (Research and development tax credits):

(c) the amount of any credit allowed against the income tax liability arising under subpart LP (Tax credits for supplementary dividends), other than through section LP 3(3) (Use of remaining credits)

(d) *[Repealed]*

(e) *[Repealed]*

(f) *[Repealed]*

resource consent means a resource consent as defined in section 2(1) of the Resource Management Act 1991

restitution is defined in section DB 44(3) (Restitution of stolen property) for the purposes of that section

retained earnings *[Repealed]*

retirement savings scheme for a person means an entity eligible under section RH 3 (Retirement savings schemes)

retirement scheme contribution is defined in section RH 2 (Retirement scheme contributions)

retirement scheme contributor means an entity eligible under section RH 4 (Retirement scheme contributors)

retirement scheme prescribed rate, for a person and a retirement scheme contribution made for the person at a time in an income year, means a rate set out in schedule 6, table 2 (Prescribed rates: PIE investments and retirement scheme contributions)

return, for a person's income, has the same meaning as **return of income**

return of income means a return of income required under section 33 of the Tax Administration Act 1994

returning share transfer means an arrangement—

(a) under which—

(i) a share (the **original share**) is transferred from a share supplier to a share user; and

(ii) it is conditionally or unconditionally agreed that the share user or an associated person pays a replacement payment to the share supplier or an associated person, if a dividend is payable on the original share; and

(iii) it is conditionally or unconditionally agreed that the original share or an identical share may be transferred from the share user to the share supplier or an associated person; and

(b) that is not a warrant or instalment receipt

revenue account property, for a person, means property that—

(a) is trading stock of the person:

(b) if disposed of for valuable consideration, would produce income for the person other than income under section EE 48 (Effect of disposal or event), FA 5 (Assets acquired or disposed of after deductions of payments under lease), or FA 9 (Treatment when lease ends: lessee acquiring asset):

(c) is an emissions unit of the person:

(d) is a greenhouse gas unit that is not an emissions unit

right, in sections EW 32 (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) and EW 34 (Consideration in foreign currency), and in the definitions of **short-term agreement for sale and purchase** and **short-term option**,—

(a) means—

(i) a right to possess the property; or

(ii) a right to income derived from the property; or

(iii) a right to control or influence the disposal of income derived from the property; or

(iv) a right, directly or indirectly, to make a decision about the property; or

(v) a right, directly or indirectly, to influence a person making a decision about the property; or

(vi) any other right of a substantially similar nature; and

(b) does not include the mere right to enforce an agreement for the sale and purchase of property or services or a specified option

right in the specified property is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

right to take timber includes an easement or licence or right of taking profits or produce from the land to the extent to which the easement, licence, or right relates to timber

rights date means, for an agreement for the sale and purchase of property or services, the date on which the first right in the property is transferred or the services are provided

ring-fenced tax loss means an amount referred to in section IA 7 (Restrictions relating to ring-fenced tax losses)

RLWT means residential land withholding tax and refers to an amount payable under the RLWT rules

RLWT certificate of exemption means a certificate of exemption issued by the Commissioner under section 54E of the Tax Administration Act 1994

RLWT rules means—

(a) sections LA 4, LA 6, and LB 6B (which relate to tax credits for RLWT); and

(b) subpart RL (Residential land withholding tax); and

(c) sections 54B, 54C, 54D, and 54E, and Part 9 of the Tax Administration Act 1994

RMBS special purpose vehicle *[Repealed]*

rolling average value is defined in section EZ 4(5) (Valuation of livestock bailed or leased as at 2 September 1992) for the purposes of that section

routine government action *[Repealed]*

royalty is defined in section CC 9(2) and (3) (Royalties)

RSCT means retirement scheme contribution tax

RSCT rules is defined in section RH 1 (RSCT rules and their application)

rules is defined in section RE 10C(2B) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section

RWT means resident withholding tax and refers to an amount payable as income tax under the RWT rules

RWT-exempt status means the status of an eligible person under section RE 27 (RWT-exempt status) relating to the treatment of resident passive income derived by the person

RWT exemption certificate *[Repealed]*

RWT proxy is defined in section 124ZF of the Tax Administration Act 1994

RWT rules means the provisions listed in section RE 1(1) (RWT rules and their application)

RWT substitution payment means an RWT substitution payment described in section RE 2(7) (Resident passive income)

RWT withholding certificate means a form provided under section 26C of the Tax Administration Act 1994

salary or wages—

(a) is defined in section RD 5 (Salary or wages):

(b) is further defined in schedule 28, clause 7 (Requirements for complying fund rules) for the purposes of that schedule

savings component means,—

(a) for a premium paid under a life insurance policy, the actuarially determined amount of the premium that is like the policyholder making an investment and is accounted for as increasing policyholder liabilities:

(b) for a claim payable under a life insurance policy, the actuarially determined amount of the claim that is like the policyholder withdrawing an investment and is accounted for as reducing policyholder liabilities

savings product policy means a life insurance policy, other than an annuity, that may or may not have a life risk component and that has or will have a surrender value which—

(a) is greater than zero; and

(b) does not arise wholly from the payback of some or all of a policyholder's premiums relating to life risk

schedular income means income of any of the following types:

(a) schedular policyholder base income:

(b) *[Repealed]*

(c) *[Repealed]*

(d) category A income derived by a trustee of a group investment fund:

(db) income derived by a multi-rate PIE:

(dc) attributed PIE income derived by natural person who is an investor in a multi-rate PIE:

(e) income derived by a portfolio tax rate entity:

(f) non-resident passive income of the kind referred to in section RF 2(3) (Non-resident passive income):

(g) income to which section YD 6 (Apportionment of income from sea transport) applies:

(h) *[Repealed]*

(i) income to which section YD 8 (Apportionment of premiums derived by non-resident general insurers) applies:

(j) income under section CR 3B (Lloyd's of London: income from life insurance premiums):

(k) income to which section GB 3BAB (Arrangements to inject income into companies carrying forward loss balances) applies:

(l) income to which section RD 20B (Treatment of certain support payments made for period of more than 1 year) applies:

(m) income to which section RD 20C (Payments of recalculated main benefit) applies:

(n) income to which section HC 35 (Beneficiary income of minors) applies:

(o) income to which section HC 38 (Beneficiary income of certain close companies) applies

schedular income tax liability means the amount determined under section BC 7 (Income tax liability of person with schedular income)

scheduled overhaul period, for an aircraft engine and an aircraft and an operator of the aircraft, means the maximum permitted interval between successive aircraft engine overhauls of the aircraft engine that the operator is required to perform

schedular payment is defined in section RD 8 (Schedular payments)

schedular policyholder base income means schedular policyholder base income described in section EY 2(3) (Policyholder base)

schedular taxable income, for a tax year and a person who has schedular income of a particular kind for the tax year, means the amount of taxable income that the person has in calculating the schedular income tax liability for the kind for the tax year

scientific or technological uncertainty *[Repealed]*

seal and abandonment means the seal and abandonment of an exploratory well when a petroleum miner files a statutory declaration with the Commissioner stating that the miner has no intention of utilising the well in petroleum mining operations or of applying for a petroleum mining permit in relation to the area in which the well is located

second payment period means the period starting on the 16th day of a month and ending with the last day of the month

section 200 is defined in section CZ 7(4) (Primary producer co-operative companies: 1987–88 income year) for the purposes of that section

secured amounts—

(a) is defined in section HB 11(12) (Limitation on deductions by persons with interests in look-through companies) for the purposes of that section:

(b) is defined in section HG 11(12) (Limitation on deductions by partners in limited partnerships) for the purposes of that section

secured arrangement,—

(a) in the financial arrangements rules, and in the definitions of **security arrangement** and **security payment**, means an arrangement whose nonperformance is secured against by a financial arrangement:

(b) is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

securitisation entity means—

(a) a securitisation entity as defined for or in the OECD's publication *Tax Challenges Arising from the Digitalisation of the Economy – Consolidated Commentary to the Global Anti-Base Erosion Model Rules* or any replacement:

(b) a securitisation trust:

(c) a debt funding special purpose vehicle

securitisation trust, for an income year, means a trust that, from the establishment of the trust to the end of the relevant income year, only has one beneficiary and that beneficiary is a company, and at all times during the income year—

(a) operates to do 1 or more of the following:

(i) guarantee liabilities of a financial institution (**person A**), who transferred some or all of their assets to the trust:

(ii) guarantee liabilities of a company, incorporated in and resident in New Zealand, that is a member of a wholly-owned group of companies that includes person A:

(iii) raise funds by issuing securities backed by its assets:

(iv) raise funds by borrowing money backed by its assets; and

(b) has interests in assets for the sole purpose of carrying out the trust's operations described in paragraph (a); and

(c) receives only funds that—

(i) are used to acquire assets as described in paragraph (b):

(ii) are derived from assets described in paragraph (b):

(iii) are incidental to the trust's sole purpose described in paragraph (b); and

(d) derives no exempt income; and

(e) is a New Zealand resident; and

(f) meets at least one of the following requirements:

(i) the beneficiary of the trust is a lending person:

(ii) the trust has its assets included in financial statements that are prepared using IFRSs

securitisation trust beneficiary means a beneficiary of a securitisation trust

security arrangement,—

(a) except in the old financial arrangements rules, means a financial arrangement that secures a party against another person failing to perform the person's obligations under a secured arrangement:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

security payment,—

(a) in the financial arrangements rules, means money received by a party to a security arrangement to the extent to which—

(i) the money is received for a loss incurred because of non-performance of the secured arrangement; and

(ii) the money is income of the party:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

segment of foreign-sourced income is defined in section LJ 4 (Meaning of segment of foreign-sourced income) for the purposes of Part L (Tax credits and other credits)

selected period is defined in section MF 1(3) (Application for payment of tax credit by instalment) for the purposes of that section

self-assessed adverse event, for a person and a farming, agricultural, or fishing business of the person, means an event that—

(a) is 1 of the following:

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

(ii) disease or sickness of livestock; and

(b) materially affects the business; and

(c) is described, together with the effect on the business, by the person in a statutory declaration given to the Commissioner

self-remission means, for a person,—

(a) for the purposes of section EW 31(11) (Base price adjustment formula), a remission amount for a financial arrangement under which, and to the extent to which, because of the operation of section HB 1 or HG 2 (which relate to LTCs and partnerships), the person is also liable as debtor in their capacity of owner or partner

(b) *[Repealed]*

separated person, in subparts MA to MG and MZ (which relate to tax credits for families), and in the definitions of **spouse** and **civil union partner**, means a person who is separated and living apart from their spouse or civil union partner, whether under an agreement for separation, or under a court order, or otherwise

services,—

(a) in sections CD 5 (What is a transfer of company value?) and EA 3 (Prepayments) means anything that is not goods, money, or a chose in action:

(b) in sections CX 1 (Goods and services tax), section FH 5 (Payments by New Zealand resident or New Zealand deducting branch producing deduction without income), DB 2 (Goods and services tax), and GB 54 (Arrangements involving establishments), GB 56 (Arrangements involving research and development tax credits), subpart LY, and section YD 4B (Meaning of permanent establishment), and in the definitions of **R&D expenditure** and **R&D material**, means anything that is not goods or money, as each of those terms is defined in section 2 of the Goods and Services Tax Act 1985

settlement—

(a) means—

(i) an act or failure to act on the part of a person that has the effect of making the person a settlor; or

(ii) a transaction or series of transactions that a person enters into and that has the effect of making the person a settlor; and

(b) includes a settlement that a person is treated as making because the person is treated as being a settlor of the settlement; but

(c) in the definition of **principal settlor**, does not include either services provided to a trust for less than market value, or a transfer of value except if that value is transferred by 1 or more of the following:

(i) a beneficiary:

(ii) a trustee:

(iii) a person with power of appointment or removal of trustees:

(iv) a person with a contingent interest in the trust property, in the case that the trust fails:

(v) a decision-maker under the trust

settlement instruction is defined in section RE 10C(2B) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section

settlement of relationship property is defined in section FB 1B(a) (Meaning of settlement of relationship property and property) for the purposes of subpart FB (Transfers of relationship property)

settlement of relationship property *[Repealed]*

settlement of relationship property *[Repealed]*

settlement system is defined in section RE 10C(2B) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section

settlor,—

(a) is defined in section HC 27 (Who is a settlor?):

(b) in sections HC 36 and HC 37 (which relate to minor beneficiaries), has the meaning given in paragraph (a), with the following qualifications:

(i) in section HC 27(2) if the transfer of value is the provision of financial assistance by way of a loan for less than market value, it means loans existing on or after 1 April 2002 for which the interest rate on the amount borrowed is at any time during a tax year less than the interest rate set out in the Income Tax (Fringe Benefit Tax, Interest on Loans) Regulations on 31 March of the previous tax year; and

(ii) in section HC 27(2) the transfer of value does not include the provision of financial assistance by way of a guarantee that was not called on or the provision of security that was not called on; and

(iii) in section HC 27(2) the transfer of value does not include services that are incidental to the operation of the trust, such as bookkeeping or accounting services or those provided in being a trustee:

(c) has the meaning given in paragraph (a) modified by section YB 10 (Who is a settlor?) for the purposes of sections YB 7 to YB 9 (which relate to associated persons)

share—

(a) includes any interest in the capital of a company:

(b) includes a debenture to which section FA 2 (Recharacterisation of certain debentures) applies:

(bb) includes a stapled debt security to which section FA 2B(2) (Stapled debt securities) applies:

(c) includes a unit in a unit trust:

(d) includes an investor's interest in a group investment fund if—

(i) the fund is not a designated group investment fund; and

(ii) the interest does not result from an investment from a designated source; and

(iii) the investor's interest does not result from an investment made in the fund on or before 22 June 1983, including an amount treated as invested at that date as **pre-1983 investments** under section HR 3(8) (Definitions for section HR 2: group investment funds):

(e) does not include a withdrawable share in a building society, except in the definitions of **investment society dividend** and **withdrawable share**:

(f) *[Repealed]*

(g) is further defined in section CW 26F (Meaning of share) for the purposes of section CW 26C (Meaning of exempt ESS)

share-lending arrangement means an arrangement, entered into on or after 1 July 2006, that is a returning share transfer, and—

(a) the agreed term of the arrangement is 1 year or less; and

(b) the terms and conditions of the arrangement, including the share-lending collateral, are ordinary commercial terms and conditions consistent with those that would apply between parties negotiating at arm's length; and

(c) the amount of tax calculated under section RE 17 (Replacement payments under share-lending arrangements) for a replacement payment, if any, is paid; and

(d) the share user disposes of the original share or an identical share to the share supplier during the agreed term of the arrangement, or within a further period allowed by the Commissioner; and

(e) the share user—

(i) agrees to issue, and issues, a credit transfer notice in relation to a dividend paid for the original share:

(ii) establishes and maintains an imputation credit account, if a dividend is payable for the original share during the agreed term of the arrangement

share-lending collateral means an amount, or an adjustment to the amount, that—

(a) is related to the market value of an original share under a share-lending arrangement, and the amount is paid to a person,—

(i) by a share user or an associated person to secure the transfer of the original share to the share user:

(ii) by a share supplier or an associated person for the re-transfer of the original share or an identical share to them; and

(b) is not a replacement payment

share-lending right means, for a share supplier under a share-lending arrangement, a conditional or unconditional right to acquire the original share or an identical share under the share-lending arrangement

share purchase agreement *[Repealed]*

share purchase scheme *[Repealed]*

share reorganisation, in the FIF rules and for a person and an attributing interest in a FIF, means an action of the FIF that causes an increase or reduc-

tion, other than for consideration, of the attributing interests held by persons, including the person, who hold attributing interests in the FIF immediately before the action

share scheme taxing date is defined in section CE 7B (Meaning of share scheme taxing date)

share supplier means a person, described as a share supplier, in the definition of **returning share transfer**, from whom a share user acquires an original share under a returning share transfer

share user means a person, described as a share user in the definition of **returning share transfer**, who acquires an original share under a returning share transfer

shareholder—

(a) includes—

(i) a holder of a share; and

(ii) a member of a company, whether the company's capital is divided into shares or not:

(b) does not include a holder of a withdrawable share in a building society, except in the definitions of **investment society dividend** and **withdrawable share**:

(c) in subparts HA (Qualifying companies (QC)) and OE (Branch equivalent tax accounts (BETA)) and the imputation rules, and in the definition of **shareholder dividend statement**, includes a sharemilker (as defined in section 2 of the Sharemilking Agreements Act 1937), to the extent to which the sharemilker derives payment for produce transactions directly from a co-operative dairy or milk company

shareholder agreement, for a company,—

(a) includes an arrangement to which the shareholders of the company are parties, in their capacity as shareholders; but

(b) does not include an arrangement that is—

(i) the company's constitution:

(ii) the terms of a debt security:

(iii) the terms of the company's shares

shareholder base, for a life insurer, means the base for shareholder income and allowable deductions and to which income of a particular source or nature, and tax credits received are apportioned under section EY 4 (Apportionment of income of particular source or nature, and of tax credits)

shareholder base allowable deductions means shareholder base allowable deductions described in section EY 3(2) (Shareholder base)

shareholder base income means shareholder base income described in section EY 3(1) (Shareholder base)

shareholder decision-making right means a right, carried by a share issued by a company or an option over a share issued by a company, to vote or participate in any decision-making concerning—

(a) a dividend or other distribution to be paid or made by the company, whether on a liquidation of the company or otherwise, excluding decision-making undertaken by directors acting only in their capacity as directors; or

(b) the constitution of the company; or

(c) a variation in the capital of the company; or

(d) the appointment of a director of the company

shareholder dividend statement means a statement required by section 29 of the Tax Administration Act 1994 to be given by a company to a shareholder to whom is paid a dividend referred to in that section

shareholder-employee means a person who receives or is entitled to receive—

(a) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies:

(b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies

shareholder FDP ratio *[Repealed]*

shareholder portion is defined in section GB 52 (Arrangements involving residential land: companies' shares) for the purposes of that section

shareholding is defined in—

(a) section EX 52(15) (Fair dividend rate annual method) for the purposes of that section:

(b) section EX 53(17) (Fair dividend rate periodic method) for the purposes of that section:

(c) section EX 56(19) (Cost method) for the purposes of that section

shares of the same class means any 2 or more shares of a company—

(a) that carry the same shareholder decision-making rights; and

(b) that carry the same rights, in terms of priority, amount payable per share, and otherwise, to be paid profits distributed by the company and distributions of assets of the company on a cancellation of its shares; and

(c) for which either the owner, or the amount paid for the issue, of each share is the same if—

(i) the company gives notice to the Commissioner in a form approved by the Commissioner, that the company chooses to treat the shares as a separate class; and

(ii) the company can at all times from the time of issue of each share identify and distinguish the share from any other shares in the company

shearer means a person who—

(a) undertakes the shearing of sheep, other than in the carrying on of a business by the person; and

(b) is not a person permanently employed on the premises where the shearing shed is situated

shearing shed hand means a person who—

(a) is employed in or about the shearing shed, other than in the carrying on of a business by the person; and

(b) is not—

(i) a shearer:

(ii) a wool classer:

(iii) a person permanently employed on the premises where the shearing shed is situated

short term agreement for the sale and purchase of property is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

short term trade credit is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

short-term agreement for sale and purchase means an agreement for the sale and purchase of property or services of 1 of the following classes:

(a) an agreement under which settlement must take place or the services must be performed on or before the 93rd day after the date on which the agreement is entered into:

(b) if the date on which the agreement is entered into cannot be established, an agreement under which settlement must take place or the services must be performed on or before the 93rd day after the earlier of—

(i) the date on which the buyer first makes a payment to the seller; and

(ii) the date on which the first right in the property is transferred or the services are performed:

(c) if the agreement is continuous and the seller renders periodic invoices for the property or services, an agreement under which settlement must take place or the services must be performed on or before the 93rd day after the date on which each invoice is rendered

short-term bailment is defined in section EC 27 (Some definitions) for the purposes of subpart EC (Valuation of livestock)

short-term charge facility is defined in section CX 25(3) (Benefits provided by charitable organisations) for the purposes of the FBT rules

short-term option,—

(a) in the financial arrangements rules, means a specified option of 1 of the following classes:

(i) an option under which settlement must take place or the services must be performed on or before the 93rd day after the date on which the option is entered into:

(ii) if the date on which the option is entered into cannot be established, an option under which settlement must take place or the services must be performed on or before the 93rd day after the earlier of the date on which the buyer first makes a payment to the seller and the date on which the first right in the property is transferred or the services are performed:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

shortfall penalty is defined in section 3(1) of the Tax Administration Act 1994

sickness, accident, or death benefit fund means a sickness, accident, or death benefit fund that is—

(a) established for the benefit of—

(i) employees; or

(ii) the members of an incorporated society; or

(iii) the surviving spouses and dependants of those employees or members; and

(b) approved by the Commissioner

significant capital activity, in section DO 1(1)(g) (Enhancements to land) and schedule 20 (Expenditure on farming, horticultural, aquacultural, and forestry improvements) and in relation to a farming or agricultural business on land in New Zealand,—

(a) means an activity that enables a change in the nature or character of a farming activity from that undertaken on the land immediately before the change; and

(b) excludes an activity that enables a change in the intensity of a farming practice employed in a farming activity on the land

significant financial hardship *[Repealed]*

slice rule means the rule set out in section CD 23(3) (Ordering rule and slice rule) for calculating the amount of available subscribed capital per share

small business cashflow scheme means the Small Business Cashflow (Loan) Scheme established and administered by the Crown to provide loans to assist

small-to-medium businesses in the circumstances arising from the continuing impact of COVID-19 related measures or circumstances

small-business person is defined in section RC 40 (Some definitions) for the purposes of subpart RC (Provisional tax)

small partnership means a partnership that is not a limited partnership and has 5 or less partners, none of whom are companies or partnerships

small passenger service vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998

social assistance payment is defined in section MA 8 (Some definitions for family scheme) for the purposes of subparts MA to MG and MZ (which relate to tax credits for families)

social assistance suspensory loan is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

sound commercial reason is defined in section EW 26(7) (Change of spreading method) for the purposes of that section.

sound recording is defined in the Copyright Act 1994

source in New Zealand, for income, means a source described in section YD 4 (Classes of income treated as having New Zealand source) and section YZ 1 (Source rule for interest)

special account *[Repealed]*

special corporate entity means—

(a) a Crown Research Institute:

(b) a group investment fund:

(c) a Life Insurance Fund:

(d) an entity that has not issued shares and is engaged mainly in the business of providing life insurance or other insurance to the public:

(e) a local authority:

(f) a public authority:

(g) a State enterprise:

(h) a statutory producer board other than a body that derives only exempt income:

(i) any other statutory body that does not issue shares, if—

(i) the statutory body is established by an Act of the Parliament of New Zealand or by a statute of the legislature, whether federal or state or provincial, of any territory outside New Zealand; and

(ii) the Commissioner, having regard to the terms of the statute by which the body is established, is satisfied that it would be appropriate to treat the body as a special corporate entity for the pur-

poses of those provisions of this Act whose application is dependent on the measurement of voting and market value interests:

(j) any body incorporated under the Incorporated Societies Act 1908, for an income year in which the body on no day in the income year has shares on issue to the members of the body

special excluded depreciable property is defined in section EE 67 (Other definitions)

special excluded depreciable property *[Repealed]*

special home ownership account *[Repealed]*

special rate is defined in section EE 67 (Other definitions)

specified activity *[Repealed]*

specified activity net income *[Repealed]*

specified activity net loss *[Repealed]*

specified base cost for 1983 income year property means the greater of—

(a) the cost price or acquisition value of the property; and

(b) the market value of the property on the last day of the 1982–83 income year

specified insurance premium is defined in section CX 16(3) (Contributions to life or health insurance)

specified lease means a lease of a personal property lease asset if—

(a) the lease is entered into in the period starting on 6 August 1982 and ending on 19 May 1999 and the lease has a guaranteed residual value, or has a term of the lease that is more than 36 consecutive months, or has a term of the lease that is the economic life of the asset because the Commissioner considers that the asset has an economic life of less than 36 months, and—

(i) the lessee becomes the owner of the asset at the end of the term of the lease:

(ii) the lessee has the option to repurchase the asset at the end of the term of the lease at a price that the Commissioner considers will be significantly lower than the market value of the asset at the end of the term of the lease:

(iii) the total of all personal property lease payments and the guaranteed residual value is more than or equal to, or to a small extent less than, the cost price of the asset:

(iv) the lessor and the lessee agree that the lessee is liable for the payment of all, or nearly all, expenditure incurred for the costs of repair and maintenance of the asset and any other incidental costs arising during the term of the lease for the use of the asset:

(b) the lease is entered into in the period starting on 6 August 1982 and ending on 19 May 1999 and the lessee acquires ownership of the asset by any means, whether from the lessor or another person:

(c) the lease is entered into in the period starting on 28 October 1983 and ending on 19 May 1999 and—

(i) a person other than the lessee acquires the asset; and

(ii) the lessee and the person who acquires the asset are associated

specified livestock—

(a) means an animal of a type specified in schedule 17, column 1 (Types and classes of livestock); and

(b) does not include an animal that is high-priced livestock, except as provided in section EC 37 (Bailment)

specified living allowance *[Repealed]*

specified mineral *[Repealed]*

specified operator is defined in section RE 10C(2B) (Obligations of custodial institutions in relation to certain payments of investment income) for the purposes of that section

specified option,—

(a) in the financial arrangements rules,—

(i) means an option to acquire or dispose of property or services; and

(ii) includes an agreement for the sale and purchase of property or services entered into as a result of the exercise of the option:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

specified period,—

(a) is defined in section EH 36 (Other definitions) for the purposes of the main income equalisation scheme:

(b) *[Repealed]*

(c) is defined in section EH 79 (Other definitions) for the purposes of the thinning operations income equalisation scheme

spouse, in subparts MA to MG and MZ (which relate to tax credits for families), and in the definitions of **entitlement period**, **full-time earner**, and **separated person**, does not include a separated person

spreading method means a method listed in section EW 14(2) (What spreading methods do)

stallion means a stallion that is bloodstock

standard accounting year has the meaning given in section YE 1(4) (References to balance dates and years)

standard balance date has the meaning given in section YE 1(4) (References to balance dates and years)

standard-cost household service means a service that is a standard-cost household service under a determination made by the Commissioner under section 91AA of the Tax Administration Act 1994

standard dividend means a dividend derived from a company by a shareholder in the form of—

(a) money; or

(b) the release of an obligation to repay an amount lent; or

(c) a distribution of property of the company; or

(d) a taxable bonus issue

standard income year is defined in section YE 1(4) (References to balance dates and years)

standard value, for non-specified livestock, means the value set under section EC 29 (Determining standard values)

standing timber includes trees that would be standing timber if they were mature trees

stapled, for a debt security and a share, is defined in section FA 2B(5) (Stapled debt securities)

stapled debt security means a debt security that is stapled to a share, if the share is not a fixed-rate share

starting date *[Repealed]*

State enterprise means a person specified in schedule 36, part A (Government enterprises)

statutory producer board means—

(a) a body specified in schedule 37 (Statutory producer boards):

(b) a marketing authority as defined in the Primary Products Marketing Act 1953 that is established by regulations made under that Act:

(c) a primary producer board or marketing board established by an Act

statutory trustee company means a trustee company defined in section 2 of the Trustee Companies Act 1967

straight-line equivalent method is defined in section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section

straight-line method, for depreciation, is defined in section EE 67 (Other definitions)

straight-line rate is defined in section EE 67 (Other definitions)

structured arrangement is defined in section FH 15(1) (Definitions)

student accommodation—

(a) means commercial boarding premises used to provide accommodation for students enrolled at a registered school, or premises described in section 5B of the Residential Tenancies Act 1986; and

(b) includes premises described in section 5B of the Residential Tenancies Act 1986 even if they are used mainly for the accommodation of students, but not exclusively for the accommodation of students

stud-founding bloodstock is defined in section EC 39B(1) (Stud-founding bloodstock and related terms)

subsidised transport means the provision of transport or an entitlement to transport to an employee by the employer, or by a company (the **group company**) in the same group of companies as the employer, in a quarter, or an income year if section RD 60 (Close company option) applies, if—

(a) the employer or group company carries on a business consisting of, or including, transporting the public for hire or reward; and

(b) the employer or group company provides the transport or the entitlement to the employee in the course of transporting the public; and

(c) the transport or entitlement is not transport in a motor vehicle; and

(d) the amount, if any, the employee pays is less than the highest amount the employer or group company charges the public, in the quarter or income year in which the provision to the employee occurs, for transport that is equivalent in terms of class, extent, and occasion to the transport or entitlement the employer or group company provides to the employee

subsidy claim form *[Repealed]*

substantial business assets is defined in section GB 28(6) (Interpretation of terms used in section GB 27) for the purposes of section GB 27 (Attribution rule for income from personal services)

substituting debenture *[Repealed]*

superannuation category 1 scheme means a scheme or fund that was at the relevant time a superannuation category 1 scheme under the Income Tax Act 1976

superannuation category 2 scheme means a scheme or fund that was at the relevant time a category 2 scheme under the Income Tax Act 1976

superannuation category 3 scheme means a scheme or fund that was at the relevant time a superannuation category 3 scheme under the Income Tax Act 1976

superannuation contribution—

(a) means a disposition of property to or for the benefit of a superannuation scheme in consideration for which fully adequate consideration in money or money' worth does not pass from the scheme to a person; and

(b) does not include a benefit that may pass from the scheme to a person under the terms of the scheme

superannuation fund means—

(a) a retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013); and

(b) for a retirement scheme that is a trust, the trustees of the retirement scheme

superannuation policy is defined in section DZ 2(3) (Life insurers acquiring property before 1 April 1988) for the purposes of that section and section EZ 1 (Life insurers acquiring property before 1 April 1988)

superannuation savings scheme means all the entitlements and tax credits arising under subpart MK (Tax credits for KiwiSaver schemes and complying superannuation funds)

superannuation scheme—

(a) means—

(i) a trust or unit trust established by its trust deed mainly for the purposes of providing retirement benefits to beneficiaries who are natural persons or paying benefits to superannuation funds; or

(ii) *[Repealed]*

(iii) a company that is not a unit trust, is not resident in New Zealand, and is established mainly for the purpose of providing retirement benefits to members or relatives of members who are natural persons; or

(iv) an arrangement constituted under an Act of the Parliament of New Zealand, other than the New Zealand Superannuation and Retirement Income Act 2001, mainly for the purpose of providing retirement benefits to natural persons; or

(v) an arrangement constituted under the legislation of a country, territory, state, or local authority outside New Zealand mainly for the purpose of providing retirement benefits to natural persons other than retirement benefits resembling New Zealand superannuation; and

(b) for a superannuation scheme that is a trust, means the trustees of the scheme

supplement, for a provision in Part D (Deductions) means to allow a person a deduction without requiring them to satisfy the general permission

supplementary dividend, for a company and for a person deriving a dividend (the **first dividend**) from the company, means a dividend that—

(a) is paid by the company in the same income year as the first dividend; and

(b) is paid in relation to the first dividend; and

(c) is derived by the person; and

(d) is equal in amount to the tax credit calculated, for the first dividend, under section LP 2(2) (Tax credits for supplementary dividends)

supplementary dividend holding company *[Repealed]*

supply is defined in section GC 14 (Definitions for sections GC 6 to GC 13) for the purposes of sections GC 6, GC 9 and GC 10 (which relate to transfer pricing arrangements)

supplying shareholder is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

supporting asset base is defined in section EY 17 (Policyholder base income: profit participation policies)

supporting research and development activity is defined in section LY 2 (Key terms)

surplus assessable income is defined in section FH 15(1) (Definitions)

surrender, for an emissions unit, means surrender as defined in section 4(1) of the Climate Change Response Act 2002

surrender value means the amount paid (the **surrender amount**) when a life insurance policy is cancelled before it reaches the maturity or expiry date contracted for under the policy, excluding an amount that is the repayment of unexpired premiums. There is no netting off against the surrender amount of unpaid premiums, outstanding loans, or interest balances (the **debt obligations**) owed by an insured unless the policy is terminated by the insurer and the debt obligations are greater than the surrender amount

suspended recovery income is defined in section FP 3 (Definitions for the purposes of subpart FP) for the purposes of subpart FP (Tax relief for emergencies)

systematic, investigative, and experimental activities *[Repealed]*

tax means income tax, but in the provisions in which the term "income tax" has an extended or limited meaning, "tax" has a corresponding meaning

tax account with the Commissioner, for a person, means an account dealing with the person's transactions with the Commissioner in relation to income tax

tax advantage, in sections GB 35 and GB 36 (which relate to imputation arrangements to obtain a tax advantage), GB 42 and GB 43 (which relate to Maori authority credit arrangements to obtain a tax advantage) and sections OB 61, OC 28, OD 21, and OK 20 (which relate to memorandum accounts), means—

(a) the allowance, wholly or partly, of a tax credit under section LE 1 (Tax credits for imputation credits):

(b) *[Repealed]*

(c) *[Repealed]*

(d) the allowance, wholly or partly, of a tax credit under section LO 1 (Tax credits for Maori authority credits):

(e) the arising of a credit to an imputation credit account under sections OB 4 to OB 29 (which relate to credits arising to imputation credit accounts):

(f) *[Repealed]*

(g) the arising of a credit to a Maori authority credit account under sections OK 2 to OK 9 (which relate to credits arising to Maori authority credit accounts)

tax agent means a person who is listed as a tax agent under section 124C of the Tax Administration Act 1994

tax avoidance includes—

(a) directly or indirectly altering the incidence of any income tax:

(b) directly or indirectly relieving a person from liability to pay income tax or from a potential or prospective liability to future income tax:

(c) directly or indirectly avoiding, postponing, or reducing any liability to income tax or any potential or prospective liability to future income tax

tax avoidance arrangement means an arrangement, whether entered into by the person affected by the arrangement or by another person, that directly or indirectly—

(a) has tax avoidance as its purpose or effect; or

(b) has tax avoidance as 1 of its purposes or effects, whether or not any other purpose or effect is referable to ordinary business or family dealings, if the tax avoidance purpose or effect is not merely incidental

tax-base property is defined in section FC 1(2) (Disposals to which this subpart applies) for the purposes of subpart FC (Distribution, transmission, and gifts of property)

tax charity is defined in section CW 41(5)

tax code, for an employee, means the employee's tax code under section 24B of the Tax Administration Act 1994

tax credit—

(a) is defined in section LA 10 (Meaning of tax credit):

(b) is defined in section GA 1(7) (Commissioner's power to adjust) for the purposes of that section

tax credit advantage—

(a) is defined in section GB 36(5) (Reconstruction of imputation arrangements to obtain tax advantage) for the purposes of that section:

(b) is defined in section GB 43(5) (Reconstruction of Maori authority credit arrangements to obtain tax advantage) for the purposes of that section

tax credit income is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

tax credit quarter is defined in section MH 2 (Some definitions) for the purposes of subpart MH (FamilyBoost tax credits)

tax credit year is defined in section MK 1(5) (Tax credits for superannuation contributions) for the purposes of subpart MK (Tax credits for KiwiSaver schemes and complying superannuation funds)

tax file number means an identification number that the Commissioner has allocated to a person—

(a) generally for the purposes of this Act; or

(b) specifically for the purposes of RWT-exempt status under section RE 27 (RWT-exempt status)

tax loss means an amount described in section IA 2(1) (Tax losses) and includes unused tax loss components arising in the current tax year or in an earlier tax year

tax loss component is defined in section IA 2(7) (Tax losses)

tax pooling account is defined in section RP 17B (Tax pooling accounts and their use)

tax position is defined in section 3(1) of the Tax Administration Act 1994

tax situation means, for the purposes of sections HZ 4B, HZ 4D, and HZ 4E (which relate to the transitional provisions for look-through companies), a status, right, obligation, liability, asset, or other thing authorised or arising under, required or imposed by, or necessary to comply with an Inland Revenue Act, and debts payable to the Commissioner

tax withheld means an amount of tax—

(a) withheld from a PAYE income payment under the PAYE rules to the extent to which it is a tax credit under section LB 1 (Tax credits for PAYE income payments):

(b) withheld and paid to the Commissioner under the RWT and NRWT rules to the extent to which it is a tax credit under section LB 3 or LB 5 (which relate to tax credits for passive income):

(c) paid under regulations made under section 225 of the Tax Administration Act 1994

tax year—

(a) means a period starting on 1 April and ending on 31 March:

(b) is defined in section IW 1(6) (Shortfall penalties) for the purposes of that section

taxable activity,—

(a) in the RWT rules and the NRWT rules, is defined in section 6 of the Goods and Services Tax Act 1985, except that section 6(3)(d) does not apply:

(ab) in the provisional tax rules, is defined in section 6 of that Act, except that sections 6(3)(d) and 57(2) do not apply:

(b) is defined in section DB 3(3) (Determining tax liabilities) for the purposes of that section

taxable bonus issue means—

(a) a bonus issue in lieu:

(b) a bonus issue that a company chooses to treat as a dividend under section CD 8 (Elections to make bonus issue into dividend):

(c) in the case of a bonus issue made before the enactment of this Act, a bonus issue that the company chose to treat as a dividend under a provision of an earlier Act corresponding to section CD 8:

(d) a bonus issue that is a dividend under section CD 10 (Bonus issue by foreign unit trust instead of money or property):

(e) a bonus issue that is a share issued under a profit distribution plan

taxable distribution, for a non-complying trust or a foreign trust, is defined in section HC 15 (Taxable distributions from non-complying and foreign trusts)

taxable income means taxable income for a tax year calculated under section BC 5 (Taxable income)

taxable Maori authority distribution is defined in section HF 7 (Taxable Maori authority distributions)

taxable period has the meaning given in section 2(1) of the Goods and Services Tax Act 1985

taxable supply has the meaning given in section 2(1) of the Goods and Services Tax Act 1985

taxation law, in sections EZ 52 (References to new rules include old rules), ZA 3 (Transitional provisions), ZA 4 (Saving of binding rulings), and ZA 5 (Saving of accrual determinations), means—

(a) a provision that is a taxation law under section 91B of the Tax Administration Act 1994:

(b) a provision of the Income Tax Act 1994 or Income Tax Act 2004

taxed CFC connection, for a CFC and a country or territory (the **host country**), means a relationship meeting the following requirements:

(a) the CFC is resident in the host country under section YD 3 (Country of residence of foreign companies); and

(b) there is no other country or territory for which the CFC is—

(i) a resident under the domestic law of the country or territory:

(ii) liable to income tax because of the CFC's domicile, residence, place of incorporation, or centre of management:

(iii) treated as a resident under an agreement with the host country that would be a double tax agreement if it were an agreement between New Zealand and the host country; and

(c) the CFC has no presence outside the host country that is—

(i) a fixed establishment:

(ii) a permanent establishment under an agreement, between another country or territory and the host country, that would be a double tax agreement if it were between New Zealand and the host country; and

(d) the CFC is liable in the host country to tax on its income because of the CFC's domicile, residence, place of incorporation, or centre of management, or there is another foreign company (the **parent company**) that—

(i) wholly owns the CFC under the laws of New Zealand and the host country; and

(ii) has a relationship with the host country meeting the requirements of paragraphs (a) to (c); and

(iii) because of the parent company's domicile, residence, place of incorporation, or centre of management, is liable in the host country to tax on the CFC's income in the same period that the CFC would be liable on its income if it were a company liable for tax

taxed FIF connection, for a FIF and a country or territory (the **host country**), means a relationship meeting the following requirements:

(a) the FIF is resident in the host country under section YD 3 (Country of residence of foreign companies); and

(b) there is no other country or territory for which the FIF is—

(i) a resident under the domestic law of the country or territory:

(ii) liable to income tax because of the FIF's domicile, residence, place of incorporation, or centre of management:

(iii) treated as a resident under an agreement with the host country that would be a double tax agreement if it were an agreement between New Zealand and the host country; and

(c) the FIF has no presence outside the host country that is—

(i) a fixed establishment:

(ii) a permanent establishment under an agreement, between another country or territory and the host country, that would be a double tax agreement if it were between New Zealand and the host country; and

(d) the FIF is liable in the host country to tax on its income because of the FIF's domicile, residence, place of incorporation, or centre of management, or there is a foreign company (the **parent company**) that—

(i) wholly owns the FIF under the laws of New Zealand and the host country; and

(ii) has a relationship with the host country meeting the requirements of paragraphs (a) to (c); and

(iii) because of the parent company's domicile, residence, place of incorporation, or centre of management, is liable in the host country to tax on the FIF's income in the same period that the FIF would be liable on its income if it were a company liable for tax

taxi *[Repealed]*

taxicab *[Repealed]*

taxpayer means a person who is, or may be, liable to perform or comply with an obligation imposed by this Act

technology *[Repealed]*

Te Kōwhatu Tū Moana is defined in section CZ 35(2) (Amounts derived by Te Kōwhatu Tū Moana) for the purposes of that section

telecommunications service means a service, relating to information of any kind including pictures, sound, and data, that is—

(a) the transmission, emission, or reception of such information in analogue or digital code by a technical system using any equipment, including a cable or satellite and associated equipment, for the transmission through any medium of energy in any form, including electric current or electromagnetic radiation:

(b) the transfer or assignment of the right to transmit, emit, or receive such information by a system referred to in paragraph (a):

(c) the provision of access to a global network for the transmission, emission, or reception of such information

temporary building means—

(a) *[Repealed]*

(b) a building that—

(i) is erected at a construction site; and

(ii) is to be demolished or removed on or before the completion of the construction; or

(c) a building that—

(i) was erected, and is used, to house specific plant or machinery; and

(ii) will have to be demolished to remove or replace the plant or machinery

ten percent capital reduction is defined in section CD 22(9) (Returns of capital: off-market share cancellations) for the purposes of that section

term of the lease—

(a) means the period of time from the date on which a lease starts until it ends:

(b) if the term is indefinite, means the period of time during which the lessee is unable, under the lease, to terminate the lease without incurring a penalty:

(c) if 2 or more consecutive leases are treated under paragraph (d)(v) of the definition of **lease** as 1 lease of a personal property lease asset, the term of the lease runs from the start of the first term of the lease to the end of the last of the leases:

(d) is defined in section EZ 8(5) (Premium paid on land leased before 1 April 1993) for the purposes of that section

terminal tax means an amount calculated for a tax year under section BC 8 (Satisfaction of income tax liability)

terminal tax date, for a tax year and a person, means the date determined under section RA 13 (Payment dates for terminal tax) for the payment of terminal tax for the tax year; and if the person does not have terminal tax for the tax year, section RA 13 applies as if the person did have terminal tax for the tax year

terminating share means a share in a building society that is included in a group of shares, if the group is to terminate—

(a) at the end of a period specified on the issue of the shares; or

(b) on the attainment of a result specified on the issue of the shares

territorial authority is defined in section CW 55BC (Water organisations) for the purposes of that section

tertiary education institution means an institution that is—

(a) established or continued under subpart 3 or 4 of Part 4 or Part 4A of the Education and Training Act 2020 and has not been disestablished under that Act; and

(b) not carried on for the private pecuniary profit of any individual

tertiary education subsidiary is defined in section CW 55BA(2) (Tertiary education institutions and subsidiaries) for the purposes of that section

tertiary institution *[Repealed]*

thinning operations is defined in section EH 79 (Other definitions)

thinning operations deposit is defined in section EH 79 (Other definitions)

thinning operations income equalisation account is defined in section EH 79 (Other definitions)

thinning operations income equalisation scheme means the scheme referred to in section EH 1(2)(c) (Income equalisation schemes)

thinning operations maximum deposit is defined in section EH 78 (Meaning of thinning operations maximum deposit)

timber—

(a) is defined in section DP 11(4) (Cost of timber) for the purposes of that section:

(b) includes standing timber in—

(i) section DP 11:

(ii) *[Repealed]*

(iii) section FB 6 (Timber or right to take timber):

(iv) section GC 1 (Certain disposals of trading stock at below market value):

(v) the definition of **dispose**, paragraph (b):

(vi) the definition of **right to take timber**:

(vii) the definition of **trading stock**, paragraph (b)(iv)

time bar means the provisions of sections 108, 108A, and 108B of the Tax Administration Act 1994

time of emigration, for an emigrating company, means—

(a) the time at which the emigrating company starts being treated under a double tax agreement as not being resident in New Zealand, if section FL 3 (Treatment of companies that start being treated as non-resident and their shareholders) applies in relation to the emigrating company; or

(b) otherwise, the time at which the emigrating company becomes a non-resident

time of the disposal, for a disposal of a business or of part of a business, means the date on which the agreement for the disposal is settled by the exchange of the seller's business or part of the business for the buyer's consideration

time of the sale *[Repealed]*

Tokelau International Trust Fund means the trust governed by the Deed concerning the Tokelau International Trust Fund dated 10 November 2004 and signed by Her Majesty the Queen in right of New Zealand and the Government of Tokelau

total group assets, for a New Zealand group, is defined in section FE 16 (Total group assets) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

total group debt, for a New Zealand group, is defined in section FE 15 (Total group debt) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

total group non-debt liabilities is defined in section FE 16B (Total group non-debt liabilities) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

total tax credit, for a person, means the total amount of their tax credits under Part L (Tax credits and other credits)

total taxable supplies is defined in section RC 8(8) (GST ratio method) for the purposes of that section and sections RC 11, RC 16, RC 19, and RC 31 (which relate to the calculation and payment of provisional tax using the GST ratio method)

tracking account *[Repealed]*

tracking associate *[Repealed]*

trade credit is defined in section EZ 48 (Definitions) for the purposes of the old financial arrangements rules

trading stock—

(a) is defined in section EB 2 (Meaning of trading stock) except for the provisions to which paragraphs (ab), (b), and (d) apply:

(ab) in sections CB 2, FE 16, and FO 10 (which apply to livestock), means property that is—

(i) trading stock under section EB 2:

(ii) livestock:

(b) in sections CG 6 (Receipts from insurance, indemnity, or compensation for trading stock), FB 13 (Trading stock), FC 1 (Disposals to which this subpart applies), GC 1 to GC 3 (which relate to the disposal of trading stock for inadequate consideration), and GC 20 and GC 21 (which relate to purchase price allocation),—

(i) includes anything produced or manufactured:

(ii) includes anything acquired for the purposes of manufacture or disposal:

(iii) includes livestock:

(iv) includes timber or a right to take timber:

(v) includes land whose disposal would produce income under any of sections CB 6A to CB 15 (which relate to income from land):

(vi) includes any thing for which expenditure is incurred and which would be trading stock if possession of it were taken:

(vii) does not include a financial arrangement to which the financial arrangements rules or the old financial arrangements rules apply:

(bb) *[Repealed]*

(bc) *[Repealed]*

(c) for the purposes of section GC 1 (Certain disposals of trading stock at below market value), has an expanded meaning as set out in section GC 1(4):

(d) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

trading transactions—

(a) is defined in section CD 34B(8) (Distributions to members of co-operative companies) for the purposes of that section:

(b) is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

transaction shares—

(a) is defined in section CD 34B(5) (Distributions to members of co-operative companies) for the purposes of that section:

(b) is defined in section CZ 41(4) (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section

transfer—

(a) for the purposes of sections HZ 4B and HZ 4D (which relate to the transition of a qualifying company into a partnership or sole tradership), means a sale, purchase, disposal, acquisition, cessation, assumption, discharge, assignment, vesting, divesting, gift, supply, or other transfer in relation to liabilities and assets, and associated legal rights and obligations:

(b) for the purposes of sections OB 6, OB 35, OP 9, and OP 33 (which relate to transfers from and within a tax pooling account), includes a transfer

that occurs upon enforcement of a security interest but does not include a transfer by way of security

transfer amount is defined in section FB 19(3) (Leased assets) for the purposes of that section

transfer of company value is defined in section CD 5 (What is a transfer of company value?)

transfer of value—

(a) *[Repealed]*

(b) means a transfer that occurs when—

(i) person A provides money or money's worth, whether or not convertible into money, to person B; and

(ii) if person B provides any money or money's worth, whether or not convertible into money, to person A as part of the arrangement described in subparagraph (i), the market value of what person A provides is more than the market value of what person B provides; and

(c) includes the release of an obligation that person B has to pay money to person A, either by agreement or operation of law; and

(cb) includes a disposition of property at less than market value; and

(d) **transfers value** has a corresponding meaning

transfer pricing arrangement is defined in section GC 6(2) (Purpose and application of rules and nature of arrangements)

transferee—

(a) is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:

(b) in subpart FB (Transfers of relationship property), for property transferred under a relationship agreement, means the person to whom the property is transferred under the agreement

transferor—

(a) is defined in section CZ 8(2) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:

(b) is defined in section DZ 5(6) (Farm-out arrangements for petroleum mining before 16 December 1991) for the purposes of that section:

(c) in subpart FB (Transfers of relationship property), for property transferred under a relationship agreement, means the person from whom the property is transferred under the agreement

transitional period is defined in section OZ 7 (Memorandum accounts in transitional period) for the purposes of sections OZ 8 to OZ 15

transitional resident is defined in section HR 8(2) (Transitional residents)

transitional year, in relation to provisional tax, means the period for which a person files a return under section 39 of the Tax Administration Act 1994

trans-Tasman imputation group means the group described in section FN 8(1) (Trans-Tasman imputation groups and resident imputation subgroups)

trust, in the definitions of **superannuation scheme** and **unit trust**, does not include the duties incidental to an estate conveyed by mortgage, but with that exception it extends—

(a) to implied and constructive trusts; and

(b) to cases where the trustee has a beneficial interest in the trust property; and

(c) to the duties incidental to the office of—

(i) an administrator within the meaning of the Administration Act 1969; or

(ii) a manager or person authorised to administer the estate of any person under the Protection of Personal and Property Rights Act 1988; or

(iii) a manager of a protected estate appointed under the Protection of Personal and Property Rights Act 1988,—

and **trustee** has a corresponding meaning and includes—

(a) a trustee corporation; and

(b) every other corporation in which property subject to a trust is vested; and

(c) every person who immediately before the commencement of the Trustee Act 1956 was a trustee of the settlement or in any way a trustee under the Settled Land Act 1908

trust rules means—

(aa) section BD 1(4)(c) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income):

(a) *[Repealed]*

(ab) sections CV 13, CW 53, CW 54, CX 58, CX 58B, and CX 59 (which relate to distributions by trusts and amounts derived by trustees):

(b) sections DV 1 to DV 7 (which relate to superannuation funds):

(c) section DV 9 (Trusts):

(d) section GB 22 (Arrangements involving trust beneficiary income):

(e) subpart HC (Trusts):

(f) subpart HZ (Terminating provisions):

(g) sections LE 4 to LE 5 and LO 2 (which relate to tax credits for beneficiary minors):

(gb) the definitions of **look-through company** and **look-through counted owner**:

(gc) section YD 3BA (Country of residence of joint trustees):

(h) sections 43B, 59, 59BA, 59BAB, 59B, 59C, 59D, 59DB, 93B, and 139AC of the Tax Administration Act 1994

trustee,—

(a) for a trust,—

(i) means the trustee only in the capacity of trustee of the trust; and

(ii) includes all trustees, for the time being, of the trust:

(b) includes an executor and administrator:

(c) includes the Public Trust:

(d) includes the Maori Trustee:

(e) for a superannuation scheme that is a trust or that is treated by this Act as a trust, includes a person by whom the investments of the scheme, or a part of the scheme, are managed or controlled:

(f) is defined in section CW 26G (Meaning of trustee) for the purposes of section CW 26C (Meaning of exempt ESS)

trustee income is defined in section HC 7 (Trustee income)

turnover, in subpart EB (Valuation of trading stock (including dealer's livestock)) and section HG 6 (Disposal of trading stock),—

(a) means the total income that a business derives in an income year as a result of trading by that business; and

(b) does not include the value of closing stock

type, in subparts EC (Valuation of livestock) and FB (Transfers of relationship property), and in the definitions of **class** and **herd livestock**, means a category of livestock listed in schedule 17, column 1 (Types and classes of livestock)

UFTC *[Repealed]*

UFTC accounting period *[Repealed]*

ultimate owner of a company means a person—

(a) who has an ownership interest in the company calculated under section FE 2 (When this subpart applies); and

(b) in whom no ownership interest is held by a person who holds an ownership interest in the company of 50% or more

ultimate parent is the company described in section FE 34 (Identifying ultimate parent) for the purposes of subpart FE (Interest apportionment on thin capitalisation)

unclassified benefit is defined in section CX 37 (Meaning of unclassified benefit)

unit holder, for a unit trust, means a person who holds a beneficial interest in the property that is subject to the trust

unit trust—

(a) means a scheme or arrangement that is made for the purpose or has the effect of providing facilities for subscribers, purchasers, or contributors to participate, as beneficiaries under a trust, in income and capital gains arising from the property that is subject to the trust; and

(b) does not include—

(i) a trust for the benefit of debenture holders:

(ii) the Common Fund of Public Trust:

(iii) a group investment fund established by Public Trust:

(iv) the Common Fund of the Maori Trustee:

(v) a group investment fund established under the Trustee Companies Act 1967:

(vi) a friendly society registered under the Friendly Societies and Credit Unions Act 1982:

(vii) a superannuation fund:

(viii) an exempt ESS:

(ix) a fund that meets the requirements of section CW 45 (Funeral trusts):

(x) any other trust of any specified kind that is declared not to be a unit trust for the purposes of section HD 13 (Unit trusts) by the Governor-General by Order in Council (and such an order is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

unit trust manager is defined in section CD 16(4) (Certain dividends not increased by tax credits) for the purposes of that section

unlisted trust is defined in section CD 22(9) (Returns of capital: off-market share cancellations) for the purposes of that section

unlisted widely-held trust means a widely-held trust the units or interests in which are not quoted on the official list of a recognised exchange

unpriced aircraft engine, for a person and an aircraft, means an aircraft engine that the person acquires with the aircraft and that does not have, for the person, a price identified separately from the rest of the aircraft

unrepaid PAYE income overpayment is defined in section RD 8B(3) (Treatment of PAYE-related overpayments)

unsupported child's benefit means any of the following:

(a) an unsupported child's benefit payable under section 46 of the Social Security Act 2018:

(b) unsupported child's benefit equivalent assistance

unsupported child's benefit equivalent assistance means special assistance granted under clause 9 or 12 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an unsupported child's benefit payable under section 46 of the Social Security Act 2018

unused specified activity net loss is the amount of specified activity net loss, under section IZ 1 as that section was immediately before its repeal by section 148 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018, that—

(a) existed at the close of the 2017–18 income year; and

(b) had not been included in the tax loss for the 2017–18 tax year or for an earlier tax year

unwind is defined in section HR 10 (What happens when vehicle stops being transparent debt funding special purpose vehicle?)

utilities distribution assets—

(a) means the property (*for example*: a power pole) used or available to use to distribute, as applicable, electricity, gas, telecommunications services, water, and other goods and services, by a utilities distribution network operator:

(b) does not include property that is a utilities distribution network treated as an item of property separate from the relevant property described in paragraph (a)

utilities distribution network means a network made up of utilities distribution assets

utilities distribution network operator means a person to the extent to which they are, or are associated with:

(a) an electricity distributor under the Electricity Act 1992:

(b) a gas distributor under the Gas Act 1992:

(c) a network operator under the Telecommunications Act 2001:

(d) an operator under the Water Services Act 2021

valuation premiums is defined in section EY 29(7) (Shareholder base other profit: profit participation policies that are new business) for the purposes of that section

variable principal debt instrument,—

(a) in the financial arrangements rules, means a financial arrangement that contemplates that 1 party may, on demand or call,—

(i) advance further amounts to the other party; or

(ii) require the return of all amounts advanced to the other party, if the other party's rights and obligations under the financial arrangement are expressed in a foreign currency:

(b) in the old financial arrangements rules, is defined in section EZ 48 (Definitions)

VCF means the Venture Capital Fund established under section 8 of the Venture Capital Fund Act 2019

venture investment agreement is defined in section CW 13(6) (Proceeds from share or option acquired under venture investment agreement)

Venture Investment Fund *[Repealed]*

veteran's pension means any of the following:

(a) a veteran's pension, other than a portable veteran's pension, paid or payable under Part 6 of the Veterans' Support Act 2014:

(b) veteran's pension equivalent assistance

veteran's pension equivalent assistance means special assistance granted under clause 9 or 10 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a veteran's pension, ignoring paragraph (b) of the definition of **veteran's pension**

volunteer is defined in section CW 62B (Voluntary activities) for the purposes of that section

voting interest—

(a) means, for a person and a company and a time, the percentage voting interest that the person is treated as holding in the company at the time under sections YC 2 to YC 20 (which relate to the measurement of company ownership):

(b) in subpart HA (Qualifying companies (QC)), and in the definition of **effective interest**, is described in section HA 44 (Measuring effective interests):

(bb) means, for a person and a limited partnership that is treated as a company under section YB 14(4) (Tripartite relationship) and a time, and for the purposes of section YB 14, the partnership share the person has in a right, obligation, or other property, status, or thing of that limited partnership:

(bc) means, for a person and a limited partnership that is treated as a company under section YB 16B (Limited partnerships treated as companies) and a time, and for the purposes of sections YB 2 and YB 3 (which relate to associated persons) and YC 4 (Look-through rule for corporate shareholders), the partnership share the person has in a right, obligation, or other property, status, or thing of that limited partnership:

(c) in section YC 13(4) and (5) (Corporate spin-outs), means, for a person and a company and a time, the percentage voting interest that the person is treated as holding in the company under section YC 2 (Voting interests), as modified by section YC 13(7)

water organisation is defined in section CW 55BC (Water organisations) for the purposes of that section and section CW 39 (Local authorities)

water services is defined in section CW 55BC (Water organisations) for the purposes of that section

WFF tax credit means Working for Families tax credit and is defined in section MA 8 (Some definitions for family scheme)

wholly-owned group has the same meaning as **wholly-owned group of companies**

wholly-owned group of companies is defined in section IC 4(1) (Common ownership: wholly-owned groups of companies)

wholly-owned large multinational group means a large multinational group for which a group of persons holds all the ownership interests in each member

widely-held company means, at any time, a company that, at the time,—

(a) has no less than 25 shareholders (treating all associated shareholders as 1 person); and

(b) is not a closely-held company

widely-held GIF means a group investment fund that meets the requirements of—

(a) section HM 14(1) (Minimum number of investors), treating the group investment fund as having 1 investor class consisting of all investors in the fund:

(b) 1 or more of paragraphs (a) and (c) to (e) of the definition of **public unit trust**, treating the group investment fund as a unit trust

widely-held superannuation fund means a superannuation fund that meets the requirements of—

(a) section HM 14(1) (Minimum number of investors), treating the superannuation fund as having 1 investor class consisting of all investors in the fund:

(b) 1 or more of paragraphs (a) and (c) to (e) of the definition of **public unit trust**, treating the superannuation fund as a unit trust

widely-held trust means a unit trust or group investment fund to which 1 of the following applies:

(a) it has at least 100 unit-holders or investors, treating all associated persons as 1 person; or

(b) paragraph (a) does not apply to it but it can still reasonably be regarded as a widely-held investment vehicle for direct investment by the public; or

(c) paragraph (a) does not apply to it but only because of unusual or temporary circumstances, such as the fact that it was recently established or is to be terminated; or

(d) paragraph (a) does not apply to it but it can reasonably be regarded as a vehicle mainly for investment by unit trusts, group investment funds, or superannuation funds that are widely-held vehicles for direct investment

wine is defined in section CV 8 (Regulations: Australian wine producer rebate) for the purposes of that section

withdrawal *[Repealed]*

withdrawable share—

(a) means a share in a building society—

(i) that bears a rate of dividend set on the issue of the share and that is redeemable at the end of a fixed term or at the option of the shareholder; or

(ii) that has been issued under section 31A of the Building Societies Act 1965; or

(iii) that is a terminating share; and

(b) does not include a share in a building society that is irredeemable, or redeemable only at the society's option, on which a dividend is declared and payable from the annual surplus revenue of the building society

withdrawal certificate *[Repealed]*

withdrawal income *[Repealed]*

withdrawal tax *[Repealed]*

withholding tax limitation is defined in section DA 2(5) (General limitations)

working day means any day of the week other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period starting on 25 December in a year and ending on 15 January (both dates inclusive) in the following year

working owner means a person who, in relation to a look-through company that is not wholly or mainly engaged in investing money or in holding, or deal-

ing in, shares, securities, investments, or estates or interests in land, ignoring section HB 1 (Look-through companies are transparent),—

(a) is an owner of the look-through company; and

(b) personally and actively performs duties that—

(i) are required to be performed in carrying on the business of the look-through company; and

(ii) are performed by the person during the currency of, and as required by, a contract of employment

workplace is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects)

workplace group policy is defined in section EY 30 (Transitional adjustments: life risk)

work-related relocation is defined in section CW 17B(4) (Relocation payments)

work-related vehicle is defined in section CX 38 (Meaning of work-related vehicle)

year means a 12-month period

year of payment *[Repealed]*

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

zero-rated investor, for an investor in an investor class of a PIE, means an investor referred to in section HM 57 (Prescribed investor rates for certain investors: 0%).

zero-rated portfolio investor *[Repealed]*

Compare: 2004 No 35 s OB 1

Legislation Act 2019 requirements for secondary legislation made for the definition of unit trust, paragraph (b)(x)

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section YA 1 **5-year test land**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **10-year test land**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **12 month ASAP**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the

2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 144(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **1973 version provisions**: repealed, on 1 April 2010, by section 557(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **1988 version provisions**: repealed, on 1 April 2010, by section 557(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **1990 version provisions**: repealed, on 1 April 2010, by section 557(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **abatement amount**: inserted, on 1 July 2024, by section 16(2) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section YA 1 **abating WFF tax credit**: inserted, on 1 April 2008, by section 550(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **abating WFF tax credit**: amended, on 1 July 2018, by section 23(2) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **ACC**: amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **accident compensation earnings-related payment** paragraph (d): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **accident compensation payment for attendant care**: repealed, on 17 July 2013, by section 98(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **accommodation**: replaced, on 1 April 2015 (applying for the 2015–16 and later income years), by section 144(3) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **accommodation** paragraph (b): amended, on 1 April 2025, by section 134(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **accommodation** paragraph (b): amended (with effect on 8 January 2023), on 28 March 2024, by section 118(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **accounting profits method**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **acquire** paragraph (b): replaced (with effect on 1 April 2015), on 24 February 2016, by section 235(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **acquire** paragraph (bb): inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(2)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **acquire** paragraph (c): amended (with effect on 1 April 2015), on 24 February 2016, by section 235(2)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **acquisition proportion**: inserted, on 30 March 2025, by section 134(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **act together**: inserted, on 1 July 2018, by section 49(2) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **actuarial reserves**: amended, on 1 July 2010, by section 557(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **actuarially determined**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **adjusted value**: inserted (with effect on 1 April 2008), on 28 March 2024, by section 118(4) (and see section 118(54) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **adverse event deposit**: repealed, on 18 March 2019, by section 278(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **adverse event income equalisation account**: repealed, on 18 March 2019, by section 278(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **adverse event income equalisation scheme**: repealed, on 18 March 2019, by section 278(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **adverse event maximum deposit**: repealed, on 18 March 2019, by section 278(5) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **affected area**: inserted (with effect on 8 January 2023), on 28 March 2024, by section 118(5) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **affected class**: inserted, on 1 April 2025, by section 134(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **affected depreciable property**: inserted, on 1 April 2025, by section 134(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **affected depreciation loss**: inserted, on 1 April 2025, by section 134(6) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **affected depreciation recovery income**: inserted, on 1 April 2025, by section 134(7) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **affected improvement to land**: inserted, on 1 April 2025, by section 134(8) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **affected property**: inserted, on 1 April 2025, by section 134(9) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **affected revenue property**: inserted, on 1 April 2025, by section 134(10) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **after-income tax earnings**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **after-income tax loss**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **agricultural, horticultural, or viticultural company**: amended, on 1 April 2017, by section 98(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **agricultural, horticultural, or viticultural company**: amended (with effect on 1 April 2008), on 6 October 2009, by section 557(10) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **AIM-capable accounting system**: inserted, on 1 April 2018, by section 46(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **air transport to New Zealand**: inserted (with effect on 1 April 2008), on 23 March 2020, by section 185(2) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **aircraft engine**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **aircraft engine overhaul**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **airport authority**: replaced, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section YA 1 **amalgamated company**: substituted (with effect on 30 September 2010), on 29 August 2011, by section 130(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **amalgamating company**: substituted (with effect on 30 September 2010), on 29 August 2011, by section 130(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **amalgamation**: substituted (with effect on 30 September 2010), on 29 August 2011, by section 130(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **amortising property** paragraph (b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **amount** paragraph (b)(i): repealed, on 1 April 2024, by section 118(6) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **amount of tax**: amended, on 1 July 2016, by section 50(2) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **amount of tax**: amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 117(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **amount of tax**: amended, on 1 April 2008, by section 550(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **ancillary tax** paragraph (d): amended (with effect on 1 April 2008), on 29 March 2025, by section 134(11) (and see section 134(67) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **ancillary tax** paragraph (e): repealed, on 1 April 2017, by section 288(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **ancillary tax** paragraph (f): repealed, on 1 April 2017, by section 288(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **ancillary tax** paragraph (g): repealed, on 1 April 2017, by section 288(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **ancillary tax** paragraph (hb): inserted, on 1 January 2025, by section 118(7) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **ancillary tax** paragraph (kb): inserted, on 1 April 2008, by section 550(4) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **ancillary tax** paragraph (kc): inserted, on 1 July 2016, by section 50(3) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **ancillary tax** paragraph (n): repealed, on 2 June 2016, by section 71(2) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **annual branch equivalent tax account return**: amended (with effect on 1 July 2012), on 30 March 2021, by section 135(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **annual FDPA return**: repealed, on 1 April 2017, by section 288(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **annual PCA return**: repealed, on 30 March 2017, by section 288(5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **applied global anti-base erosion rules**: inserted, on 1 January 2025, by section 118(8) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **apply**: inserted, on 2 June 2016, by section 71(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **approved AIM provider**: inserted, on 1 April 2018, by section 46(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **approved research and development cap**: inserted, on 1 April 2019, by section 21(2) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **approved research provider**: inserted, on 1 April 2019, by section 21(3) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **arm's length amount**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **arm's length amount**: amended, on 1 July 2018, by section 49(3) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **ask**: inserted, on 2 June 2016, by section 71(3) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **asset**: replaced, on 1 April 2014, by section 127(2) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **asset** paragraph (c): inserted, on 29 March 2018 (with effect on 14 April 2014), by section 243(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **asset** paragraph (d): inserted (with effect on 1 April 2020), on 30 March 2021, by section 135(3) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **asset base**: replaced (with effect on 1 July 2010 and applying for the income year including 1 July 2010 and later income years), on 30 March 2017, by section 288(6) of the Taxation

(Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **asset value**: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 98(4) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **associated, associated person, person associated**: substituted, on 1 April 2010, by section 557(13) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **associated internal software developer**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(7) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **associated mining operations**: amended, on 1 April 2014, by section 127(3) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **associated non-attributing active CFC**: replaced (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(3) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **ASX-listed Australian company**: inserted, on 29 March 2018 (with effect on 1 April 2016), by section 243(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **attributable CFC amount**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(16) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **attributable FIF income method**: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(4) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **attributed PIE income**: inserted, on 1 April 2010, by section 557(17) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **attributed PIE loss**: inserted, on 1 April 2010, by section 557(17) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **attributed repatriation**: repealed, on 24 February 2016, by section 235(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **attribution period**: inserted, on 1 April 2010, by section 557(18) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **Auckland Council**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 134(13) (and see section 134(70) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **Auckland Future Fund**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 134(14) (and see section 134(70) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **Australian complying superannuation scheme**: replaced, on 8 December 2021, by section 135(4) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **Australian ICA company**: replaced (with effect on 15 March 2017), on 31 March 2023, by section 114(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **Australian non-attributing shares**: inserted, on 17 July 2013, by section 98(5) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **authorised investment**: inserted, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section YA 1 **authorised savings institution**: repealed, on 2 June 2016, by section 71(4) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **available tax loss** paragraph (c): added (with effect on 1 April 2008), on 29 August 2011, by section 130(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **available tax loss** paragraph (d): added (with effect on 1 April 2008), on 29 August 2011, by section 130(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **available tax loss** paragraph (d): amended (with effect on 15 April 2020), on 30 April 2020, by section 15(2)(a) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **available tax loss** paragraph (e): inserted (with effect on 15 April 2020), on 30 April 2020, by section 15(2)(b) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **balance date**: amended, on 30 March 2017, by section 288(8) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **balance date**: amended, on 29 August 2011, by section 130(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **basic tax rate** paragraph (a): amended, on 1 April 2008, by section 562 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **basic tax rate** paragraph (a): amended, on 1 April 2008, by section 550(6) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **beneficial interest**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **benefit**: repealed, on 7 November 2015, by section 5(1) of the Income Tax Amendment Act 2015 (2015 No 104).

Section YA 1 **benefit fund PIE**: inserted, on 1 April 2010, by section 557(19) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **best estimate assumptions**: inserted, on 1 July 2010, by section 557(20) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **Best Start credit abatement**: inserted, on 1 July 2018, by section 23(3) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **Best Start tax credit**: inserted, on 1 July 2018, by section 23(4) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **BETA company**: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 132(5) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **boarding establishment**: inserted (with effect on 27 March 2021), on 30 March 2022, by section 171(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **bonus issue**: replaced (with effect on 1 October 2012), on 17 July 2013, by section 98(7) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **boutique investor class**: inserted, on 1 April 2010, by section 557(21) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **boutique investor class** paragraph (d): amended (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 132(3) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **branch equivalent company**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(6) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **branch equivalent income**: amended (with effect on 30 June 2009), on 6 October 2009, by section 557(22) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **branch equivalent loss**: amended (with effect on 30 June 2009), on 6 October 2009, by section 557(23) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **branch equivalent method**: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(7) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **branch equivalent tax account**: replaced, on 1 July 2012 (applying for income years beginning on or after that date), by section 132(8) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **branch mismatch report**: inserted, on 1 July 2018, by section 49(4) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **bribe**: amended, on 7 November 2015, by section 5(2) of the Income Tax Amendment Act 2015 (2015 No 104).

Section YA 1 **bright-line acquisition date**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **bright-line date**: repealed (with effect on 27 March 2021), on 30 March 2022, by section 171(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **bright-line disposal date** and **bright-line date**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **bright-line end date**: inserted, on 1 July 2024, by section 118(9) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **bright-line grandparented home**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **bright-line period**: replaced, on 1 July 2024, by section 118(10) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **bright-line start date**: inserted, on 1 July 2024, by section 118(11) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **build-to-rent land**: inserted (with effect on 1 October 2021), on 31 March 2023, by section 114(3) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **building**: replaced, on 1 April 2024, by section 118(13) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **building**: amended, on 30 March 2025, by section 134(15) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **building**: repealed, on 1 April 2020, by section 29(2) (and see section 29(10) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section YA 1 **bus service**: inserted, on 1 April 2023, by section 114(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **business premises**: replaced (with effect on 27 March 2021), on 31 March 2023, by section 114(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **business premises**: editorial change made by the PCO, on 30 July 2025 under sections 86(1) and 87(l)(iv) of the Legislation Act 2019 (2019 No 58).

Section YA 1 **business premises**: amended, on 30 March 2025, by section 134(16) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **business premises**: amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **business use**: amended (with effect on 1 April 2008), on 29 March 2025, by section 134(17) (and see section 134(67) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **calculation method**: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(9) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **calculation period**: inserted, on 1 April 2010, by section 557(24) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **cancellation**: amended (with effect on 1 April 2008), on 6 October 2009, by section 557(25) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **Canterbury earthquakes**: inserted (with effect on 4 September 2010 and applying for a person's income year that includes that date and for all later income years), on 30 June 2014, by section 144(4) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **capital contribution**: substituted (with effect on 20 May 2010), on 28 May 2010, by section 96(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **capital contribution** paragraph (a): amended (with effect on 1 April 2015), on 30 March 2022, by section 171(8)(a) (and see section 171(48) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **capital contribution** paragraph (a)(i): amended (with effect on 1 October 2010), on 2 November 2012, by section 154(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **capital contribution** paragraph (a)(iii): replaced (with effect on 1 April 2013), on 17 July 2013, by section 98(8) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **capital contribution** paragraph (a)(iii): amended (with effect on 1 April 2015), on 30 March 2022, by section 171(8)(b) (and see section 171(48) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **capital contribution** paragraph (a)(iii): amended, on 1 April 2015, by section 144(5) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **capital contribution** paragraph (a)(iv): replaced (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 98(9) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **capital contribution** paragraph (a)(v): inserted (with effect on 1 October 2010), on 2 November 2012, by section 154(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **capital contribution property**: inserted (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 98(10) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **car** paragraph (b)(iii): amended, on 1 October 2017, by section 110(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section YA 1 **caregiver**: inserted, on 1 July 2024, by section 16(3) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section YA 1 **charitable or other public benefit gift**: amended (with effect on 1 April 2008), on 7 September 2010, by section 117(4) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **charitable or other public benefit gift**: amended, on 6 January 2010, by section 557(26) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **charitable organisation** paragraph (a): amended, on 1 April 2008, by section 550(7) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **charitable organisation** paragraph (ab): inserted (with effect on 14 April 2014 and applying for a person for the 2014–15 and subsequent income years, and for an income year before the 2014–15 income year, but only for the first income year and subsequent income years for which the person files a return of income on the basis that section 144(6) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 applies for the relevant income year), on 30 June 2014, by section 144(6) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **charitable purpose** paragraph (b)(i): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **charitable purpose** paragraph (b)(ii): amended, on 29 March 2018 (with effect on 1 April 2008), by section 243(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **charitable trust**: repealed, on 29 March 2024, by section 118(15) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **chief executive**: amended, on 1 July 2018, by section 23(5) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **chief executive of the administering department** paragraph (a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section YA 1 **chief executive of the administering department** paragraph (a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section YA 1 **child**: amended, on 1 July 2018, by section 23(6) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **child**: amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 117(5) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **child** paragraph (c): amended, on 1 April 2008, by section 550(8) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **child tax credit**: amended, on 1 July 2018, by section 23(7) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **civil union partner**: amended, on 1 July 2018, by section 23(8) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **civil union partner**: amended, on 29 May 2012 (for the purposes of sections LC 4 and LC 5 and schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013), by section 7(2) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **civil union partner**: amended, on 1 April 2009, by section 36(2) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **claim**: amended (with effect on 2 November 2012), on 30 March 2021, by section 135(9) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **class**: amended, on 1 April 2025, by section 134(18) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **class**: amended (with effect on 1 April 2008), on 30 March 2021, by section 135(10) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **class**: amended (with effect on 1 April 2017), on 30 March 2021, by section 135(11) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **class closing animal balance**: inserted (with effect on 28 March 2012), on 17 July 2013, by section 98(11) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **class of policies**: inserted, on 1 July 2010, by section 557(27) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **clean vehicle discount scheme**: inserted (with effect on 1 July 2021), on 22 February 2022, by section 26 of the Land Transport (Clean Vehicles) Amendment Act 2022 (2022 No 2).

Section YA 1 **close company** paragraph (a)(i): replaced, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **close company** paragraph (a)(ii): replaced, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **close company** paragraph (b): repealed (with effect on 1 April 2008), on 30 March 2017, by section 288(9) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **close relative**: replaced, on 1 April 2017, by section 288(10) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **code compliance certificate**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **collection agency**: inserted (with effect on 1 December 2024), on 29 March 2025, by section 134(19) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **combined imputation and CTR ratio**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(10) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **combined imputation and FDP ratio**: repealed, on 1 April 2017, by section 288(11) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **combined tax and earner-related payment** paragraph (b)(iii): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **commercial building**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 132(5) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **commercial fit-out**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 132(6) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **commercial production**: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 127(5) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **common market value interest** paragraph (a): amended (with effect on 1 April 2008), on 30 March 2017, by section 288(12) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **common voting interest** paragraph (a): amended (with effect on 1 April 2008), on 30 March 2017, by section 288(13) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **community housing entity**: inserted (with effect on 14 April 2014), on 30 June 2014, by section 144(7) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **company** paragraph (ab): replaced (with effect on 1 April 2010), on 29 March 2025, by section 134(20) (and see section 134(68) and (71) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **company** paragraph (ab)(ii): amended (with effect on 26 August 2024), on 29 March 2025, by section 134(21) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **company** paragraph (abb): inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(7) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **company** paragraph (abc): inserted, on 29 March 2018, by section 243(6)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **company** paragraph (ac): repealed (with effect on 1 April 2008), on 31 March 2023, by section 114(6)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **company** paragraph (ad): repealed (with effect on 1 April 2008), on 31 March 2023, by section 114(6)(c) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **company** paragraph (c): amended, on 29 March 2018, by section 243(6)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **company** paragraph (k): inserted, on 29 March 2018, by section 243(6)(c) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **company dividend statement**: amended, on 1 April 2020, by section 243(7) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **compensation**: inserted, on 1 April 2025, by section 134(22) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **compensation**: repealed, on 29 May 2012 (for the purposes of sections LC 4 and LC 5 and schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013), by section 7(3) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **competent authority**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 114(7) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **complying fund calculation period**: repealed, on 1 April 2009, by section 56(2) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **complying fund rules**: replaced, on 1 April 2012, by section 13(2) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section YA 1 **complying superannuation fund**: replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section YA 1 **compulsory employer contribution**: inserted, on 1 April 2008, by section 135(2) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section YA 1 **conduct**: repealed, on 1 April 2018, by section 243(8) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **conduit company**: repealed, on 24 February 2016, by section 235(4) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **consideration** paragraph (aa): inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(28) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **consideration** paragraph (a): amended, on 30 March 2017, by section 288(14) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **consideration** paragraph (b)(ii): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(11) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **consolidated BETA group**: repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 132(12) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **consolidated FDP group**: repealed, on 1 April 2017, by section 288(15) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **consumer trust**: inserted, on 27 August 2025, by section 37(2) of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Section YA 1 **contaminant**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section YA 1 **continuity period** paragraph (a): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(12) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **continuity period** paragraph (c): inserted, on 1 April 2019, by section 21(4) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **continuity provisions** paragraph (a): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(13)(a) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **continuity provisions** paragraph (bb): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 243(9) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **continuity provisions** paragraph (d): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(13)(b) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **continuity provisions** paragraph (fba): inserted, on 1 April 2019, by section 21(5) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **continuity provisions** paragraph (fb): inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **continuity provisions** paragraph (h): repealed, on 1 April 2017, by section 288(16) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **continuity provisions** paragraph (i): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 132(13) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **contract of employment**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(8) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **contract payment** paragraph (c): amended, on 1 April 2017, by section 98(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **contractor labour**: inserted (with effect on 1 April 2019), on 30 March 2021, by section 135(14) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **contractor R&D consideration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(6) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **control**: repealed, on 1 April 2010, by section 557(31) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **control group**: inserted, on 1 July 2018, by section 49(5) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **controlled petroleum mining holding company** paragraph (b)(i): replaced, on 1 April 2018, by section 243(10) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **convert**: substituted (with effect on 1 January 2009), on 6 October 2009, by section 557(32) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **convert**: amended, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **convertible credit**: repealed, on 1 April 2017, by section 288(17) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **conveyancer**: inserted, on 1 July 2016, by section 50(5) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **co-owner**: inserted (with effect on 27 March 2021), on 28 March 2024, by section 118(16) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **core research and development activity**: inserted, on 1 April 2019, by section 21(6) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **core technology**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(7) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **corpus**: replaced (with effect on 4 September 2010), on 27 February 2014, by section 127(6) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **corresponding tax year**: inserted, on 1 July 2025, by section 14(2) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section YA 1 **cost** paragraph (a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **cost deductions**: inserted, on 1 April 2025, by section 134(23) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **cost of timber**: substituted (with effect on 1 April 2008), on 7 December 2009, by section 118(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **cost of timber** paragraph (c)(ii): amended (with effect on 1 April 2018), on 18 March 2019, by section 278(6) (and see section 278(42) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **cost print** paragraph (a): amended, on 1 April 2025, by section 134(24) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **cost price** paragraph (a): amended (with effect on 1 April 2008), on 30 March 2021, by section 135(15) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **cost price** paragraph (a): amended (with effect on 1 April 2011), on 30 March 2021, by section 135(16) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **cost price** paragraph (a): amended (with effect on 1 April 2017), on 30 March 2021, by section 135(17) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **council-controlled organisation** paragraph (a)(vii): replaced, on 29 March 2024, by section 118(17) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **council-controlled organisation** paragraph (a)(viii): repealed, on 29 March 2024, by section 118(17) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **council-controlled organisation** paragraph (b): amended, on 2 December 2011, by section 14(1) of the Local Government Borrowing Act 2011 (2011 No 77).

Section YA 1 **council-controlled organisation** paragraph (b): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section YA 1 **country-by-country report**: inserted, on 1 July 2018, by section 49(6) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **cover review period**: inserted, on 1 July 2010, by section 557(33) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **COVID-19 New Zealanders Stranded Overseas Support Programme**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(3) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **credit account continuity provisions**: replaced, on 1 April 2017, by section 288(18) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **credit card repayment insurance**: inserted, on 1 July 2010, by section 557(35) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **creditable membership**: inserted, on 1 April 2008, by section 135(3) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section YA 1 **creditable membership** paragraph (b)(i): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(36)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **creditable membership** paragraph (b)(ib): inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(36)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **creditor workout**: substituted (with effect on 1 April 2008), on 7 December 2009, by section 118(3) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **cross-border employee**: inserted, on 1 April 2023, by section 114(8) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **cross-border related borrowing**: inserted, on 1 July 2018, by section 49(7) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **cryptoasset**: inserted (with effect on 1 January 2009), on 30 March 2022, by section 171(10) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **cryptocurrency**: inserted, on 30 March 2022, by section 171(11) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **cryptocurrency**: repealed (with effect on 30 March 2022), on 31 March 2023, by section 114(10) (and see section 114(38) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **cryptocurrency**: inserted (with effect on 1 January 2009), on 31 March 2023, by section 114(9) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **CTR**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR account**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR additional dividend**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR company**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR credit**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR debit**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR group member**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR holding company**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTR ratio**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **CTRA**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(15) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **current accounting year**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(38) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **current market value**: inserted, on 1 April 2019, by section 278(7) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **current year**: inserted, on 1 April 2025, by section 134(25) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **custodial institution**: inserted, on 1 April 2020, by section 185(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **date of acquisition**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **date the deposit ends** paragraph (b): repealed, on 18 March 2019, by section 278(8) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **day of final decision**: inserted (with effect on 14 April 2014), on 30 June 2014, by section 144(8) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **de minimis trust**: inserted, on 1 April 2024, by section 118(18) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **debt funding special purpose vehicle**: inserted, on 18 March 2019, by section 278(9) (and see section 278(43) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **debt security**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(39) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **debt value**: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 98(12) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **decommissioning**: inserted, on 1 April 2018, by section 243(12) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **decommissioning** paragraph (b)(ii): repealed, on 30 March 2022, by section 171(13)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **decommissioning** paragraph (d)(i): amended, on 30 March 2022, by section 171(13)(b) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **deductible foreign equity distribution**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(40) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **deductible foreign equity distribution** paragraph (a): replaced (with effect on 27 October 2010), on 2 November 2012, by section 154(5) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **deductible foreign equity distribution** paragraph (a): amended, on 1 July 2018, by section 49(8)(a) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **deductible foreign equity distribution** paragraph (b)(ii): amended, on 1 July 2018, by section 49(8)(b) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **deductible output tax**: inserted, on 1 April 2011, by section 132(9) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **deductible output tax** paragraph (a)(iii): amended (with effect on 1 April 2011), on 2 November 2012, by section 154(6) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **deductible output tax** paragraph (a)(iv): inserted (with effect on 1 April 2011), on 2 November 2012, by section 154(6) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **deductible output tax** paragraph (a)(iv): amended (with effect on 1 April 2011), on 23 March 2020, by section 185(4) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **deducting branch**: inserted, on 1 July 2018, by section 49(9) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **defined benefit fund**: replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section YA 1 **dependent child**: substituted, on 24 August 2010 (applying for the 2008–09 and later income years), by section 7(1) of the Taxation (Definitions of Dependent Child) Act 2010 (2010 No 104).

Section YA 1 **dependent child** paragraph (b): amended, on 1 July 2018, by section 23(9)(a) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **dependent child** paragraph (b)(i): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section YA 1 **dependent child** paragraph (b)(ii): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section YA 1 **dependent child** paragraph (b)(ii): amended (with effect on 20 April 2020), on 30 April 2020, by section 15(4) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **dependent child** paragraph (c): amended, on 1 July 2018, by section 23(9)(b) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **dependent child** paragraph (c)(iii): amended, on 1 July 2018, by section 23(9)(c) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **dependent child** paragraph (d): inserted, on 1 July 2018, by section 23(9)(c) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **deposit** paragraph (b): repealed, on 18 March 2019, by section 278(10) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **deposit** paragraph (d): inserted (with effect on 1 April 2017), on 30 March 2021, by section 135(18) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **deposit** paragraph (d): amended, on 1 April 2025, by section 134(26) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **derivative instrument**: substituted (with effect on 30 June 2009), on 6 October 2009, by section 557(41) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **derived from New Zealand**: repealed, on 21 December 2010, by section 132(10) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **descendant**: inserted (with effect on 28 March 2012), on 17 July 2013, by section 98(13) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **descended associate**: inserted (with effect on 28 March 2012), on 17 July 2013, by section 98(14) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **design registration**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(8) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **design registration application**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(9) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **designated FMI**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section YA 1 **detached tax credit**: inserted, on 29 March 2018 (with effect on 1 April 2008), by section 243(13) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **development**: amended (with effect on 1 April 2015), on 24 February 2016, by section 235(10) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **development**: amended, on 1 April 2008, by section 550(10) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **development investments**: repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 98(15) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **diminished value**: replaced (with effect on 1 April 2008), on 28 March 2024, by section 118(19) (and see section 118(54) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **diminishing value equivalent method**: inserted (with effect on 1 April 2008), on 28 March 2024, by section 118(20) (and see section 118(54) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **direct income interest**: substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(42) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **disabled beneficiary**: inserted, on 1 April 2024, by section 118(21) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **disabled beneficiary trust**: inserted, on 1 April 2024, by section 118(22) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **disallowed residential property**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **dispose** paragraph (a): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **dispose** paragraph (a): amended (with effect on 27 March 2021), on 31 March 2023, by section 114(11) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **dispose** paragraph (a): amended (with effect on 27 March 2021), on 30 March 2021, by section 135(20) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **dispose** paragraph (a): amended (with effect on 1 April 2019), on 26 June 2019, by section 79(2) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **dispose** paragraph (a): amended (with effect on 1 October 2015), on 16 November 2015, by section 19(4) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **dispose** paragraph (c): amended, on 1 April 2014, by section 127(7)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **dispose** paragraph (d): repealed, on 29 September 2018, by section 243(14) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **dispose** paragraph (e): amended, on 1 April 2014, by section 127(7)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **dispose** paragraph (f)(ib): inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(11) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **dispose** paragraph (g): amended, on 1 April 2008, by section 23(4) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **dispose** paragraph (h): added, on 1 April 2008, by section 23(4) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **dispose** paragraph (h)(ii): amended (with effect on 1 April 2008), on 29 March 2025, by section 134(27) (and see section 134(69) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **dispose** paragraph (i): inserted, on 1 July 2021, by section 135(19) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **distant workplace**: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 144(9) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **distant workplace**: amended (with effect on 1 April 2015), on 30 March 2017, by section 288(21) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **distant workplace**: inserted (with effect on 4 September 2010), on 30 March 2017, by section 288(19) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **distant workplace**: repealed (with effect on 1 April 2015), on 30 March 2017, by section 288(20) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **distinctive work clothing**: amended, on 29 March 2018 (with effect on 1 July 2013), by section 243(15) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **distinctive work clothing**: amended (with effect on 1 July 2013), on 24 February 2016, by section 235(13) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **distinctive work clothing**: amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 144(10) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **district health board**: repealed, on 1 October 2009, by section 20(2) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **dividend** paragraph (a): substituted (with effect on 30 June 2009), on 6 October 2009, by section 557(43) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **dividend** paragraph (b): replaced (with effect on 1 April 2008), on 2 November 2012 (applying for the 2008–09 and later income years), by section 154(7) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **dividend** paragraph (c)(i): repealed, on 1 April 2017, by section 288(22) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **dividend** paragraph (c)(ii): substituted, on 1 April 2010, by section 557(44)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **dividend** paragraph (d)(i): substituted, on 1 April 2010, by section 557(44)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **dividend** paragraph (e): replaced, on 1 April 2017, by section 288(24) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **dividend** paragraph (e): amended (with effect on 1 April 2008), on 30 March 2021, by section 135(21)(a) (and see section 135(45) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **dividend** paragraph (e): amended (with effect on 1 April 2008), on 30 March 2021, by section 135(21)(b) (and see section 135(45) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **dividend** paragraph (f): replaced, on 1 April 2017, by section 288(26) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **dividend treated as interest** paragraph (d): replaced, on 1 April 2017, by section 288(27) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **donee organisation**: inserted, on 6 January 2010, by section 557(45) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **DRCD deferral date**: inserted (with effect on 30 August 2022), on 31 March 2023, by section 114(12) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **dwelling**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 132(11) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **dwelling** paragraph (a): replaced (with effect on 1 October 2015), on 30 March 2021, by section 135(22) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **dwelling** paragraph (ab): inserted (with effect on 1 October 2015), on 30 March 2021, by section 135(22) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **dwelling** paragraph (ab): amended, on 1 April 2024, by section 118(23) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **dwelling** paragraph (b): amended (with effect on 1 October 2015), on 16 November 2015, by section 19(5)(a) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **dwelling** paragraph (b)(ii): amended, on 1 April 2022, by section 171(15)(a) (and see section 171(52) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **dwelling** paragraph (b)(vi): amended, on 29 March 2018 (with effect on 1 April 2011 and applying to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after 29 March 2018), by section 243(16)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **dwelling** paragraph (c): inserted (with effect on 1 October 2015), on 16 November 2015, by section 19(5)(b) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **dwelling** paragraph (c): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **early life regime application day**: inserted, on 1 July 2010, by section 557(46) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **early life regime application day**: amended (with effect on 1 July 2010), on 30 March 2021, by section 135(23) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **earner**: inserted, on 1 July 2020, by section 29(3) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section YA 1 **effective look-through interest**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(12) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **election commencement year**: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 154(8) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **election day worker** paragraph (a): amended, on 1 April 2022, by section 171(16)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **election day worker** paragraph (a)(i): amended, on 3 June 2017, by section 4(2) of the Statutes Repeal Act 2017 (2017 No 23).

Section YA 1 **election day worker** paragraph (a)(ii): amended, on 3 June 2017, by section 4(2) of the Statutes Repeal Act 2017 (2017 No 23).

Section YA 1 **election day worker** paragraph (c): amended, on 1 April 2022, by section 171(16)(b) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **elective attributing CFC**: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 154(8) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **elective attributing FIF**: inserted (with effect on 30 June 2009), on 2 November 2012 (applying for income years beginning on or after 1 July 2009), by section 154(8) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **eligible candidate**: inserted, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section YA 1 **eligible hedge**: inserted, on 17 July 2013, by section 98(16) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **eligible research and development expenditure**: inserted, on 1 April 2019, by section 21(7) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **emergency event**: inserted, on 1 April 2025, by section 134(28) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **emergency event**: repealed, on 24 February 2016, by section 235(14) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **emergency event period**: inserted, on 1 April 2025, by section 134(29) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 557(48) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **emissions unit shortfall year**: inserted (with effect on 1 April 2010), on 21 December 2010 (applying for the 2010–11 and later income years), by section 132(13) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **employee** paragraph (ab): inserted (with effect on 1 April 2008), on 29 August 2011, by section 130(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **employee** paragraph (ab): amended, on 29 March 2018 (with effect on 30 March 2017), by section 243(17)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employee** paragraph (ac): inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 144(11)(b) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **employee** paragraph (b): amended, on 1 April 2025, by section 134(30) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **employee** paragraph (b): amended, on 29 March 2018 (with effect on 30 March 2017), by section 243(17)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employee** paragraph (b): amended (with effect on 1 April 2015), on 24 February 2016, by section 235(15) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **employee** paragraph (b): amended, on 1 April 2015 (applying for the 2015–16 and later income years), by section 144(11)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **employee** paragraph (b): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(49) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employee** paragraph (c)(i): amended (with effect on 5 January 2010), on 24 February 2016, by section 235(16) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **employee** paragraph (c)(i): amended (with effect on 1 April 2011), on 2 November 2012, by section 154(9) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **employee** paragraph (c)(i): amended, on 1 April 2008, by section 550(12) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **employee** paragraph (c)(ii): amended, on 1 April 2017, by section 98(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **employee** paragraph (c)(ii): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(50) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employee** paragraph (d): replaced, on 29 March 2018, by section 243(18) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employee** paragraph (d): amended (with effect on 29 March 2018), on 23 March 2020, by section 185(5) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **employee** paragraph (db): inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(14) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **employee accommodation**: inserted (with effect on 27 March 2021), on 30 March 2022, by section 171(17) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **employee share scheme**: inserted, on 29 September 2018, by section 243(19) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employee share scheme beneficiary**: inserted, on 29 September 2018, by section 243(19) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employee's superannuation accumulation** paragraph (a): substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(51) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer** paragraph (b)(iib): inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(15) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **employer** paragraph (b)(iib): amended (with effect on 1 April 2011), on 2 November 2012, by section 154(10)(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **employer** paragraph (c)(i): substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(52)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer** paragraph (c)(i): amended (with effect on 5 January 2010), on 24 February 2016, by section 235(17) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **employer** paragraph (c)(i): amended (with effect on 1 April 2011), on 2 November 2012, by section 154(10)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **employer** paragraph (c)(ii): amended, on 1 April 2017, by section 98(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **employer** paragraph (c)(ii): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(52)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer** paragraph (d): repealed, on 1 April 2022, by section 171(18) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **employer** paragraph (db): replaced (with effect on 1 April 2015), on 29 March 2025, by section 134(31) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **employer** paragraph (db): amended, on 1 April 2025, by section 134(32) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **employer** paragraph (dc): inserted (with effect on 1 April 2015), on 29 March 2025, by section 134(31) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **employer** paragraph (dc): amended, on 1 April 2025, by section 134(32) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **employer contribution**: inserted, on 1 April 2008, by section 135(5) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section YA 1 **employer monthly schedule**: repealed, on 1 April 2019, by section 243(20) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employer-sourced superannuation savings** paragraph (a): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(55)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer-sourced superannuation savings** paragraph (c): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(55)(b)(i) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer-sourced superannuation savings** paragraph (c): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(55)(b)(ii) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer sponsored group policy**: repealed, on 1 July 2010, by section 118(6) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **employer's superannuation cash contribution**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(57) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer's superannuation contribution**: substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(57) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **employer's workplace**: inserted, on 29 March 2018 (with effect on 1 April 2015), by section 243(21) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employing company**: repealed, on 29 March 2018, by section 243(22) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employment**: amended, on 23 November 2010, by section 25 of the Governor-General Act 2010 (2010 No 122).

Section YA 1 **employment** paragraph (b): amended, on 1 April 2008, by section 550(13) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **employment income**: replaced, on 29 March 2018 (with effect on 30 March 2017), by section 243(23) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **employment income information**: inserted, on 1 April 2019, by section 243(24) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **end date**: replaced, on 29 March 2018 (with effect on 14 April 2014), by section 243(25) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **end investor**: inserted, on 1 April 2020, by section 185(6) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **end value proportion**: inserted, on 30 March 2025, by section 134(33) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **engaged in full-time work**: repealed, on 29 May 2012 (for the purposes of sections LC 4 and LC 5 and schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013), by section 7(4) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **entering owner**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(16) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **entering partner**: inserted, on 1 April 2008, by section 23(5) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **entitlement period**: amended, on 1 July 2018, by section 23(10) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **entity**: inserted, on 1 July 2018, by section 49(10) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **equity group**: inserted, on 1 April 2025, by section 134(34) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **equity instrument**: inserted, on 1 April 2008, by section 550(14) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **ESCT**: substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(58) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **ESCT rate threshold amount**: amended (with effect on 1 April 2008), on 6 October 2009, by section 557(59) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **ESS deferral date**: inserted, on 1 April 2019, by section 243(26) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **established activity**: repealed, on 1 April 2018, by section 243(27) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **estate**: replaced (with effect on 1 October 2015), on 16 November 2015, by section 19(6) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **estate** paragraph (b)(i): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section YA 1 **ETS unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 557(60) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **excepted residential land**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **excess debt outbound company**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(61) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **excess credit amount**: repealed, on 1 April 2017, by section 288(28) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **excluded ancillary tax** paragraph (b): repealed, on 1 April 2017, by section 288(29) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **excluded ancillary tax** paragraph (d): repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(62) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **excluded ancillary tax** paragraph (e): repealed, on 2 June 2016, by section 71(5) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **excluded day**: repealed (with effect on 27 March 2021), on 30 March 2022, by section 171(20) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **excluded fixed rate security**: amended, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 144(13) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **excluded fixed rate security**: amended (with effect on 1 April 2008), on 6 October 2009, by section 557(63) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **excluded interest**: inserted, on 1 April 2025, by section 134(35) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **excluded preference share**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(64) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **exempt ESS**: inserted, on 29 March 2018, by section 243(28) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **exempt housing provider**: inserted (with effect on 27 March 2021), on 28 March 2024, by section 118(24) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **exempt interest** paragraph (c): amended, on 1 April 2020, by section 243(29) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **exempt interest** paragraph (db): inserted (with effect on 30 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section YA 1 **exempt interest** paragraph (dc): inserted, on 18 February 2021, by section 11 of the Taxation (COVID-19 Resurgence Support Payments and Other Matters) Act 2021 (2021 No 1).

Section YA 1 **exempt interest** paragraph (dc): amended, on 25 November 2021, by section 15 of the Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52).

Section YA 1 **exempt interest** paragraph (f): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **exempt main home**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **exempt main home period limit**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **exempt Māori company**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **exempted predominant main home day**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **exemption certificate**: repealed, on 1 April 2019, by section 243(30) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **existing business**: inserted, on 1 July 2010, by section 557(65) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **existing farmer**: repealed, on 1 April 2018, by section 243(31) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **existing privilege**: amended, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section YA 1 **exit level**: inserted, on 1 April 2010, by section 557(66) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **exit period**: inserted, on 1 April 2010, by section 557(66) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **exiting partner**: inserted, on 30 March 2017, by section 288(30) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **expected life risk proportion**: inserted, on 1 July 2010, by section 557(67) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **expenditure** paragraph (c): inserted, on 30 March 2017, by section 288(31) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **fair dividend rate annual method**: inserted, on 24 February 2016, by section 235(18) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **fair dividend rate hedge portion**: inserted, on 17 July 2013, by section 98(17) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **fair dividend rate method**: replaced, on 24 February 2016, by section 235(19) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **fair dividend rate periodic method**: inserted, on 24 February 2016, by section 235(20) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **fair value method**: substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(69) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **family assistance credit**: repealed, on 1 April 2008, by section 550(16) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **FamilyBoost tax credit**: inserted, on 1 July 2024, by section 16(4) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section YA 1 **family credit abatement**: amended, on 1 July 2018, by section 23(11) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **family member**: inserted, on 16 December 2013, by section 66 of the Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93).

Section YA 1 **family member**: amended, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section YA 1 **family plus**: repealed, on 1 April 2008, by section 550(17) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **family scheme**: replaced, on 1 July 2018, by section 23(12) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **family scheme income**: amended, on 1 July 2018, by section 23(13) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **family support**: repealed, on 1 April 2008, by section 550(18) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **family tax credit**: amended, on 1 July 2018, by section 23(14) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **farm-in party**: inserted, on 1 April 2018, by section 243(32) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **farm-out arrangement**: replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 127(8) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **farmland**: inserted (with effect on 1 October 2015), on 16 November 2015, by section 19(7) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **FDP**: repealed, on 1 April 2017, by section 288(32) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDP account**: repealed, on 1 April 2017, by section 288(33) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDP credit**: repealed, on 1 April 2017, by section 288(34) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDP debit**: repealed, on 1 April 2017, by section 288(35) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDP penalty tax**: repealed, on 1 April 2017, by section 288(36) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDP ratio**: repealed, on 1 April 2017, by section 288(37) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDP reference period**: repealed, on 1 April 2017, by section 288(38) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDP rules**: repealed, on 1 April 2017, by section 288(39) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDPA**: repealed, on 1 April 2017, by section 288(40) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FDPA company**: repealed, on 1 April 2017, by section 288(41) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FIF net loss**: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(18) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **FIF superannuation interest**: replaced (with effect on 1 April 2014), on 24 February 2016, by section 235(21) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **finance lease** paragraph (b): amended, on 1 April 2008, by section 550(19) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **finance lease** paragraph (c): added, on 1 April 2008, by section 550(19) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **finance lease** paragraph (c)(iii): amended (with effect on 1 January 2019), on 30 March 2022, by section 171(25) (and see section 171(49) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **financial asset**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(71) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **financial assistance**: replaced, on 23 March 2020, by section 185(7) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **financial institution**: inserted (with effect on 1 June 2010), on 7 September 2010, by section 117(6) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **financial institution**: amended, on 18 March 2019, by section 278(12) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **financial institution**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **financial institution special purpose vehicle**: repealed, on 18 March 2019, by section 278(13) (and see section 278(43) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **financial instrument**: inserted, on 1 July 2018, by section 49(11) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **financial liability**: inserted, on 30 June 2014, by section 144(14) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **financial risk**: inserted, on 1 July 2010, by section 557(72) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **financial statements**: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **financially independent** paragraph (c): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section YA 1 **financially independent** paragraph (d): replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section YA 1 **financially independent** paragraph (d): amended (with effect on 20 April 2020), on 30 April 2020, by section 15(5)(a) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **financially independent** paragraph (e): inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(5)(b) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **first tracking date**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(74) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **fishing quota emissions unit**: inserted (with effect on 1 July 2010), on 7 September 2010, by section 117(7) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **fixed establishment** paragraph (c)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the

Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **fixed-rate foreign equity**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(75) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **fixed-rate share** paragraph (a): amended, on 1 April 2017, by section 288(42) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **fixed-rate share** paragraph (a): amended, on 2 November 2012, by section 154(13) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **fixed-rate share** paragraph (e): repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(76)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **fixed-rate share** paragraph (f): substituted (with effect on 1 April 2008), on 7 December 2009, by section 118(7) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **fixed-rate share** paragraph (g): substituted (with effect on 1 April 2008), on 7 December 2009, by section 118(7) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **fixed-rate share** paragraph (h): added (with effect on 1 April 2008), on 7 December 2009, by section 118(7) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **fixed-rate share** paragraph (h)(iii): amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 130(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **fixed-rate share** paragraph (i): added (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 130(6) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **flat-owning company**: amended (with effect on 1 April 2011), on 2 November 2012, by section 154(14) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **FMA**: inserted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Section YA 1 **FMI settlement**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section YA 1 **Fonterra**: inserted (with effect on 1 July 2022), on 28 March 2024, by section 118(25) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **foreign account information-sharing agreement**: replaced, on 1 July 2017, by section 7 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **foreign ASAP**: inserted (with effect on 1 April 2008), on 30 June 2014, by section 144(16) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **foreign attributed income** paragraph (b): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(19) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **foreign attributed loss offsets**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(20) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **foreign bank**: inserted, on 30 March 2017, by section 288(43) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **foreign corporate limited partnership**: inserted, on 1 April 2008, by section 23(6) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **foreign country**: amended, on 7 November 2015, by section 5(3) of the Income Tax Amendment Act 2015 (2015 No 104).

Section YA 1 **foreign crew of fishing vessels instructions**: inserted, on 1 October 2014, by section 144(17) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **foreign defined contribution scheme**: inserted, on 1 April 2014, by section 127(10) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **foreign dividend**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(77) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **foreign dividend company**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(78) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **foreign dividend company net earnings**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(79) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **foreign group**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(80) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **foreign investment PIE**: inserted, on 29 August 2011, by section 130(7) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **foreign investment variable-rate PIE**: inserted, on 29 August 2011, by section 130(7) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **foreign investment variable-rate PIE** paragraph (a): amended, on 2 November 2012, by section 154(15) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **foreign investment zero-rate PIE**: inserted, on 29 August 2011, by section 130(7) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **foreign investment zero-rate PIE** paragraph (a): amended, on 2 November 2012, by section 154(16) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **foreign LTC holder**: inserted, on 1 April 2017 (applying for income years beginning on or after this date), by section 288(44) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **foreign non-dividend income**: substituted, on 21 December 2010, by section 132(18) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **foreign PIE equivalent**: inserted, on 1 April 2010, by section 557(81) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **foreign public official**: repealed, on 7 November 2015, by section 5(1) of the Income Tax Amendment Act 2015 (2015 No 104).

Section YA 1 **foreign superannuation withdrawal**: inserted, on 1 April 2014, by section 127(11) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **foreign tax**: repealed, on 30 March 2017, by section 288(45) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **forest land emissions unit**: substituted (with effect on 1 January 2009), on 7 September 2010, by section 117(9) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **forest land unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 557(82) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **forest sink emissions unit**: inserted (with effect on 1 January 2009), on 7 September 2010, by section 117(9) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **forestry business**: replaced (with effect on 1 April 2008), on 2 November 2012, by section 154(17) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **forestry company** paragraph (a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **formation loss**: replaced, on 29 March 2018, by section 243(33) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **former Financial Reporting Act**: inserted, on 1 April 2014, by section 97 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **former Financial Reporting Standard 34**: inserted, on 1 April 2014, by section 97 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **former Financial Reporting Standard 35**: inserted, on 1 April 2014, by section 97 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **former financial reporting standards without IFRS**: inserted, on 1 April 2014, by section 97 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **former generally accepted accounting practice without IFRS**: inserted, on 1 April 2014, by section 97 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **friendly society**: amended, on 1 April 2019, by section 58(2) of the Friendly Societies and Credit Unions (Regulatory Improvements) Amendment Act 2018 (2018 No 17).

Section YA 1 **full-time earner**: amended, on 1 July 2018, by section 23(15) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **fully credited for conduit tax relief**: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(21) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **fully imputed**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(84) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **fully imputed** paragraph (a): amended (with effect on 30 August 2022), on 31 March 2023, by section 114(13)(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **fully imputed** paragraph (a): amended (with effect on 30 August 2022), on 31 March 2023, by section 114(13)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **fully imputed** paragraph (a): amended, on 29 March 2018, by section 243(34) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **fully imputed** paragraph (a): amended, on 1 April 2017, by section 288(47) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **fully imputed** paragraph (a): amended, on 30 March 2017, by section 288(46)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **fully imputed** paragraph (a): amended, on 1 April 2013, by section 154(18) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **fully imputed** paragraph (b): amended, on 30 March 2017, by section 288(46)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **Fund investment entity**: inserted, on 5 June 2024, by section 16 of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Section YA 1 **further FDP**: repealed, on 1 April 2017, by section 288(48) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **FX hedge**: inserted (with effect on 1 April 2008), on 30 June 2014, by section 144(18) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **general insurance contract**: repealed (with effect on 1 April 2008), on 7 September 2010, by section 117(10) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **general partner**: inserted, on 1 April 2008, by section 23(7) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **generally accepted accounting practice**: replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **generally accepted accounting practice with IFRS**: inserted, on 1 April 2014, by section 97 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **gifting settlor**: inserted, on 1 April 2008, by section 550(21) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **global anti-base erosion model rules**: inserted (with effect on 1 January 2024), on 28 March 2024, by section 118(26) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **goods**: amended, on 1 April 2019, by section 21(8)(a) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **goods**: amended, on 1 April 2019, by section 21(8)(b) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **goods**: amended, on 1 July 2018, by section 49(12) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **goods**: amended, on 29 March 2018 (with effect on 1 April 2015), by section 243(35) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **goods**: amended (with effect on 1 April 2015), on 24 February 2016, by section 235(22)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **goods**: amended (with effect on 1 April 2015), on 24 February 2016, by section 235(22)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **government screen production payment**: repealed (with effect on 1 January 2010), on 7 September 2010, by section 117(11) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **grandparented charity**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(49) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **grandparented charity**: amended, on 29 March 2018 (with effect on 1 April 2017), by section 243(36) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **grandparented Maori authority**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(50) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **grandparented residential interest**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **grandparented structure**: replaced (with effect on 1 April 2020), on 28 March 2024, by section 118(27) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **grandparented structure**: repealed, on 1 April 2020, by section 29(4) (and see section 29(10) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section YA 1 **grandparented transitional loan**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **grandparenting income year**: inserted, on 1 April 2011, by section 132(19) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **grandparenting start day**: inserted, on 1 July 2010, by section 557(87) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **greater Christchurch**: inserted (with effect on 4 September 2010 and applying for a person's income year that includes that date and for all later income years), on 30 June 2014, by section 144(19) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **greenhouse gas unit**: inserted, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **grey list company**: substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(88) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **grey list dividend**: repealed (with effect on 30 June 2008), on 6 October 2009, by section 557(89) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **group life master policy**: inserted, on 1 July 2010, by section 557(90) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **group of companies**: amended, on 1 April 2008, by section 550(22) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **group of persons**: replaced (with effect on 30 March 2021), on 30 March 2022, by section 171(30) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **group of persons**: replaced (with effect on 27 March 2021), on 30 March 2022, by section 171(29) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **group of persons** paragraph (b): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **group of persons** paragraph (e): repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **guarantor**: replaced (with effect on 1 April 2012), on 2 November 2012, by section 154(20) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **guarantor**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 154(19) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **hedge** and **hedging**: inserted, on 17 July 2013, by section 98(19) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **high-priced bloodstock**: inserted (with effect on 1 January 2019), on 18 March 2019, by section 278(14) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **high-priced livestock** paragraph (a): amended, on 29 March 2018 (with effect on 1 April 2015), by section 243(37) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **high-priced livestock** paragraph (a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **high-priced livestock** paragraph (a)(ii): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **high-priced livestock** paragraph (b): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **hire purchase agreement** paragraph (a)(i): replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years, but not applying to a person in relation to a tax position taken by them in the period from 1 April 2008 to the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill, and relating to the application of the Goods and Services Tax Act 1985 to hire purchase agreements, and relying on the provisions of the definition of **hire purchase agreement** as it was before the amendment made by section 144(20) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014), on 30 June 2014, by section 144(20) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **hire purchase agreement** paragraph (d): replaced, on 26 June 2019, by section 79(3) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **holding company** paragraph (a): substituted, on 1 April 2010, by section 557(91) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **holding company** paragraph (b): repealed, on 1 April 2014, by section 127(12) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **home**: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 7(5) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **home ownership requirements**: repealed, on 2 June 2016, by section 71(6) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **honorarium**: inserted (with effect on 1 April 2009), on 6 October 2009, by section 557(92) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **honorarium**: amended (with effect on 1 April 2009), on 7 September 2010, by section 117(12) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **household member**: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 7(6) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **housekeeper**: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 7(7) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **housekeeping payments**: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 7(8) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **hybrid entity**: inserted (with effect on 1 July 2018), on 30 March 2022, by section 171(31) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **hybrid mismatch**: inserted (with effect on 1 July 2018), on 30 March 2022, by section 171(31) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **hybrid mismatch legislation**: inserted, on 1 July 2018, by section 49(13) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **hybrid mismatch report**: inserted, on 1 July 2018, by section 49(14) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **ICA company**: replaced (with effect on 15 March 2017), on 31 March 2023, by section 114(14) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **IFRS**: inserted, on 1 April 2008, by section 550(23) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **IFRS**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **IFRS 4**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(93) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **IFRS 9**: inserted, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **IFRS 17**: inserted (with effect on 1 January 2023), on 31 March 2023, by section 114(15) (and see section 114(36) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **IFRS designated FX hedge**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 144(22) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **IFRSE**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(94) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **impaired credit adjustment**: inserted, on 1 April 2008, by section 550(23) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **imputation additional tax**: amended (with effect on 1 October 2016), on 30 March 2017, by section 288(51) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **income derived from New Zealand**: repealed, on 21 December 2010, by section 132(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **income from employment** paragraph (b)(iv): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **income from employment** paragraph (c): replaced, on 29 March 2018 (with effect on 30 March 2017), by section 243(38) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **income from employment** paragraph (d): added (with effect on 1 April 2008), on 6 October 2009, by section 557(95) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **income from mining**: repealed, on 1 April 2014, by section 127(14) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **income from personal exertion**: repealed, on 1 April 2018, by section 243(39) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **income interest** paragraph (b): amended, on 1 April 2017, by section 288(52) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **income interest** paragraph (b): amended (with effect on 30 June 2009), on 6 October 2009, by section 557(96) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **income statement**: repealed, on 1 April 2019, by section 278(15) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **income tax liability** paragraph (a)(ii): substituted, on 1 April 2010, by section 557(97) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **income-tested benefit**: repealed, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **increase in savings**: repealed, on 2 June 2016, by section 71(7) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **independent living**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 132(21) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **indirect attributing interest**: inserted (with effect on 1 April 2014), on 24 February 2016, by section 235(23) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **industrial artistic copyright**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(24) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **industry research co-operative**: repealed, on 1 October 2009, by section 20(3) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **ineligible internal software development**: inserted, on 1 April 2019, by section 21(9) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **ineligible technology expenditure**: inserted, on 1 April 2019, by section 21(10) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **inflation-indexed instrument**: inserted, on 30 June 2014, by section 144(23) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **inform**: inserted, on 2 June 2016, by section 71(8) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **initial provisional tax liability** paragraph (a): replaced, on 1 April 2017, by section 98(6)(a) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **initial provisional tax liability** paragraph (a): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **initial provisional tax liability** paragraph (b): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **initial provisional tax liability** paragraph (b)(i): amended, on 1 April 2020, by section 29(5) (and see section 29(10) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section YA 1 **initial provisional tax liability** paragraph (b)(ib): inserted (with effect on 1 April 2020), on 30 March 2021, by section 135(26) (and see section 135(46) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **initial provisional tax liability** paragraph (b)(ii): amended, on 1 April 2017, by section 98(6)(b) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **initial treatment**: amended, on 1 April 2014, by section 127(15) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **input tax** paragraph (b): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section YA 1 **institution**: repealed, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 7(9) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **insurance** paragraph (b): amended, on 24 February 2016, by section 235(25) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **intellectual property**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(26) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **interest** paragraph (bb): inserted, on 30 March 2017, by section 288(53) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **interest** paragraph (cb): inserted, on 30 March 2017, by section 288(54) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **interest** paragraph (d): replaced (with effect on 1 October 2015), on 16 November 2015, by section 19(8) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **interest expenditure**: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and

(iii)), on 17 July 2013, by section 98(20) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **internal software development**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(55) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **internal software development controller**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(56) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **internal software development expenditure**: inserted, on 1 April 2019, by section 21(11) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **internal software development expenditure** paragraph (a): replaced (with effect on 1 April 2019), on 23 March 2020, by section 185(8)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **internal software development expenditure** paragraph (b)(ii): amended (with effect on 1 April 2019), on 23 March 2020, by section 185(8)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **internal software development expenditure** paragraph (b)(iii): inserted (with effect on 1 April 2019), on 23 March 2020, by section 185(8)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **internal software development group**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(57) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **international tax rules** paragraph (a)(i): repealed, on 24 February 2016, by section 235(27) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **international tax rules** paragraph (a)(ii): repealed, on 24 February 2016, by section 235(27) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **international tax rules** paragraph (a)(iv): repealed, on 24 February 2016, by section 235(27) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **international tax rules** paragraph (a)(xiv): repealed, on 1 April 2010, by section 557(100) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **international tax rules** paragraph (a)(xv): repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(99) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **international tax rules** paragraph (a)(xii): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 132(22) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **international tax rules** paragraph (a)(xiii): substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(98) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **international tax rules** paragraph (b): amended, on 1 April 2010, by section 557(101) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **interposed residential property holder**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **interposed residential property percentage**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **investment activity**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 96(5) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **investment income**: inserted, on 1 April 2020, by section 185(9) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **investor** paragraph (b): substituted, on 1 April 2010, by section 557(102) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **investor** paragraph (c): repealed, on 1 April 2008, by section 550(26) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **investor class**: inserted, on 1 April 2010, by section 557(103) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **investor interest**: replaced, on 17 July 2013, by section 98(21) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **in-work payment**: repealed, on 1 April 2008, by section 550(27) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **in-work tax credit**: inserted, on 1 April 2008, by section 550(27) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **in-work tax credit**: amended, on 1 July 2018, by section 23(16) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **joint venture agreement** paragraph (b): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section YA 1 **jurisdictional attributed income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(104) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **jurisdictional attributed income**: amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 130(8) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **jurisdictional BE income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(104) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **jurisdictional BE income**: amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 130(8) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **jurisdictional income ratio**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(104) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **jurisdictional income ratio**: amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 130(8) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **Kāinga Ora–Homes and Communities**: inserted (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **KiwiSaver calculation period**: repealed, on 1 April 2009, by section 56(3) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **KiwiSaver scheme**: replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section YA 1 **know-how**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(28) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **Kyoto unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 557(105) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **land** paragraph (e): repealed, on 1 April 2018, by section 243(40) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **land investment company**: substituted (with effect on 1 April 2010), on 21 December 2010, (applying for the 2010–11 and later income years) by section 132(22) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **land investment company** paragraph (c): amended (with effect on 1 April 2010), on 29 August 2011 (applying for the 2010–11 and later income years), by section 130(9) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **land loss**: inserted, on 1 April 2010, by section 557(106) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **land provisions**: inserted, on 1 April 2010, by section 557(107) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **land provisions** paragraph (bba): inserted, on 1 April 2015, by section 144(24) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **land provisions** paragraph (bbab): inserted, on 1 April 2015, by section 144(24) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **land provisions** paragraph (bb): inserted (with effect on 1 April 2013), on 17 July 2013, by section 98(22) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **land sales provisions**: inserted (with effect on 1 April 2019), on 26 June 2019, by section 79(4) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **LAQC**: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(23) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **large budget film grant**: inserted (with effect on 1 January 2010), on 7 September 2010, by section 117(14) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **large budget film grant** paragraph (bb): inserted, on 18 March 2019, by section 278(16) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **large budget screen production grant**: repealed, on 1 January 2010, by section 557(108) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **large business AIM-capable system**: inserted, on 1 April 2018, by section 46(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **large business AIM-capable system**: amended, on 18 March 2019, by section 278(17) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **large multinational group**: inserted, on 27 June 2018, by section 49(15) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **lease** paragraph (d): amended (with effect on 1 January 2019), on 30 March 2021, by section 135(27) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **lease** paragraph (d): amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(23) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **lease** paragraph (d)(v): replaced, on 1 April 2015, by section 144(25) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **lease** paragraph (d)(vi): amended (with effect on 1 April 2008), on 7 December 2009, by section 118(9) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **lease** paragraph (d)(vii): amended (with effect on 1 April 2008), on 7 December 2009, by section 118(9) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **lease** paragraph (f): replaced, on 1 April 2015 (applying, for a person and an occupation right agreement, to an occupation right agreement entered by the person on or after that date), by section 144(26) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **legacy superannuation fund**: inserted, on 1 April 2024, by section 118(28) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **legal and equitable rights**: inserted (with effect on 31 December 2012), on 17 July 2013, by section 98(23) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **legal expenses**: inserted, on 1 April 2009, by section 22(1) of the Taxation (Business Tax Measures) Act 2009 (2009 No 5).

Section YA 1 **lending person**: inserted, on 1 April 2024, by section 118(29) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **lessee** paragraph (a): amended (with effect on 1 April 2008), on 7 December 2009, by section 118(11)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **lessee** paragraph (b): amended (with effect on 1 April 2008), on 7 December 2009, by section 118(11)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **lessor** paragraph (a): amended (with effect on 1 April 2008), on 7 December 2009, by section 118(12)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **lessor** paragraph (b): amended (with effect on 1 April 2008), on 7 December 2009, by section 118(12)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **levy body researcher**: inserted, on 1 April 2020, by section 185(10) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **liabilities**: replaced, on 29 March 2018 (with effect on 14 April 2014), by section 243(41) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **licensed early childhood service**: inserted, on 1 July 2024, by section 16(5) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section YA 1 **licensed early childhood service fees**: inserted, on 1 July 2024, by section 16(6) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section YA 1 **licensed non-bank deposit taker**: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for a life insurance premium that is derived on or after that date by Lloyd's of London), by section 243(42) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **licensed security holder**: inserted, on 1 July 2016, by section 50(7) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **life financial reinsurance**: inserted, on 1 January 2010, by section 557(110) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **life fund PIE**: inserted, on 1 April 2010, by section 557(111) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **life insurance rules**: repealed, on 2 November 2012, by section 154(21) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **life reinsurer**: amended, on 1 July 2018, by section 49(16) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **life risk**: inserted, on 1 July 2010, by section 557(112) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **life risk component**: inserted, on 1 July 2010, by section 557(113) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **limited non-transaction shares**: inserted (with effect on 1 April 2010), on 7 September 2010, by section 117(15) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **limited partner**: inserted, on 1 April 2008, by section 23(8) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **limited partnership**: inserted, on 1 April 2008, by section 23(8) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **limited partnership deduction**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(114) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **limited partnership net deduction**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(114) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **limited-recourse arrangement**: inserted (with effect on 20 May 2013), on 27 February 2014, by section 127(16) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **lines trust**: inserted, on 1 April 2010, by section 557(115) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **lines trust** paragraph (b): replaced (with effect on 1 April 2024), on 29 March 2025, by section 134(36) (and see section 134(70) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **listed horticultural plant**: amended, on 30 March 2025, by section 134(37) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **listed industrial mineral**: inserted, on 1 April 2014, by section 127(17) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **listed limited partnership**: inserted, on 1 April 2008, by section 23(9) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **listed PAYE intermediary**: repealed, on 1 April 2020, by section 243(43) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **listed PIE**: inserted, on 1 April 2010, by section 557(116) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **listed PIE** paragraph (a): amended, on 18 March 2019, by section 278(18)(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **listed PIE** paragraph (c): repealed, on 18 March 2019, by section 278(18)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **listed PIE** paragraph (d): repealed, on 18 March 2019, by section 278(18)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **listed research provider**: repealed, on 1 October 2009, by section 20(4) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **living alone payment**: repealed, on 2 September 2013 (applying for the 2011–12 tax year and later tax years), by section 16(1) of the Social Assistance (Living Alone Payments) Amendment Act 2013 (2013 No 11).

Section YA 1 **Lloyd's of London**: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for a life insurance premium that is derived on or after that date by Lloyd's of London), by section 243(44) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **loan** paragraph (b): amended (with effect on 30 June 2009), on 6 October 2009, by section 557(117) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **loan** paragraph (c): repealed, on 1 April 2014, by section 127(18) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **local authority** paragraph (b)(vii): substituted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section YA 1 **local authority** paragraph (b)(ix): added, on 2 December 2011, by section 14(2) of the Local Government Borrowing Act 2011 (2011 No 77).

Section YA 1 **local authority** paragraph (b)(ixa): repealed, on 17 February 2024, by section 12(1) of the Water Services Acts Repeal Act 2024 (2024 No 2).

Section YA 1 **local authority** paragraph (b)(x): inserted (with effect on 1 November 2010), on 2 November 2012, by section 154(22) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **look-through company**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(24) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **look-through company** paragraph (eb): replaced, on 29 March 2018 (with effect on 1 April 2017), by section 243(45) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **look-through company** paragraph (ec): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(59) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through company** paragraph (ed): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(59) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through company** paragraph (ee): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(59) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through company** paragraph (ef): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(59) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through company** paragraph (eg): inserted, on 1 April 2017 (applying for income years beginning on or after this date), by section 288(60) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through company deduction**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(25) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **look-through counted owner**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(26) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **look-through counted owner** paragraph (a)(i): repealed, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **look-through counted owner** paragraph (bb): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(61) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through counted owner** paragraph (c): replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(62) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through interest**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(27) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **look-through interest** paragraph (a): repealed, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(63) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through interest** paragraph (b): replaced, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(64) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **look-through interest** paragraph (c): amended, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **loss** paragraph (c): replaced (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(24) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **loss-attributing qualifying company**: repealed, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(28) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **loss balance**: substituted (with effect on 1 April 2008), on 7 December 2009, by section 118(13) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **loss balance** paragraph (b): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(28)(a) (and see section 135(46) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **loss balance** paragraph (b): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(28)(b) (and see section 135(46) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **main benefit**: inserted, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **main benefit equivalent assistance**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(7) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **main benefit equivalent assistance** paragraph (a): amended, on 30 March 2021, by section 141 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **main home**: inserted (with effect on 1 October 2015), on 16 November 2015, by section 19(9) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **main home** paragraph (a): amended, on 1 July 2024, by section 118(30) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **main home** paragraph (a): amended (with effect on 27 March 2021), on 30 March 2021, by section 135(29) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **main home person**: repealed, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **main income equalisation deposit**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 235(29) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **main income equalisation refund**: inserted (with effect on 1 April 2011), on 24 February 2016, by section 235(30) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **major shareholder** paragraph (c): amended, on 1 April 2014 (applying for the 2014–15 and later income years), by section 127(19)(a) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **major shareholder** paragraph (c): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 130(10) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **major shareholder** paragraph (d): amended, on 1 April 2014 (applying for the 2014–15 and later income years), by section 127(19)(b) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **major shareholder** paragraph (d): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 130(10) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **Māori excepted land**: inserted (with effect on 27 March 2021), on 30 March 2022, by section 171(35) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **Maori investment company**: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **Maori owners** paragraph (a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **Māori rollover trust**: inserted, on 1 July 2024, by section 118(31) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **market value** paragraph (bba): inserted (with effect on 29 March 2018), on 23 March 2020, by section 185(11) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **market value** paragraph (bbab): inserted (with effect on 29 September 2018), on 23 March 2020, by section 185(12) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **market value** paragraph (bb): inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 98(25) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **market value circumstance** paragraph (a)(ii): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(118) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **market value interest** paragraph (a): amended, on 2 November 2012, by section 154(23) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **market value interest** paragraph (ab): inserted (with effect on 1 April 2010), on 29 March 2025, by section 134(38) (and see section 134(68) and (71) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **market value interest** paragraph (ab): amended (with effect on 26 August 2024), on 29 March 2025, by section 134(39) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **market value interest** paragraph (b): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **maximum deficit debit**: repealed, on 1 April 2017, by section 288(65) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **maximum permitted ratio**: amended, on 1 April 2017, by section 288(66) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **maximum permitted ratio**: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(25) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **member** paragraph (b): repealed, on 1 April 2011, by section 117(16) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **member** paragraph (d): amended, on 1 April 2020, by section 243(46) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **member credit contribution**: inserted, on 1 April 2008, by section 135(6) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section YA 1 **member credit contribution** paragraph (a)(i): substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(119)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **member credit contribution** paragraph (a)(iib): inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(119)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **member credit contribution** paragraph (a)(iv): inserted, on 1 July 2013, by section 117(17) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **member credit contribution** paragraph (b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(119)(c) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **mineral miner**: inserted (with effect on 1 April 2014), on 24 February 2016, by section 235(31) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **mineral mining asset**: inserted, on 1 April 2014, by section 127(20) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **minimum family tax credit**: inserted, on 1 April 2008, by section 550(29) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **minimum family tax credit**: amended, on 1 July 2018, by section 23(17) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **minimum market value interest** paragraph (a): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(30) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **minimum market value interest** paragraph (c): inserted, on 1 April 2019, by section 21(12) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **minimum QC interest**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(67) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **minimum voting interest** paragraph (a): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(31) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **minimum voting interest** paragraph (c): inserted, on 1 April 2019, by section 21(13) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **mining company**: repealed, on 1 April 2014, by section 127(21) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining development expenditure**: amended, on 1 April 2014, by section 127(22) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining exploration expenditure**: amended, on 1 April 2014, by section 127(23) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining holding company**: repealed, on 1 April 2014, by section 127(24) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining operations**: amended, on 1 April 2014, by section 127(25) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining or prospecting right**: amended, on 1 April 2014, by section 127(26) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining outgoing excess**: repealed, on 1 April 2014, by section 127(27) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining permit**: replaced, on 1 April 2014, by section 127(28) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining permit area**: repealed, on 1 April 2014, by section 127(29) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining prospecting expenditure**: inserted, on 1 April 2014, by section 127(30) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining prospecting information**: amended, on 1 April 2014, by section 127(31) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining purposes**: repealed, on 1 April 2014, by section 127(32) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining rehabilitation expenditure**: inserted, on 1 April 2014, by section 127(33) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining share**: repealed, on 1 April 2014, by section 127(34) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **mining venture**: repealed, on 1 April 2014, by section 127(35) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **minister of religion**: replaced (with effect on 1 April 2015), on 24 February 2016, by section 235(33) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **minister of religion**: replaced (with effect on 1 July 2013), on 24 February 2016, by section 235(32) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **mismatch amount**: inserted, on 1 July 2018, by section 49(17) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **mismatch situation**: inserted, on 1 July 2018, by section 49(18) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **mixed-age female breeding animals**: inserted, on 30 March 2025, by section 134(40) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **mixed-ownership enterprise**: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section YA 1 **money lent** paragraph (e): inserted, on 30 March 2017, by section 288(68) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **monthly instalment plan**: amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **mortality profit**: repealed, on 1 July 2010, by section 557(120) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **mortality profit formula**: repealed, on 1 July 2010, by section 557(120) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **multinational top-up tax**: inserted, on 1 January 2025, by section 118(32) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **multi-rate PIE**: inserted, on 1 April 2010, by section 557(121) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **multi-rate PIE** paragraph (d): amended, on 18 March 2019, by section 278(19) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **multi-rate PIE** paragraph (e): repealed, on 1 July 2010, by section 557(122) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **national minimum price threshold**: inserted (with effect on 1 January 2019), on 18 March 2019, by section 278(20) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **natural person**: replaced, on 29 March 2018, by section 243(47) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **net asset balance**: inserted (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 98(26) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **net asset balance**: amended, on 30 June 2014, by section 144(28) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **net assets**: inserted (with effect on 14 April 2014), on 30 June 2014, by section 144(29) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **net assets**: amended, on 29 March 2018 (with effect on 14 April 2014), by section 243(48) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **net attributable CFC income**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(123) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **net attributable CFC loss**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(123) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **net attributable FIF income**: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(26) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **net attributable FIF loss**: inserted (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(26) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **net family scheme income**: amended, on 1 July 2018, by section 23(18) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **net family scheme income**: amended, on 1 April 2008, by section 550(30) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **net loss**: amended (with effect on 1 April 2015), on 24 February 2016, by section 235(34) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **net mining loss**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 118(14) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **net mining loss**: amended, on 1 April 2014, by section 127(36) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **new asset transferee**: inserted (with effect on 22 May 2025), on 29 May 2025, by section 14(3) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section YA 1 **new build land**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **new business**: inserted, on 1 July 2010, by section 557(124) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **new company tax rate person**: inserted, on 1 October 2010, by section 30(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **new investment asset**: inserted (with effect on 22 May 2025), on 29 May 2025, by section 14(4) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section YA 1 **new personal tax rate person**: substituted, on 1 October 2010, by section 30(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **new reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 118(15) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **new start grant**: repealed (with effect on 1 April 2015), on 24 February 2016, by section 235(35) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **new tax rate person**: repealed, on 1 October 2010, by section 30(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **New Zealand banking group**: amended (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(27) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **New Zealand emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 557(127) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **New Zealand Growth Capital Partners Limited**: inserted, on 27 November 2025, by section 49 of the Statutes Amendment Act 2025 (2025 No 74).

Section YA 1 **New Zealand partnership**: inserted, on 1 April 2008, by section 23(10) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **New Zealand repatriation amount**: repealed, on 24 February 2016, by section 235(36) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **New Zealand resident** paragraph (a)(ii): amended, on 23 March 2020, by section 185(13) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **New Zealand resident** paragraph (b): amended, on 1 July 2018, by section 23(19) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **New Zealand superannuation** paragraph (a): replaced (with effect on 20 April 2020), on 30 April 2020, by section 15(8) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **New Zealand superannuation** paragraph (b)(i): repealed, on 2 September 2013 (applying for the 2011–12 tax year and later tax years), by section 16(1) of the Social Assistance (Living Alone Payments) Amendment Act 2013 (2013 No 11).

Section YA 1 **New Zealand superannuation** paragraph (b)(ii): repealed, on 17 July 2013, by section 98(27) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **New Zealand superannuation** paragraph (b)(iii): repealed, on 17 July 2013, by section 98(27) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **New Zealand superannuation** paragraph (c)(ii): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section YA 1 **New Zealand superannuation equivalent assistance**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(9) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **New Zealand superannuitant** paragraph (b): replaced, on 9 November 2020, by section 46 of the New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36).

Section YA 1 **New Zealand unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 557(127) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **Niue International Trust Fund**: inserted, on 1 April 2008, by section 550(32) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **nominal share**: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 288(69) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **nominal share**: amended (with effect on 1 April 2008), on 30 March 2022, by section 171(37) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **non-attributing active CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(128) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **non-attributing Australian CFC**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(128) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **non-business researcher**: repealed, on 1 April 2020, by section 185(14) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **non-creditable dividend**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(129) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **non-eligible assets**: inserted, on 1 April 2022, by section 171(38) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **non-filing taxpayer**: replaced, on 1 April 2019, by section 278(21) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **non-fungible token**: inserted, on 30 March 2022, by section 171(39) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **non-fungible token**: repealed (with effect on 30 March 2022), on 31 March 2023, by section 114(17) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **non-fungible token**: inserted (with effect on 1 January 2009), on 31 March 2023, by section 114(16) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **non-IFRS designated FX hedge**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 144(30) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **non-IFRS designated FX hedge** paragraph (c): amended, on 24 February 2016, by section 235(39) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **non-integral fee**: inserted, on 1 April 2008, by section 550(33) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **non-Kyoto greenhouse gas unit**: repealed, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **non-listed horticultural plant**: amended (with effect on 1 April 2008), on 29 March 2025, by section 134(41) (and see section 134(67) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **non-refundable tax credit** paragraph (a): amended, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 7(10) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **non-refundable tax credit** paragraph (ab): inserted, on 6 January 2010, by section 557(132) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **non-refundable tax credit** paragraph (d): repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(28) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **non-refundable tax credit** paragraph (f): amended, on 30 March 2017, by section 288(71) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **non-refundable tax credit** paragraph (fb): inserted, on 17 July 2013, by section 98(29) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **non-refundable tax credit** paragraph (fb): amended (with effect on 1 April 2020), on 30 March 2021, by section 135(32) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **non-refundable tax credit** paragraph (g): substituted, on 1 April 2010, by section 557(133) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **non-refundable tax credit** paragraph (g): amended, on 17 July 2013, by section 98(30) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **non-resident contractor** paragraph (b)(ii): amended, on 1 April 2024, by section 114(18)(a) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **non-resident contractor** paragraph (c): inserted, on 1 April 2024, by section 114(18)(b) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **non-resident entertainer** paragraph (b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(134) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **non-resident entertainer** paragraph (c): repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(134) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **non-resident financial arrangement income**: inserted, on 30 March 2017, by section 288(72) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **non-resident investment company**: repealed (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 98(31) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **non-resident mining operator**: repealed, on 1 April 2014, by section 127(37) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **non-resident owning body**: replaced, on 30 March 2017, by section 288(73) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **non-resident seasonal worker**: replaced, on 1 October 2014, by section 144(32) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **non-residential building**: repealed, on 1 April 2024, by section 118(33) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **normal retiring age**: replaced, on 29 March 2018, by section 243(49) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **North Island adverse weather event**: inserted (with effect on 1 April 2022), on 28 March 2024, by section 118(34) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **North Island flooding events**: replaced (with effect on 8 January 2023), on 28 March 2024, by section 118(35) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **notified foreign investor**: inserted, on 29 August 2011, by section 130(11) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **notified investor rate**: inserted, on 1 April 2010, by section 557(136) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **notified investor rate**: amended, on 1 October 2010, by section 30(4) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **notify**: replaced, on 2 June 2016, by section 71(9) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **novelty**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(74) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **NRFAI due date**: inserted, on 30 March 2017, by section 288(75) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **NZ IFRS 16**: inserted (with effect on 1 January 2019), on 30 March 2021, by section 135(34) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **NZIAS 2**: inserted, on 1 April 2008, by section 550(35) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **NZIAS 2**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **NZIAS 8**: inserted, on 1 April 2008, by section 550(35) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **NZIAS 8**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **NZIAS 17**: repealed (with effect on 1 January 2019), on 30 March 2021, by section 135(33) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **NZIAS 23**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(137) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **NZIAS 23**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **NZIAS 28**: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(29) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **NZIAS 28**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **NZIAS 31**: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(29) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **NZIAS 31**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **NZIAS 32**: inserted, on 1 April 2008, by section 550(35) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **NZIAS 32**: amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section YA 1 **NZIAS 39**: repealed, on 26 June 2019, by section 80 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **NZIAS 41**: inserted, on 1 April 2008, by section 550(35) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **OECD transfer pricing guidelines**: inserted, on 1 July 2018, by section 49(19) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **OECD transfer pricing guidelines**: amended (with effect on 20 January 2022), on 31 March 2023, by section 114(20) (and see section 114(37) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **offered or was offered or entered into**: amended, on 29 March 2018 (with effect on 1 April 2017 and applying for a life insurance premium that is derived on or after that date by Lloyd's of London), by section 243(50) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **offshore development**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(138) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **offshore RLWT person**: inserted, on 1 July 2016, by section 50(8) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **offshore RLWT person** paragraph (c): amended, on 29 March 2018 (with effect on 1 July 2016), by section 243(51) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **offshore RLWT person** paragraph (c)(iv): amended (with effect on 1 July 2016), on 21 February 2017, by section 98(7)(a) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **offshore RLWT person** paragraph (c)(vi): amended (with effect on 1 July 2016), on 21 February 2017, by section 98(7)(b) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **old company tax rate**: inserted, on 1 April 2008, by section 550(36) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **old company tax rate**: amended (with effect on 1 October 2010), on 7 May 2012, by section 132(30)(a) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **old company tax rate**: amended (with effect on 1 October 2010), on 7 May 2012, by section 132(30)(b) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **old company tax rate**: amended, on 1 October 2010, by section 30(5) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **old reporting standard**: inserted (with effect on 1 April 2008), on 7 December 2009, by section 118(16) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **old reporting standard**: amended (with effect on 1 April 2015), on 24 February 2016, by section 235(40) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **onshore development**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(139) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **operating lease**: amended (with effect on 1 April 2008), on 6 October 2009, by section 557(140) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **operational expenditure**: inserted, on 27 February 2014, by section 127(40) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **option**: amended, on 2 November 2012, by section 154(26) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **originator**: replaced, on 30 March 2025, by section 134(43) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **orphan's benefit**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(10) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **orphan's benefit equivalent assistance**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(11) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **other amortisation provision**: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **other income**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 134(44) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **out-of-town secondment**: inserted, on 1 April 2015, by section 144(33) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **out-of-town secondment**: amended (with effect on 1 April 2015), on 30 March 2017, by section 288(78) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **out-of-town secondment**: inserted (with effect on 4 September 2010), on 30 March 2017, by section 288(76) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **out-of-town secondment**: repealed (with effect on 1 April 2015), on 30 March 2017, by section 288(77) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **outstanding claims reserve**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(141) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **outstanding claims reserve**: amended (with effect on 1 January 2023), on 31 March 2023, by section 114(21)(a) (and see section 114(36) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **outstanding claims reserve** paragraph (a): amended (with effect on 1 April 2008), on 21 December 2010, by section 132(32) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **outstanding claims reserve** paragraph (ab): inserted (with effect on 1 January 2023), on 31 March 2023, by section 114(21)(b) (and see section 114(36) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **outstanding claims reserve** paragraph (b): amended (with effect on 1 January 2023), on 31 March 2023, by section 114(21)(c) (and see section 114(36) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **outstanding claims reserve** paragraph (c): inserted (with effect on 1 January 2023), on 31 March 2023, by section 114(21)(d) (and see section 114(36) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **outstanding claims reserve** paragraph (d): inserted (with effect on 1 January 2023), on 31 March 2023, by section 114(21)(d) (and see section 114(36) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5

Section YA 1 **overseas eligible expenditure**: repealed, on 1 October 2009, by section 20(5) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **overtime**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(142) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **overtime**: amended (with effect on 1 April 2008), on 18 March 2019, by section 278(23) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **ownership continuity breach**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 135(35) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **ownership interest**: replaced, on 1 April 2015, by section 144(34) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **owner's associate**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 154(27) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **owner's interests**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(33) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **paid work**: repealed, on 29 May 2012 (for the purposes of sections LC 4 and LC 5 and schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013), by section 7(11) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **parental tax credit**: amended, on 1 July 2018, by section 23(20) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **Part F activity**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(144) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **Part F activity**: amended, on 1 April 2017, by section 98(8) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Section YA 1 **partner**: substituted, on 1 April 2008, by section 23(11) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **partner's associate**: inserted, on 1 April 2008, by section 23(11) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **partner's interests**: inserted, on 1 April 2008, by section 23(11) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **partnership**: substituted, on 1 April 2008, by section 23(11) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **partnership** paragraph (a): amended, on 21 April 2020, by section 86 of the Partnership Law Act 2019 (2019 No 53).

Section YA 1 **partnership share**: inserted, on 1 April 2008, by section 23(11) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **partnership share**: amended (with effect on 1 April 2010), on 29 March 2025, by section 134(45) (and see section 134(68) and (71) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **partnership share**: amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 27 February 2014, by section 127(41) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **pay** paragraph (bb): inserted, on 6 January 2010, by section 557(145) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **pay** paragraph (bb): amended, on 1 April 2019, by section 278(24) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **pay** paragraph (d): inserted, on 30 March 2017, by section 288(79) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **payday**: inserted, on 1 April 2019, by section 243(53) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **PAYE income payment**: amended (with effect on 4 September 2010), on 24 May 2011, by section 11(2) of the Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24).

Section YA 1 **PAYE income payment form**: repealed, on 1 April 2019, by section 243(54) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **PAYE income payment form period**: repealed, on 1 April 2019, by section 243(54) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **PAYE intermediary** paragraph (a)(i): amended, on 18 March 2019, by section 278(25)(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **PAYE intermediary** paragraph (a)(ii): amended, on 18 March 2019, by section 278(25)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **PAYE intermediary** paragraph (a)(iii): amended, on 18 March 2019, by section 278(25)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **PAYE-related overpayment**: inserted, on 1 April 2019, by section 278(26) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **payroll donation**: inserted, on 6 January 2010, by section 557(147) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **PCA**: repealed, on 30 March 2017, by section 288(80) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **PCA company**: repealed, on 30 March 2017, by section 288(81) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **PCA person**: repealed, on 30 March 2017, by section 288(82) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **period of continuous work**: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 144(35) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **period of continuous work** paragraph (a): amended (with effect on 1 April 2015), on 30 March 2017, by section 288(85) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **period of continuous work**: inserted (with effect on 4 September 2010), on 30 March 2017, by section 288(83) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **period of continuous work**: repealed (with effect on 1 April 2015), on 30 March 2017, by section 288(84) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **period of restriction**: repealed, on 29 March 2018, by section 243(56) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **permanent establishment**: inserted, on 1 July 2018, by section 49(20) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **permanent forestry business**: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **permanent forestry income**: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **permanent forestry scheme**: inserted, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **permit area**: replaced, on 1 April 2014, by section 127(42) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **permit area** paragraph (b): amended (with effect on 1 April 2014), on 24 February 2016, by section 235(43) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **personal injury by accident**: repealed, on 29 May 2012 (for the purposes of sections LC 4 and LC 5 and schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013), by section 7(12) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **personal service rehabilitation payment**: inserted, on 1 April 2008, by section 550(38) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **personal service rehabilitation payment** paragraph (a): substituted (with effect on 1 July 2008), on 6 October 2009, by section 557(148)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **personal service rehabilitation payment** paragraph (a): amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **personal service rehabilitation payment** paragraph (c): substituted (with effect on 1 July 2008), on 6 October 2009, by section 557(148)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **petroleum development expenditure** paragraph (b)(iib): inserted, on 1 April 2018, by section 243(57) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **petroleum exploration expenditure** paragraph (a)(iii): amended (with effect on 1 April 2008 and applying for the 2008–09 and later income years but not applying to a person in relation to a tax position taken by the person for an arrangement entered into before 26 February 2015; and relying upon this definition as it was before this amendment was made), on 24 February 2016, by section 235(44) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **petroleum mining company**: repealed, on 1 April 2018, by section 243(58) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **petroleum mining development**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(149) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **petroleum mining operations**: substituted, on 1 April 2008, by section 550(39) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **petroleum permit**: replaced (with effect on 1 April 2008 and applying for the 2008–09 and later income years except, for the purposes of applying section DT 2 (Arrangement for petroleum exploration expenditure and sale of property), for a person and for an arrangement to which the exception in section 235(68) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016, relating to the meaning of **petroleum exploration expenditure**, applies in relation to the person and a tax position; and for which the Commissioner has not issued to the person a binding ruling that is consistent with the definition of **petroleum permit** in section 235(45) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016), on 24 February 2016, by section 235(45) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **PFSI forestry business**: repealed, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **PFSI forestry income**: repealed, on 23 June 2020, by section 279 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **PIE**: inserted, on 1 April 2010, by section 557(150) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **PIE rules**: inserted, on 1 April 2010, by section 557(150) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **PIE rules** paragraph (a)(v): amended, on 29 August 2011, by section 130(12)(a) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **PIE rules** paragraph (a)(vb): inserted, on 29 August 2011, by section 130(12)(b) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **PIE rules** paragraph (a)(vii): amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 118(18) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **PIE rules** paragraph (a)(viii): amended, on 29 August 2011, by section 130(12)(c) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **PIE rules** paragraph (b): amended, on 29 August 2011, by section 130(12)(d) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **PIE schedular income**: inserted, on 1 April 2020, by section 185(15) (and see section 185(33) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **plant**: inserted, on 1 April 2011 (applying for the 2011–12 and later income years), by section 132(34) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **policy liabilities**: inserted, on 1 July 2010, by section 557(151) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder base**: substituted, on 1 July 2010, by section 557(152) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder base allowable deductions**: inserted, on 1 July 2010, by section 557(152) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder base income**: inserted, on 1 July 2010, by section 557(152) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder base income tax liability**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder credit**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder credit account**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder debit**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder FDP ratio**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder income**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder income formula**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder net loss**: repealed, on 1 July 2010, by section 557(153) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **policyholder unvested liabilities**: inserted, on 1 July 2010, by section 118(19) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **portable New Zealand superannuation**: substituted, on 5 January 2010, by section 118(20) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **portable New Zealand superannuation** paragraph (c): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section YA 1 **portable veteran's pension**: substituted, on 5 January 2010, by section 118(20) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **portable veteran's pension** paragraph (a): replaced, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section YA 1 **portable veteran's pension** paragraph (b): replaced, on 7 December 2014, by section 278 of the Veterans' Support Act 2014 (2014 No 56).

Section YA 1 **portable veteran's pension** paragraph (c): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section YA 1 **portfolio allocation period**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio calculation period**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio class fraction**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio class investment value**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio class net income**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio class net loss**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio class taxable income**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio class taxable loss**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio defined benefit fund**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio entity formation loss**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio entity investment**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio entity tax liability**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investment**: inserted, on 1 April 2010, by section 557(155) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investment entity**: substituted, on 1 April 2010, by section 557(155) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investment entity** paragraph (e): inserted, on 1 April 2013, by section 154(29) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **portfolio investment-linked life fund**: inserted, on 1 July 2008, by section 550(42) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **portfolio investor allocated income**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investor allocated loss**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investor class**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investor exit period**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investor interest**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investor interest fraction**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investor proxy**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio investor rate**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio land company**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio listed company**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **portfolio tax rate entity**: repealed, on 1 April 2010, by section 557(154) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **post-1989 forest land**: substituted (with effect on 1 January 2009), on 6 October 2009, by section 557(159) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **post-1989 forest land emissions unit**: substituted (with effect on 1 April 2010), on 7 September 2010, by section 117(19) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **post-1989 forest land unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 557(159) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **post-treaty tax rate**: inserted, on 1 February 2010, by section 118(21) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **pre-1990 forest land**: substituted (with effect on 1 January 2009), on 6 October 2009, by section 557(160) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **pre-1990 forest land emissions unit**: substituted (with effect on 1 April 2010), on 7 September 2010, by section 117(20) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **pre-1990 forest land emissions unit** paragraph (b): replaced (with effect on 9 June 2009), on 2 November 2012, by section 154(30) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **pre-1990 forest land unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 557(160) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **premier yearling sale**: inserted (with effect on 1 January 2019), on 18 March 2019, by section 278(27) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **premium** paragraph (a)(ii): amended (with effect on 1 July 2010), on 23 March 2020, by section 185(16) (and see section 185(31) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **premium** paragraph (a)(iii): added, on 1 July 2010, by section 557(161) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **premium loading**: repealed, on 1 July 2010, by section 557(162) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **premium loading formula**: repealed, on 1 July 2010, by section 557(162) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **premium payback amount**: inserted, on 1 July 2010, by section 557(163) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **prescribed amount**: repealed, on 1 April 2014, by section 127(43) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **prescribed investor rate**: inserted, on 1 April 2010, by section 557(167) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **prescribed investor rate**: amended (with effect on 29 August 2011), on 24 February 2016, by section 235(46) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **prescribed investor rate**: amended, on 1 April 2012 (applying for the 2012–13 and later income years), by section 130(13) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **prescribed investor rate**: amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 118(22) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **prescribed period**: repealed, on 1 April 2014, by section 127(44) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **prescribed proportion**: repealed, on 1 April 2014, by section 127(45) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **present value (gross)**: replaced (with effect on 1 January 2023), on 31 March 2023, by section 114(22) (and see section 114(36) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **present value (net)**: inserted, on 1 July 2010, by section 557(168) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **principal caregiver**: amended, on 1 April 2008, by section 550(49) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **principal settlor**: replaced (with effect on 27 March 2021), on 30 March 2022, by section 171(40) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **private use**: replaced (with effect on 1 April 2013 and applying for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii)), on 17 July 2013, by section 98(33) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **profit distribution plan**: inserted (with effect on 1 October 2012), on 2 November 2012, by section 154(31) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **profit distribution plan** paragraph (b): amended (with effect on 29 March 2018), on 31 March 2023, by section 114(23) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **profit distribution plan** paragraph (b): amended (with effect on 29 September 2018), on 31 March 2023, by section 114(24) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **profit participation policy**: inserted, on 1 July 2010, by section 557(169) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **profit participation policy** paragraph (a): replaced (with effect on 1 July 2010 and applying for the income year including 1 July 2010 and later income years), on 30 March 2017, by section 288(86) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **profit participation policy** paragraph (b)(ii): amended (with effect on 1 July 2010), on 21 December 2010, by section 132(35) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **profit participation policy** paragraph (c): added (with effect on 1 July 2010), on 21 December 2010, by section 132(35) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **profit-related debenture**: amended (with effect on 1 April 2008), on 6 October 2009, by section 557(170) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **profit-sharing arrangement** paragraph (d): amended, on 21 April 2020, by section 86 of the Partnership Law Act 2019 (2019 No 53).

Section YA 1 **project of limited duration**: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 144(36) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **project of limited duration**: amended (with effect on 1 April 2015), on 30 March 2017, by section 288(89) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **project of limited duration**: inserted (with effect on 4 September 2010), on 30 March 2017, by section 288(87) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **project of limited duration**: repealed (with effect on 1 April 2015), on 30 March 2017, by section 288(88) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **projected qualifying non-transaction shareholding**: inserted (with effect on 1 July 2022), on 28 March 2024, by section 118(36) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **projected transactions shareholding**: replaced (with effect on 1 July 2022), on 28 March 2024, by section 118(37) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **property** paragraph (a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section YA 1 **property** paragraph (ab): replaced (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 24 February 2016, by section 235(48) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **property** paragraph (ac): replaced (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 24 February 2016, by section 235(48) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **proportional debt ratio**: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 288(90) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **proportional debt ratio**: amended (with effect on 1 April 2008), on 30 March 2022, by section 171(41) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **proportional ownership ratio**: inserted (with effect on 1 April 2008 and applying for the 2008–09 and later income years), on 30 March 2017, by section 288(91) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **proportional ownership ratio**: amended (with effect on 1 April 2008), on 30 March 2022, by section 171(42) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **proportional-stapling company**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(171) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **prospective bloodstock breeder**: inserted (with effect on 1 January 2019), on 18 March 2019, by section 278(28) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **protected Best Start tax credit**: inserted, on 1 July 2018, by section 23(21) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **protected family support**: repealed, on 1 April 2008, by section 550(50) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **protected family tax credit**: inserted, on 1 April 2008, by section 550(50) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **PSR period**: inserted, on 1 July 2010, by section 557(172) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **public authority** paragraph (b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **public authority** paragraph (bb): inserted, on 18 March 2019, by section 278(29) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **public authority** paragraph (bc): inserted, on 18 March 2019, by section 278(29) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **public authority** paragraph (d): amended, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section YA 1 **public authority** paragraph (e): inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section YA 1 **public official**: repealed, on 7 November 2015, by section 5(1) of the Income Tax Amendment Act 2015 (2015 No 104).

Section YA 1 **public project asset**: inserted, on 1 July 2018, by section 49(21) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **public project debt**: inserted, on 1 July 2018, by section 49(21) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **public project participant debt**: inserted, on 1 July 2018, by section 49(21) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **public purpose Crown-controlled company**: inserted, on 18 March 2019, by section 278(30) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **public transport fare**: inserted, on 1 April 2023, by section 114(25)of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **public unit trust** paragraph (a): amended, on 24 February 2016, by section 235(49)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **public unit trust** paragraph (b)(vi): replaced, on 24 February 2016, by section 235(49)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **public unit trust** paragraph (b)(vii): replaced, on 24 February 2016, by section 235(49)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **public unit trust** paragraph (e)(iv): amended, on 18 March 2019, by section 278(31)(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **public unit trust** paragraph (e)(v): inserted, on 18 March 2019, by section 278(31)(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **QC continuity period**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(92) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **QCP transitional process**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(37) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **QCST transitional process**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(38) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **qualifying debenture** paragraph (a): amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **qualifying electoral candidate**: repealed, on 13 November 2025, by section 51 of the Parliament (Repeals and Amendments) Act 2025 (2025 No 63).

Section YA 1 **qualifying event**: repealed, on 6 October 2009, by section 557(173) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **qualifying non-transaction shares**: inserted (with effect on 1 July 2022), on 28 March 2024, by section 118(38) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **qualifying resident foreign trustee**: repealed, on 30 March 2025, by section 134(47) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **quarterly FDR hedging ratio**: inserted, on 17 July 2013, by section 98(34) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **R&D expenditure**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(51) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **R&D group**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(52) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **R&D loss tax credit**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(53) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **R&D material**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(54) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **R&D repayment tax**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(55) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **rail vehicle**: inserted, on 1 April 2023, by section 114(26) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **Railways assets**: inserted (with effect on 31 December 2012), on 17 July 2013, by section 98(35) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **Railways assets and liabilities**: inserted (with effect on 31 December 2012), on 17 July 2013, by section 98(36) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **Railways liabilities**: inserted (with effect on 31 December 2012), on 17 July 2013, by section 98(37) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **Railways vesting**: inserted (with effect on 31 December 2012), on 17 July 2013, by section 98(38) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **real property**: inserted, on 30 June 2014, by section 144(37) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **rebuilding**: replaced, on 1 April 2025, by section 134(48) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **recognised seasonal employer (RSE) instructions**: inserted, on 1 October 2014, by section 144(40) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **recognised seasonal employment scheme**: repealed, on 1 October 2014, by section 144(40) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **recovery**: replaced, on 1 April 2025, by section 134(49) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **recourse property**: replaced (with effect on 1 April 2012), on 2 November 2012, by section 154(33) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **recourse property**: inserted (with effect on 1 April 2011), on 2 November 2012, by section 154(32) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **reduced deficit debit**: repealed, on 1 April 2017, by section 288(93) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **redundancy payment**: repealed, on 1 April 2011 (applying for the 2011–12 and later income years), by section 96(6) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **refundability cap**: inserted (with effect on 1 April 2019), on 25 March 2020, by section 29(9) (and see section 29(11) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section YA 1 **refundable tax credit**: replaced, on 1 April 2018, by section 243(61) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **registered as a charitable entity**: repealed, on 1 July 2008, by section 48(4) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Section YA 1 **registered bank**: amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section YA 1 **reimbursement payment**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 278(32) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **reimbursement payment**: amended, on 1 April 2024, by section 118(39) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **reinsurance grandparenting start day**: inserted, on 1 July 2010, by section 557(178) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **reinvestment profit**: repealed, on 1 April 2014, by section 127(46) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **related**: inserted, on 1 July 2018, by section 49(22) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **related activity**: repealed, on 1 April 2018, by section 243(62) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **related-party debt**: replaced, on 1 July 2018, by section 49(23) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **related person**: substituted, on 1 April 2010, by section 557(179) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **relationship period**: amended, on 1 July 2018, by section 23(22) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **relative**: substituted, on 1 April 2010, by section 557(180) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **relative** paragraph (a): amended, on 2 November 2012 (applying for income years beginning on or after the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 receives the Royal assent), by section 154(34) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **relative** paragraph (a): amended, on 1 April 2010, by section 118(23)(a) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **relative** paragraph (a)(iv): repealed, on 1 April 2023, by section 114(27) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **relative** paragraph (b): amended, on 1 April 2010, by section 118(23)(b) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **relative** paragraph (bb): inserted, on 2 November 2012 (applying for income years beginning on or after the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 receives the Royal assent), by section 154(35) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **relative** paragraph (c): repealed, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section YA 1 **removal or restoration operations**: repealed, on 1 April 2018, by section 243(63) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **replacement cost**: inserted, on 1 April 2025, by section 134(50) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **replacement employee share scheme**: inserted, on 29 September 2018, by section 243(64) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **replacement ETS unit**: repealed (with effect on 1 January 2009), on 6 October 2009, by section 557(181) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **replacement forest land emissions unit**: inserted (with effect on 1 January 2009), on 6 October 2009, by section 557(181) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **replacement forest land emissions unit** paragraph (a): substituted (with effect on 1 January 2009), on 7 September 2010, by section 117(22)(a) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **replacement forest land emissions unit** paragraph (b): amended (with effect on 1 January 2009), on 7 September 2010, by section 117(22)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **replacement property**: inserted, on 1 April 2025, by section 134(51) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **reportable income**: replaced (with effect on 1 July 2024), on 29 March 2025, by section 134(52) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **reporting standard**: repealed (with effect on 1 April 2008), on 7 December 2009, by section 118(24) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **representative**: inserted, on 18 March 2019, by section 278(33) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **request**: inserted, on 2 June 2016, by section 71(10) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **required interest**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(182) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **resale royalty**: inserted (with effect on 1 December 2024), on 29 March 2025, by section 134(53) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **research**: amended (with effect on 1 April 2015), on 24 February 2016, by section 235(50) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **research**: amended, on 1 April 2008, by section 550(54) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **research and development activities**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(97) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **research and development activity**: inserted, on 1 April 2019, by section 21(15) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **research and development contractor**: inserted, on 1 April 2019, by section 21(16) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **research and development contractor** paragraph (b): replaced, on 1 April 2020, by section 185(18) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **research and development loan scheme**: inserted (with effect on 1 July 2020), on 6 August 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Section YA 1 **research and development project**: repealed, on 1 October 2009, by section 20(6) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **research and development tax credit**: inserted, on 1 April 2019, by section 21(17) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **resident foreign trustee**: repealed, on 1 April 2023, by section 114(28) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **resident group member**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(183) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **resident group member**: amended (with effect on 30 June 2009), on 29 August 2011 (applying for income years beginning on or after 1 July 2009), by section 130(8) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **resident in Australia**: amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **resident mining operator**: repealed, on 1 April 2014, by section 127(47) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **residential building**: repealed, on 1 April 2024, by section 118(41) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **residential income**: inserted (with effect on 1 April 2019), on 26 June 2019, by section 79(6) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **residential land**: replaced (with effect on 27 March 2021), on 30 March 2021, by section 135(37) (and see section 135(47) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **residential land** paragraph (a)(i): amended (with effect on 27 March 2021), on 28 March 2024, by section 118(42) (and see section 118(56) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **residential land** paragraph (a)(iii): amended (with effect on 27 March 2021), on 30 March 2022, by section 171(43) (and see section 171(51) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **residential land** paragraph (b): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **residential land company**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **residential land purchase amount**: inserted, on 1 July 2016, by section 50(9) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **residential land-rich entity**: inserted (with effect on 1 April 2019), on 26 June 2019, by section 79(7) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **residential land wholly-owned group member**: repealed, on 1 April 2025, by section 118(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **residential mortgage backed security**: repealed, on 18 March 2019, by section 278(34) (and see section 278(43) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **residential portfolio**: inserted (with effect on 1 April 2019), on 26 June 2019, by section 79(8) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **residential rental property**: inserted (with effect on 1 April 2019), on 26 June 2019, by section 79(9) of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33).

Section YA 1 **residual expenditure** paragraph (b)(i): replaced, on 1 April 2014 (applying for the 2014–15 and later income years), by section 127(48) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **residual income tax** paragraph (b)(iiib): inserted, on 1 April 2008, by section 550(56) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **residual income tax** paragraph (b)(iiibb): inserted, on 1 July 2016, by section 50(10) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **residual income tax** paragraph (b)(iiic): inserted (with effect on 1 April 2009), on 21 December 2010, by section 132(39) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **residual income tax** paragraph (b)(v): repealed, on 1 April 2017, by section 288(98) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **residual income tax** paragraph (b)(vb): repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(99) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **residual income tax** paragraph (b)(x): inserted, on 1 April 2019, by section 21(18) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **residual income tax** paragraph (d): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 132(31) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **residual income tax** paragraph (e): repealed, on 30 March 2017, by section 288(100) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **residual income tax** paragraph (f): repealed (with effect on 1 April 2020), on 30 March 2021, by section 135(38) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **resource consent**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section YA 1 **retained earnings**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(185) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **retirement savings scheme**: inserted, on 1 April 2008, by section 550(57) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **retirement scheme contribution**: inserted, on 1 April 2008, by section 550(57) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **retirement scheme contributor**: inserted, on 1 April 2008, by section 550(57) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **retirement scheme prescribed rate**: substituted, on 1 April 2010 (applying for the 2010–11 and later income years), by section 118(25) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **returning share transfer** paragraph (a)(i): amended, on 1 July 2018, by section 49(24) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **revenue account property**: substituted (with effect on 1 January 2009), on 6 October 2009, by section 557(186) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **revenue account property** paragraph (b): amended (with effect on 1 January 2009), on 7 September 2010, by section 117(24) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **revenue account property** paragraph (c): amended (with effect on 1 January 2009), on 29 August 2011, by section 130(14) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **revenue account property** paragraph (d): replaced, on 30 November 2020, by section 280 of the Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22).

Section YA 1 **right**: amended, on 24 February 2016, by section 235(56) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **rights date**: inserted (with effect on 1 April 2011 and applying for a financial arrangement entered into by a person (a) in the 2014–15 income year and later income years, unless paragraph (b) applies; (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year), on 30 June 2014, by section 144(42) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **RLWT**: inserted, on 1 July 2016, by section 50(11) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **RLWT certificate of exemption**: inserted, on 1 July 2016, by section 50(12) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **RLWT rules**: inserted, on 1 July 2016, by section 50(13) of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21).

Section YA 1 **RMBS special purpose vehicle**: repealed (with effect on 1 June 2010), on 7 September 2010, by section 117(25) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **routine government action**: repealed, on 7 November 2015, by section 5(1) of the Income Tax Amendment Act 2015 (2015 No 104).

Section YA 1 **RSCT**: inserted, on 1 April 2008, by section 550(58) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **RSCT rules**: inserted, on 1 April 2008, by section 550(58) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **rules**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section YA 1 **RWT-exempt status**: inserted, on 1 April 2020, by section 243(65) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **RWT exemption certificate**: repealed, on 1 April 2020, by section 243(66) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **RWT proxy**: amended, on 23 March 2020, by section 185(20) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **RWT substitution payment**: inserted (with effect on 1 April 2008), on 29 August 2011, by section 130(15) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YA 1 **RWT withholding certificate**: amended, on 1 April 2020, by section 243(67) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **salary or wages** paragraph (b): replaced, on 1 April 2012, by section 13(3) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Section YA 1 **savings component**: inserted, on 1 July 2010, by section 557(189) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **savings product policy**: substituted, on 1 July 2010, by section 118(28) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **savings product policy** paragraph (b): amended (with effect on 1 July 2010), on 29 March 2018, by section 243(68) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **savings product policy** paragraph (b): amended (with effect on 1 July 2010), on 7 September 2010, by section 117(26) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **schedular income** paragraph (a): substituted, on 1 July 2010, by section 557(190) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **schedular income** paragraph (b): repealed, on 1 April 2014, by section 127(49) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **schedular income** paragraph (c): repealed (with effect on 1 April 2008), on 6 October 2009, by section 557(191) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **schedular income** paragraph (db): inserted, on 1 April 2010, by section 557(192) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **schedular income** paragraph (dc): inserted, on 1 April 2020, by section 185(21) (and see section 185(33) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **schedular income** paragraph (f): amended (with effect on 1 April 2008), on 6 October 2009, by section 557(193) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **schedular income** paragraph (h): repealed, on 2 November 2012, by section 154(36) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **schedular income** paragraph (j): inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for a life insurance premium that is derived on or after that date by Lloyd's of London), by section 243(69) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **schedular income** paragraph (k): inserted (with effect on 1 April 2020), on 30 March 2021, by section 135(39) (and see section 135(46) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **schedular income** paragraph (l): inserted, on 1 April 2024, by section 118(43) (and see section 118(57) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **schedular income** paragraph (l): amended (with effect on 1 April 2024), on 29 March 2025, by section 134(54) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **schedular income** paragraph (m): inserted, on 1 April 2024, by section 118(43) (and see section 118(57) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **schedular income** paragraph (n): inserted (with effect on 1 April 2024), on 29 March 2025, by section 134(55) (and see section 134(70) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **schedular income** paragraph (o): inserted (with effect on 1 April 2024), on 29 March 2025, by section 134(55) (and see section 134(70) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **schedular policyholder base income**: inserted, on 1 July 2010, by section 557(194) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **scheduled overhaul period**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(101) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **scientific or technological uncertainty**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(102) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **secured amounts**: substituted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(40) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **securitisation entity**: inserted (with effect on 1 January 2025), on 29 March 2025, by section 134(57) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **securitisation trust**: inserted, on 1 April 2024, by section 118(44) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **securitisation trust beneficiary**: inserted, on 1 April 2024, by section 118(45) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **self-remission**: inserted (with effect on 1 April 2011), on 30 March 2017, by section 288(103) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **self-remission** paragraph (b): repealed, on 29 March 2018 (with effect on 1 April 2011), by section 243(70) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **separated person**: amended, on 1 July 2018, by section 23(23) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **separated person**: amended, on 29 May 2012 (applying for the 2012–13 and later tax years), by section 7(13) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **services** paragraph (a): amended, on 23 March 2020, by section 185(22) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **services** paragraph (a): amended, on 1 April 2019, by section 21(19)(a) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **services** paragraph (a): amended (with effect on 1 April 2015), on 24 February 2016, by section 235(57)(a) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **services** paragraph (b): amended (with effect on 1 July 2018), on 23 March 2020, by section 185(23)(a) (and see section 185(32) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **services** paragraph (b): amended (with effect on 1 April 2019), on 23 March 2020, by section 185(23)(b) (and see section 185(32) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **services** paragraph (b): amended, on 1 April 2019, by section 21(19)(b) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **services** paragraph (b): amended, on 1 July 2018, by section 49(25) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **services** paragraph (b): amended (with effect on 1 April 2015), on 24 February 2016, by section 235(57)(b) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **settlement**: amended (with effect on 4 September 2010), on 27 February 2014, by section 127(50) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **settlement** paragraph (b): amended (with effect on 1 October 2015), on 16 November 2015, by section 19(12)(a) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **settlement** paragraph (c): inserted (with effect on 1 October 2015), on 16 November 2015, by section 19(12)(b) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **settlement** paragraph (c): amended (with effect on 27 March 2021), on 31 March 2023, by section 114(29) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **settlement instruction**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section YA 1 **settlement of relationship property** first definition: inserted (with effect on 1 April 2011 and applying for income years beginning on or after that date), on 24 February 2016, by section 235(59) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **settlement of relationship property** second definition: repealed, on 29 March 2018 (with effect on 1 April 2011), by section 243(72) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **settlement of relationship property** third definition: repealed, on 29 March 2018 (with effect on 1 April 2011), by section 243(72) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **settlement system**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section YA 1 **settlor**: amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(41) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **settlor** paragraph (a): replaced (with effect on 4 September 2010), on 27 February 2014, by section 127(51) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **settlor** paragraph (c): added, on 1 April 2010, by section 557(196) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **share** paragraph (bb): inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(197) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **share** paragraph (f): repealed, on 29 September 2018, by section 243(73) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **share** paragraph (g): replaced, on 29 March 2018, by section 243(74) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **share purchase agreement**: repealed, on 29 September 2018, by section 243(75) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **share purchase scheme**: repealed, on 29 March 2018, by section 243(76) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **share reorganisation**: amended (with effect on 1 April 2008), on 6 October 2009, by section 557(199) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **share scheme taxing date**: inserted, on 29 September 2018, by section 243(77) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **shareholder** paragraph (c): amended, on 1 April 2017, by section 288(105) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **shareholder** paragraph (c): amended, on 30 March 2017, by section 288(104) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **shareholder** paragraph (c): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **shareholder agreement**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(200) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **shareholder base**: inserted, on 1 July 2010, by section 557(201) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **shareholder base allowable deductions**: inserted, on 1 July 2010, by section 557(201) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **shareholder base income**: inserted, on 1 July 2010, by section 557(201) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **shareholder-employee**: replaced, on 29 September 2018, by section 243(79) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **shareholder FDP ratio**: repealed, on 1 April 2017, by section 288(107) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **shareholder portion**: inserted (with effect on 1 October 2015), on 16 November 2015, by section 19(13) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **shareholding**: inserted, on 24 February 2016, by section 235(60) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **significant capital activity**: amended (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 17 July 2013, by section 98(40) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **significant financial hardship**: repealed, on 1 April 2011, by section 117(27) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **small business cashflow scheme**: inserted, on 30 April 2020, by section 15(12) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **small business cashflow scheme**: amended (with effect on 30 April 2020), on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Section YA 1 **small partnership**: inserted, on 1 April 2008, by section 23(13) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **small passenger service vehicle**: inserted, on 1 October 2017, by section 110(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section YA 1 **social assistance payment**: amended, on 1 July 2018, by section 23(24) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **sound commercial reason**: inserted, on 1 April 2008, by section 550(61) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **source in New Zealand**: amended, on 21 December 2010, by section 132(43) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **special account**: repealed, on 2 June 2016, by section 71(11) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **special excluded depreciable property**: inserted, on 1 April 2024, by section 118(46) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **special excluded depreciable property**: repealed, on 1 April 2020, by section 29(8) (and see section 29(10) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Section YA 1 **special home ownership account**: repealed, on 2 June 2016, by section 71(12) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **specified activity**: repealed, on 1 April 2018, by section 243(80) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **specified activity net income**: repealed, on 1 April 2018, by section 243(80) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **specified activity net loss**: repealed, on 1 April 2018, by section 243(80) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **specified living allowance**: repealed, on 30 March 2021, by section 135(40) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **specified mineral**: repealed, on 1 April 2014, by section 127(52) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **specified operator**: inserted, on 1 March 2024, by section 163(1) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Section YA 1 **specified period** paragraph (b): repealed, on 18 March 2019, by section 278(36) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **spouse**: amended, on 1 July 2018, by section 23(25) of the Families Package (Income Tax and Benefits) Act 2017 (2017 No 51).

Section YA 1 **spouse**: amended, on 29 May 2012 (for the purposes of sections LC 4 and LC 5 and schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, applying for PAYE income payments made on or after 1 April 2013), by section 7(14) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Section YA 1 **stapled**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(202) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **stapled debt security**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(202) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **starting date**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(203) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **State enterprise**: amended, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section YA 1 **statutory trustee company**: amended, on 29 March 2018, by section 243(81) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **straight-line equivalent method**: inserted (with effect on 1 April 2008), on 28 March 2024, by section 118(47) (and see section 118(54) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **structured arrangement**: inserted, on 1 July 2018, by section 49(26) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **student accommodation**: inserted (with effect on 27 March 2021), on 30 March 2022, by section 171(47) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YA 1 **stud-founding bloodstock**: inserted (with effect on 1 January 2019), on 18 March 2019, by section 278(37) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **subsidy claim form**: repealed, on 1 April 2020, by section 243(82) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **substituting debenture**: repealed, on 1 April 2015 (not applying, for an income year, to a debenture that a person is party to, if the debenture is issued under an arrangement entered into before 22 November 2013; and a binding ruling on the application of section FA 2(5) was issued to the person in relation to the arrangement; and the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (the **Act**); and for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture), by section 144(43) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YA 1 **superannuation fund**: replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section YA 1 **superannuation scheme** paragraph (a)(ii): repealed, on 1 April 2008, by section 135(7) of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Section YA 1 **superannuation scheme** paragraph (a)(iv): amended, on 2 November 2012, by section 154(38) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **superannuation scheme** paragraph (a)(v): amended, on 1 April 2014, by section 127(53) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Section YA 1 **supplementary dividend holding company**: repealed, on 1 April 2013 (applying for the 2013–14 and later income years), by section 118(30) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **supplying shareholder**: inserted (with effect on 1 July 2022), on 28 March 2024, by section 118(48) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **supporting asset base**: inserted, on 1 July 2010, by section 557(205) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **supporting research and development activity**: inserted, on 1 April 2019, by section 21(20) (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Section YA 1 **surplus assessable income**: inserted, on 1 July 2018, by section 49(27) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **surrender**: substituted (with effect on 1 January 2009), on 6 October 2009, by section 557(206) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **surrender value**: inserted, on 1 July 2010, by section 557(207) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **suspended recovery income**: inserted, on 1 April 2025, by section 134(59) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **systematic, investigative, and experimental activities**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(108) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **tax advantage** paragraph (b): repealed, on 1 April 2017, by section 288(109) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **tax advantage** paragraph (c): repealed, on 1 April 2017, by section 288(109) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **tax advantage** paragraph (f): repealed, on 1 April 2017, by section 288(109) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **tax agent**: replaced, on 18 March 2019, by section 278(38) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **tax-base property**: amended, on 30 March 2017, by section 288(110) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **tax charity**: replaced, on 1 April 2019, by section 278(39) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **tax credit income**: inserted, on 1 July 2024, by section 16(7) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Section YA 1 **tax credit quarter**: inserted (with effect on 1 July 2024), on 29 March 2025, by section 134(60) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **tax credit year**: inserted, on 1 July 2025, by section 14(5) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Section YA 1 **tax file number** paragraph (b): replaced, on 1 April 2020, by section 243(83) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **tax loss**: substituted (with effect on 1 April 2008), on 7 December 2009, by section 118(31) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **tax pooling account**: substituted (with effect on 1 April 2009), on 6 October 2009, by section 557(209) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **tax position**: replaced, on 24 February 2016, by section 235(61) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **tax situation**: inserted, on 24 February 2016, by section 235(62) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **tax situation**: amended, on 29 March 2018, by section 243(84) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **tax withheld**: substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(210) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **taxable bonus issue** paragraph (e): inserted (with effect on 1 October 2012), on 2 November 2012, by section 154(39) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **taxable activity** paragraph (a): replaced, on 1 April 2020, by section 185(24) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **taxable activity** paragraph (ab): inserted, on 1 April 2020, by section 185(24) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **taxable distribution**: amended (with effect on 1 April 2008), on 7 December 2009, by section 118(32) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **taxation law**: substituted (with effect on 30 June 2009), on 6 October 2009, by section 557(208) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **taxation law**: amended (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(33) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **taxed CFC connection**: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(34) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **taxed CFC connection** paragraph (a): amended (with effect on 1 July 2009), on 2 November 2012, by section 154(40) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **taxed FIF connection**: inserted (with effect on 1 July 2009 and applying for income years beginning on or after that date), on 7 May 2012, by section 132(34) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YA 1 **taxi**: repealed, on 1 October 2017, by section 110(3) of the Land Transport Amendment Act 2017 (2017 No 34).

Section YA 1 **taxicab**: repealed, on 10 May 2011, by section 100(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section YA 1 **technology**: repealed (with effect on 1 April 2009), on 30 March 2017, by section 288(112) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **Te Kōwhatu Tū Moana**: inserted (with effect on 17 March 2019), on 23 March 2020, by section 185(25) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **telecommunications service**: inserted (with effect on 30 June 2009), on 6 October 2009, by section 557(211) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **temporary building** paragraph (a): repealed, on 1 April 2011 (applying for the 2011–12 and later income years), by section 96(9) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Section YA 1 **territorial authority**: inserted, on 27 August 2025, by section 37(2) of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Section YA 1 **tertiary education institution**: inserted (with effect on 1 July 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 235(63) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **tertiary education institution** paragraph (a): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section YA 1 **tertiary education institution** paragraph (a): amended, on 23 August 2023, by section 43 of the Education and Training Amendment Act 2023 (2023 No 45).

Section YA 1 **tertiary education subsidiary**: inserted (with effect on 1 July 2008 and applying for the 2008–09 and later income years), on 24 February 2016, by section 235(63) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **tertiary institution**: repealed, on 1 October 2009, by section 20(7) of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Section YA 1 **timber**: substituted (with effect on 1 April 2008), on 7 December 2009, by section 118(33) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **timber** paragraph (b)(ii): repealed, on 1 April 2024, by section 118(49)(a) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **timber** paragraph (b)(iv): amended, on 1 April 2024, by section 118(49)(b) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **time bar**: amended, on 29 March 2018, by section 243(85) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **time of emigration**: replaced (with effect on 30 August 2022), on 31 March 2023, by section 114(30) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **time of the disposal**: inserted (with effect on 1 April 2015), on 24 February 2016, by section 235(64) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **time of the sale**: repealed (with effect on 1 April 2015), on 24 February 2016, by section 235(65) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Section YA 1 **Tokelau International Trust Fund**: inserted, on 1 April 2008, by section 550(65) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **total group non-debt liabilities**: inserted, on 1 July 2018, by section 49(28) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **tracking account**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(212) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **tracking associate**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(213) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **trading stock** paragraph (a): amended, on 1 April 2024, by section 118(50)(a) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trading stock** paragraph (a): amended (with effect on 17 March 2020), on 30 March 2021, by section 135(41) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **trading stock** paragraph (a): amended (with effect on 1 April 2008), on 30 March 2017, by section 288(113) (and see section 288(123)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **trading stock** paragraph (ab): inserted (with effect on 1 April 2008), on 30 March 2017, by section 288(114) (and see section 288(123)) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **trading stock** paragraph (ab): amended (with effect on 1 July 2009 and applying for income years beginning on or after 1 July 2009), on 30 March 2017, by section 288(115) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **trading stock** paragraph (b): amended, on 1 April 2024, by section 118(50)(b) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trading stock** paragraph (b): amended, on 1 July 2021, by section 135(42) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **trading stock** paragraph (b)(v): amended, on 1 July 2024, by section 127 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trading stock** paragraph (b)(v): amended (with effect on 27 March 2021), on 30 March 2021, by section 135(44) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Section YA 1 **trading stock** paragraph (bb): repealed, on 1 April 2024, by section 118(50)(c) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trading stock** paragraph (bc): repealed, on 1 April 2024, by section 118(50)(c) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trading stock** paragraph (c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 557(214)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **trading stock** paragraph (c): amended, on 1 April 2024, by section 118(50)(d) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trading stock** paragraph (c): amended (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 117(28)(b) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **trading transactions**: replaced (with effect on 1 July 2022), on 28 March 2024, by section 118(51) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **transaction shares**: replaced (with effect on 1 July 2022), on 28 March 2024, by section 118(52) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **transfer**: replaced, on 1 April 2025, by section 134(61) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **transfer of company value**: inserted, on 23 March 2020, by section 185(26) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **transfer of value** paragraph (a): repealed, on 23 March 2020, by section 185(27) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **transfer of value** paragraph (b)(i): amended, on 23 March 2020, by section 185(28)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **transfer of value** paragraph (b)(ii): amended, on 23 March 2020, by section 185(28)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **transfer of value** paragraph (b)(ii): amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 132(46) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **transfer of value** paragraph (cb): inserted, on 23 March 2020, by section 185(28)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **transfer pricing arrangement**: amended, on 1 July 2018, by section 49(29) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **transitional period**: inserted, on 1 April 2008, by section 550(66) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **trust**: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section YA 1 **trust rules** paragraph (aa): inserted (with effect on 1 April 2008), on 23 March 2020, by section 185(29) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **trust rules** paragraph (a): repealed, on 1 April 2011, by section 117(30) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **trust rules** paragraph (ab): inserted, on 23 March 2020, by section 185(30)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **trust rules** paragraph (ab): amended, on 1 April 2024, by section 118(53)(a) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trust rules** paragraph (g): amended, on 1 April 2024, by section 118(53)(b) (and see section 118(55) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YA 1 **trust rules** paragraph (gb): inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(116) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **trust rules** paragraph (gc): inserted, on 23 March 2020, by section 185(30)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Section YA 1 **trust rules** paragraph (h): replaced (with effect on 1 October 2015), on 16 November 2015, by section 19(15) of the Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111).

Section YA 1 **trust rules** paragraph (h): amended, on 1 April 2023, by section 114(31) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **trust rules** paragraph (h): amended, on 7 December 2020, by section 38 of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Section YA 1 **trustee** paragraph (f): replaced, on 29 March 2018, by section 243(86) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **turnover**: amended, on 1 April 2008, by section 23(14) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YA 1 **UFTC**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(215) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **UFTC accounting period**: repealed (with effect on 30 June 2009), on 6 October 2009, by section 557(216) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **unit trust** paragraph (b)(viii): amended (with effect on 29 March 2018), on 31 March 2023, by section 114(32) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **unit trust** paragraph (b)(x): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section YA 1 **unpriced aircraft engine**: inserted, on 1 April 2017 (applying for the 2017–18 and later income years), by section 288(117) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 1 **unrepaid PAYE income overpayment**: inserted, on 1 April 2019, by section 278(40) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **unsupported child's benefit**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(13) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **unsupported child's benefit equivalent assistance**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(14) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **unused specified activity net loss**: inserted, on 1 April 2018, by section 243(87) (and see section 243(90) for application) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YA 1 **unwind**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(217) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **unwind**: amended, on 18 March 2019, by section 278(41) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 1 **utilities distribution assets**: inserted (with effect on 1 April 2008), on 31 March 2023, by section 114(33) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **utilities distribution network**: inserted (with effect on 1 April 2008), on 31 March 2023, by section 114(34) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **utilities distribution network operator**: inserted (with effect on 1 April 2008), on 31 March 2023, by section 114(35) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YA 1 **valuation premiums**: inserted, on 1 July 2010, by section 557(218) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **VCF**: inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Section YA 1 **venture investment agreement**: amended, on 1 April 2008, by section 550(67) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **Venture Investment Fund**: repealed, on 27 November 2025, by section 49 of the Statutes Amendment Act 2025 (2025 No 74).

Section YA 1 **veteran's pension**: replaced (with effect on 20 April 2020), on 30 April 2020, by section 15(15) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **veteran's pension equivalent assistance**: inserted (with effect on 20 April 2020), on 30 April 2020, by section 15(16) of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

Section YA 1 **volunteer**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(219) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **voting interest** paragraph (a): amended, on 2 November 2012, by section 154(41) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YA 1 **voting interest** paragraph (b): amended, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YA 1 **voting interest** paragraph (bb): inserted (with effect on 1 April 2010), on 29 March 2025, by section 134(64) (and see section 134(68) and (71) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **voting interest** paragraph (bc): inserted (with effect on 26 August 2024), on 29 March 2025, by section 134(65) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **water organisation**: inserted, on 27 August 2025, by section 37(2) of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Section YA 1 **water services**: inserted, on 27 August 2025, by section 37(2) of the Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43).

Section YA 1 **WFF tax credit**: inserted, on 1 April 2008, by section 550(68) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Section YA 1 **wholly-owned large multinational group**: inserted, on 1 July 2018, by section 49(30) (and see section 49(31) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YA 1 **widely-held GIF**: substituted, on 1 April 2010, by section 557(220) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **widely-held superannuation fund**: substituted, on 1 April 2010, by section 557(221) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **withdrawal**: repealed, on 1 April 2011, by section 117(32) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YA 1 **withdrawal certificate**: repealed, on 2 June 2016, by section 71(13) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **withdrawal income**: repealed, on 2 June 2016, by section 71(14) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **withdrawal tax**: repealed, on 2 June 2016, by section 71(15) of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 1 **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section YA 1 **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section YA 1 **working owner**: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 132(47) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 1 **work-related relocation**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 557(222) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **workplace**: replaced, on 1 April 2025, by section 134(66) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YA 1 **workplace group policy**: inserted, on 1 July 2010, by section 118(34) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **year of payment**: repealed, on 1 April 2011, by section 118(35) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **zero-rated investor**: added, on 1 April 2010, by section 557(223) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 1 **zero-rated investor**: amended, on 1 April 2010 (applying for the 2010–11 and later income years), by section 118(36) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YA 1 **zero-rated portfolio investor**: repealed, on 1 April 2010, by section 557(223) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YA 2 Meaning of income tax varied

DTA and time bar provisions: ancillary tax

(1) The term **income tax** includes ancillary tax in—

(a) section BB 3(2) (Overriding effect of certain matters):

(b) section BH 1 (Double tax agreements):

(c) sections 107A to 108B of the Tax Administration Act 1994.

DTA provisions: tax recovery agreements

(2) The term **income tax** includes a tax that is prescribed in a tax recovery agreement made under Part 10A of the Tax Administration Act 1994 in—

(a) section BB 3(2):

(b) section BH 1.

General tax avoidance provisions: ancillary tax

(3) The term **income tax** includes ancillary tax, but not excluded ancillary tax, in—

(a) section BB 3(1):

(b) sections BG 1 (Tax avoidance), GA 1 (Commissioner's power to adjust), and GB 54 (Arrangements involving establishments):

(c) the definition of **tax avoidance**.

Modified application of section GA 1

(4) When section GA 1 is applied in the case of an ancillary tax,—

(a) the words "taxable income" in section GA 1(2) are treated as replaced by the words "liability to the ancillary tax"; and

(b) the following paragraph is treated as added to section GA 1(5): "(e) an amount subject to the ancillary tax".

Tax of other countries

(5) The term **income tax**, when specifically used in relation to tax of another country, whether imposed by a central, state, or local government,—

(a) means a tax of substantially the same nature as income tax imposed under section BB 1 (Imposition of income tax); and

(b) includes a tax, imposed as a collection mechanism for the foreign tax, that is of substantially the same nature as provisional tax, pay-as-you-earn (PAYE), resident withholding tax (RWT), or non-resident withholding tax (NRWT).

UFTC rules

[Repealed]

(6) *[Repealed]*

Imputation and BETA rules

(7) The term **income tax**, in relation to tax that has been paid by a person, includes provisional tax in—

(a) *[Repealed]*

(b) the imputation rules:

(c) subpart OE (Branch equivalent tax accounts (BETA)).

Defined in this Act: after-income tax earnings, ancillary tax, BETA, double tax agreement, excluded ancillary tax, fixed-rate share, imputation rules, income tax, NRWT, PAYE, provisional tax, RWT, tax, tax avoidance, taxable income

Compare: 2004 No 35 ss HG 12(2), IZ 7, MB 12, ME 9(6), MI 10(5), MI 21(5), MK 8(6), NC 20(1), ND 1W(2), NE 7(2), NF 13, NG 17(2), NH 3(7), OB 6

Section YA 2(3)(b): amended (with effect on 1 July 2018), on 18 March 2019, by section 279(1) (and see section 279(2) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YA 2(5): amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 133(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YA 2(6) heading: repealed (with effect on 30 June 2009), on 6 October 2009, pursuant to section 558(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 2(6): repealed (with effect on 30 June 2009), on 6 October 2009, by section 558(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YA 2(7) heading: replaced, on 1 April 2017, by section 289(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 2(7)(a): repealed, on 1 April 2017, by section 289(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YA 2 list of defined terms **FDP rules**: repealed, on 1 April 2017, by section 289(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

YA 3 Treatment of qualifying company election tax, FBT, FDP penalty tax, imputation penalty tax, and withdrawal tax

[Repealed]

Section YA 3: repealed (with effect on 1 April 2008), on 6 October 2009, by section 559 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YA 4 General rules for giving information or communicating matters

General rules

(1) Sections 14 to 14G of the Tax Administration Act 1994 apply for the purposes of this Act, unless the context requires otherwise, when a person gives information to, or communicates with, another person by—

(a) asking or requesting:

(b) informing:

(c) applying:

(d) notifying:

(e) formally notifying.

Overriding provisions

(2) Section 14E of that Act sets out the ways in which specific provisions may override the general rules.

Delivery

(3) Sections 14F and 14G of that Act set out the options available for communicating by personal delivery, post, or electronic means.

Defined in this Act: apply, ask, inform, notify, request

Section YA 4: inserted, on 2 June 2016, by section 72 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YA 4(3): amended, on 30 March 2022, by section 172 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

YA 5 General rule: capacity of trustees

Trustees acting in separate capacity

(1) A person who is acting as a trustee of a trust is acting in a capacity that is separate from their other capacities.

Other capacities

(2) The other capacities of the person referred to in subsection (1) may include—

(a) their personal capacity:

(b) their capacity as a body corporate that is a legal person:

(c) their capacity as a trustee of another trust or as an agent.

Defined in this Act: agent, trustee

Section YA 5: inserted, on 29 March 2018, by section 244 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Subpart YB—Associated persons and nominees

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[Repealed]

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Table Y1: Associated person rules

[Repealed]

Table Y1: repealed, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Associated persons

Heading: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 1 What this subpart does

Associated person rules and nominee rules

(1) This subpart sets out the rules that—

(a) define when 2 persons are associated persons; and

(b) determine how nominees are treated.

Other references

(2) If a rule in this subpart states that 2 persons are associated persons for 1 or more provisions in this Act, a reference in the relevant provision to persons who are associated with each other includes those persons.

Tests

(3) The tests of association are categorised as follows:

(a) two companies, *see* section YB 2:

(b) a company and a person other than a company, *see* section YB 3:

(c) two relatives, *see* section YB 4:

(d) a person and a trustee for a relative, *see* section YB 5:

(e) a trustee and a beneficiary, *see* section YB 6:

(f) trustees with a common settlor, *see* section YB 7:

(g) a trustee and a settlor, *see* section YB 8:

(h) a settlor and a beneficiary, *see* section YB 9:

(i) a trustee and a person with a power of appointment or removal, *see* section YB 11:

(j) a partnership and a partner, *see* section YB 12:

(jb) a look-through company and a holder of an interest, *see* section YB 13:

(k) two persons who are each associated with the same third person, *see* section YB 14.

Application

(4) The sections in this subpart relating to associated persons apply for the purposes of the whole Act unless a section expressly states otherwise.

Loss-attributing qualifying companies and shareholders

[Repealed]

(5) *[Repealed]*

Low-turnover traders

(6) A special rule applies for the purposes of subpart EB (Valuation of trading stock (including dealer's livestock)) to determine when a low-turnover trader is associated with a company, *see* section EB 13(2) (Low-turnover valuation).

Control interests in foreign companies

(7) A special rule applies for the purposes of section EX 3 (Control interests: total of direct, indirect, and associated person interests) to determine when a New Zealand resident is associated with a non-resident relative, *see* section EX 4(1) (Limits to requirement to include associated person interests).

Supplementary dividend holding companies

[Repealed]

(8) *[Repealed]*

Defined in this Act: associated person, company, look-through company, low-turnover trader, New Zealand resident, nominee, non-resident, partner, partnership, relative, settlor, trustee

Section YB 1: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 1(3)(jb): inserted (with effect on 1 April 2011), on 29 March 2025, by section 135(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 1(5) heading: repealed, on 17 July 2013, pursuant to section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 1(5): repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 1(8) heading: repealed, on 1 April 2011, pursuant to section 119 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YB 1(8): repealed, on 1 April 2011, by section 119 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YB 1 list of defined terms **look-through company**: inserted, on 30 March 2025, by section 135(2)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 1 list of defined terms **loss attributing qualifying company**: repealed, on 17 July 2013, by section 172 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 1 list of defined terms **partner**: inserted, on 30 March 2025, by section 135(2)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 1 list of defined terms **partnership**: inserted, on 30 March 2025, by section 135(2)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 1 list of defined terms **shareholder**: repealed, on 30 March 2025, by section 135(2)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 1 list of defined terms **supplementary dividend holding company**: repealed, on 30 March 2025, by section 135(2)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

YB 2 Two companies

Common voting interests

(1) Two companies are associated persons if a group of persons exists whose total voting interests in each company are 50% or more.

Common market value interests

(2) Two companies are associated persons if—

(a) a market value circumstance exists for either company; and

(b) a group of persons exists whose total market value interests in each company are 50% or more.

Common control by other means

(3) Two companies are associated persons if a group of persons exists who control both companies by any other means.

General aggregation rule

(4) For the purposes of subsections (1) to (3), and if subsection (5) does not apply, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 4 to YB 14, person A is treated as holding anything held by person B.

Aggregation rule for land provisions

(5) For the purposes of subsections (1) to (3) and the land provisions, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 4(1)(b) and (2) to (4), YB 7, YB 8, and YB 10 to YB 14, person A is treated as holding anything held by person B.

Exception for certain government entities

(6) Subsection (3) does not apply to 2 companies if either or both are—

(a) a state enterprise:

(ab) a mixed-ownership enterprise:

(b) a Crown Research Institute:

(c) a Crown health enterprise:

(d) a company that is part of the same group of companies as an entity referred to in any of paragraphs (a) to (c).

Exception for international tax rules

(7) In the international tax rules, 2 companies are not associated persons if 1, but not both, is a non-resident.

Exception for managed funds

(8) For the purposes of the land provisions, 2 companies are not associated persons if either or both are—

(a) a portfolio investment entity:

(b) an entity that qualifies for PIE status:

(c) a foreign PIE equivalent.

Defined in this Act: associated person, company, Crown Research Institute, foreign PIE equivalent, group of companies, group of persons, international tax rules, land provisions, market value circumstance, market value interest, mixed-ownership enterprise, non-resident, PIE, portfolio investment entity, state enterprise, voting interest

Section YB 2: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 2(4): amended, on 30 March 2025, by section 136(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 2(5): amended, on 30 March 2025, by section 136(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 2(6)(ab): inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Section YB 2(8): replaced, on 30 March 2025, by section 136(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 2 list of defined terms **foreign PIE equivalent**: inserted, on 30 March 2025, by section 136(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 2 list of defined terms **mixed-ownership enterprise**: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

YB 3 Company and person other than company

Company and 25% voting interest holder

(1) A company and a person other than a company are associated persons if the person has a voting interest in the company of 25% or more.

Company and 25% market value interest holder

(2) A company and a person other than a company are associated persons if—

(a) a market value circumstance exists for the company; and

(b) the person has a market value interest in the company of 25% or more.

General aggregation rule

(3) For the purposes of subsections (1) and (2), and if subsection (4) does not apply, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 4 to YB 14, person A is treated as holding anything held by person B.

Aggregation rule for land provisions

(4) For the purposes of subsections (1) and (2) and the land provisions, if a person (**person A**) and another person (**person B**) are associated under any of sections

YB 4(1)(b) and (2) to (4), YB 7, YB 8, and YB 10 to YB 14, person A is treated as holding anything held by person B.

Person other than company

[Repealed]

(5) *[Repealed]*

Defined in this Act: associated person, company, land provisions, market value circumstance, market value interest, voting interest

Section YB 3: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 3(3): amended, on 30 March 2025, by section 137(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 3(4): amended, on 30 March 2025, by section 137(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 3(5) heading: repealed, on 29 March 2018, pursuant to section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YB 3(5): repealed, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

YB 4 Two relatives

Degree of relationship

(1) Two persons are associated persons if—

(a) they are within 2 degrees of blood relationship:

(b) they are married, in a civil union, or in a de facto relationship:

(c) 1 person is within 2 degrees of blood relationship to the other person's spouse, civil union partner, or de facto partner.

Exception: blood relationships

(2) For the purposes of the land provisions and sections EB 13 (Low turnover valuation) and EC 5 (Transfer of livestock because of self-assessed adverse event), subsection (1)(a) and (c) does not apply, and persons are associated persons because of a blood relationship only if 1 is the infant child of the other.

Treatment of adoption

[Repealed]

(3) *[Repealed]*

Exception

(4) A person is not associated with another person under this section if the person cannot reasonably be expected to know that—

(a) the other person exists:

(b) the person is within 2 degrees of blood relationship to the other person.

Defined in this Act: associated person, land provisions

Section YB 4: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 4(3) heading: repealed, on 1 April 2023, pursuant to section 115 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Section YB 4(3): repealed, on 1 April 2023, by section 115 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

YB 5 Person and trustee for relative

Association

(1) Two persons (**person A** and **person B**) are associated persons if person A is the trustee of a trust under which a person associated under section YB 4 with person B has benefited or is eligible to benefit.

Land provisions

(2) This section does not apply for the purposes of the land provisions.

Defined in this Act: associated person, land provisions, trustee

Section YB 5: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 6 Trustee and beneficiary

Association

(1) A trustee of a trust and a person who has benefited or is eligible to benefit under the trust are associated persons.

Land provisions

(2) This section does not apply for the purposes of the land provisions.

Defined in this Act: associated person, land provisions

Section YB 6: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 7 Two trustees with common settlor

Association

(1) A trustee of a trust and a trustee of another trust are associated persons if the same person is a settlor of both trusts.

Treatment of spouses and partners

(2) For the purposes of this section, 2 persons who are married, in a civil union, or in a de facto relationship are treated as the same single person.

Defined in this Act: associated person, settlor, trustee

Section YB 7: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 8 Trustee and settlor

Association

(1) A trustee of a trust and a settlor of the trust are associated persons.

Exclusion

(2) This section does not apply if the trust is a tax charity.

Defined in this Act: associated person, settlor, tax charity, trustee

Section YB 8: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 8(2): amended, on 29 March 2024, by section 119(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YB 8 list of defined terms **charitable trust**: repealed, on 29 March 2024, by section 119(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YB 8 list of defined terms **tax charity**: inserted, on 29 March 2024, by section 119(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

YB 9 Settlor and beneficiary

Association

(1) A settlor of a trust and a person who has benefited or is eligible to benefit under the trust are associated persons.

Land provisions

(2) This section does not apply for the purposes of the land provisions.

Defined in this Act: associated person, land provisions, settlor, trustee

Section YB 9: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 10 Who is a settlor?

For the purposes of sections YB 7 to YB 9, **settlor** has the meaning set out in section HC 27 (Who is a settlor?) but does not include a person who provides services to a trust for less than market value.

Defined in this Act: settlor

Section YB 10: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 11 Trustee and person with power of appointment or removal

Association

(1) A trustee of a trust and a person who has a power of appointment or of removal of the trustee are associated persons.

Exclusion

(2) This section does not apply if the person—

(a) holds the power as a provider of professional services; and

(b) is subject to a professional code of conduct, and disciplinary process intended to enforce compliance with the code, of an approved organisation as that term is defined in section 3(1) of the Tax Administration Act 1994, for such providers of professional services; and

(c) has not benefited from the trust; and

(d) is not eligible to benefit from the trust.

Defined in this Act: associated person, trustee

Section YB 11: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 11(1) heading: inserted (with effect on 1 April 2010 and applying for the purposes of provisions other than the land provisions, for the 2010–11 and later income years, or of the land provisions other than section CB 11, for land acquired on or after 6 October 2009, or of section CB 11, for land on which improvements are begun on or after 6 October 2009), on 17 July 2013, by section 99(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 11(1): replaced (with effect on 1 April 2010 and applying for the purposes of provisions other than the land provisions, for the 2010–11 and later income years, or of the land provisions other than section CB 11, for land acquired on or after 6 October 2009, or of section CB 11, for land on which improvements are begun on or after 6 October 2009), on 17 July 2013, by section 99(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 11(2) heading: inserted (with effect on 1 April 2010 and applying for the purposes of provisions other than the land provisions, for the 2010–11 and later income years, or of the land provisions other than section CB 11, for land acquired on or after 6 October 2009, or of section CB 11, for land on which improvements are begun on or after 6 October 2009), on 17 July 2013, by section 99(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 11(2): inserted (with effect on 1 April 2010 and applying for the purposes of provisions other than the land provisions, for the 2010–11 and later income years, or of the land provisions other than section CB 11, for land acquired on or after 6 October 2009, or of section CB 11, for land on which improvements are begun on or after 6 October 2009), on 17 July 2013, by section 99(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 11(2)(b): replaced (with effect on 1 April 2010 and applying for the purposes of (a) provisions other than the land provisions, for the 2010–11 and later income years; (b) the land provisions other than section CB 11, for land acquired on or after 6 October 2009; (c) section CB 11, for land on which improvements are begun on or after 6 October 2009), on 30 June 2014, by section 145(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

YB 12 Partnership and partner

Partnerships other than limited partnerships

(1) For a partnership other than a limited partnership, the partnership and a partner in the partnership are associated persons.

Limited partnerships and general partners

(1B) A limited partnership and a general partner in the limited partnership are associated persons.

Limited partnerships and holders of 25% partnership shares

(2) If section YB 16B does not apply, a limited partnership and a person, other than a general partner in the limited partnership, are associated persons if the person has a partnership share of 25% or more in a right, obligation, or other property, status, or thing of the limited partnership.

Holders of 25% partnership shares: general aggregation rule

(3) For the purposes of subsection (2), and if subsection (4) does not apply, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 2 to YB 11 and YB 14, person A is treated as holding anything held by person B.

Holders of 25% partnership shares: aggregation rule for land provisions

(4) For the purposes of subsection (2) and the land provisions, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 2, YB 3, YB 4(1)(b) and (2) to (4), YB 7, YB 8, YB 10, YB 11, and YB 14, person A is treated as holding anything held by person B.

Defined in this Act: associated person, general partner, land provisions, limited partner, limited partnership, partner, partnership, partnership share

Section YB 12: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 12(1) heading: replaced (with effect on 1 April 2010), on 29 March 2025, by section 138(1) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(1): replaced (with effect on 1 April 2010), on 29 March 2025, by section 138(1) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(1B) heading: inserted (with effect on 1 April 2010), on 29 March 2025, by section 138(1) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(1B): inserted (with effect on 1 April 2010), on 29 March 2025, by section 138(1) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(2) heading: replaced (with effect on 1 April 2010), on 29 March 2025, by section 138(1) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(2): replaced (with effect on 1 April 2010), on 29 March 2025, by section 138(1) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(2): amended (with effect on 26 August 2024), on 29 March 2025, by section 138(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(3) heading: amended (with effect on 1 April 2010), on 29 March 2025, by section 138(3) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(3): amended, on 30 March 2025, by section 138(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(4) heading: amended (with effect on 1 April 2010), on 29 March 2025, by section 138(3) (and see section 138(7) and (8) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12(4): amended, on 30 March 2025, by section 138(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12 list of defined terms **general partner**: inserted, on 30 March 2025, by section 138(6)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12 list of defined terms **land provisions**: inserted, on 30 March 2025, by section 138(6)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12 list of defined terms **partner**: inserted, on 30 March 2025, by section 138(6)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12 list of defined terms **partnership share**: inserted, on 30 March 2025, by section 138(6)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 12 list of defined terms **share**: repealed, on 30 March 2025, by section 138(6)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

YB 13 Look-through companies and holders of interests

Look-through companies and directors or employees holding interests

(1) A look-through company and a person who has a look-through interest for the look-through company and is a director or employee of that company are associated persons.

Look-through companies and holders of 25% interests

(2) A look-through company and a person who has an effective look-through interest of 25% or more in a right, obligation, or other property, status, or thing of the look-through company are associated persons.

Holders of 25% interests: general aggregation rule

(3) For the purposes of subsection (2), and if subsection (4) does not apply, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 2 to YB 11 and YB 14, person A is treated as holding anything held by person B.

Holders of 25% interests: aggregation rule for land provisions

(4) For the purposes of subsection (2) and the land provisions, if a person (**person A**) and another person (**person B**) are associated under any of sections YB 2, YB 3, YB 4(1)(b) and (2) to (4), YB 7, YB 8, YB 10, YB 11, and YB 14, person A is treated as holding anything held by person B.

Defined in this Act: associated person, director, effective look-through interest, employee, land provisions, look-through company, look-through interest

Section YB 13: inserted, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 134(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YB 13 heading: amended (with effect on 1 April 2011), on 29 March 2025, by section 139(1) (and see section 139(7) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(1) heading: replaced (with effect on 1 April 2011), on 29 March 2025, by section 139(2) (and see section 139(7) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(1): replaced (with effect on 1 April 2011), on 29 March 2025, by section 139(2) (and see section 139(7) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(2) heading: replaced (with effect on 1 April 2011), on 29 March 2025, by section 139(2) (and see section 139(7) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(2): replaced (with effect on 1 April 2011), on 29 March 2025, by section 139(2) (and see section 139(7) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(3) heading: amended (with effect on 1 April 2011), on 29 March 2025, by section 139(3) (and see section 139(7) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(3): amended, on 30 March 2025, by section 139(4) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(4) heading: amended (with effect on 1 April 2011), on 29 March 2025, by section 139(3) (and see section 139(7) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13(4): amended, on 30 March 2025, by section 139(5) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 13 list of defined terms **land provisions**: inserted, on 30 March 2025, by section 139(6) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

YB 14 Tripartite relationship

Test

(1) Two persons (**person A** and **person B**) are associated persons if—

(a) person B is associated with a third person (**person C**) under any of sections YB 2 to YB 13; and

(b) person C is associated with person A under any of sections YB 2 to YB 13, excluding the section under which person B is associated with person C.

Exception: companies tests

(2) Subsection (1) does not apply if—

(a) person B is associated with person C under section YB 2; and

(b) person C is associated with person A under section YB 3.

Association for purposes of research and development tax credits

[Repealed]

(3) *[Repealed]*

Applying test to limited partnership

(4) For the purpose of applying subsections (1) and (2), a limited partnership is treated as being a company.

Defined in this Act: associated person, company, limited partnership, tax credit

Section YB 14: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 14(1)(a): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 135(1)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YB 14(1)(a): amended, on 1 April 2010, by section 120 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YB 14(1)(b): amended, on 1 April 2011 (applying for income years beginning on or after 1 April 2011), by section 135(1)(b) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Section YB 14(1)(b): amended, on 1 April 2010, by section 120 of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YB 14(3) heading: repealed (with effect on 1 April 2009), on 30 March 2017, pursuant to section 290 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YB 14(3): repealed (with effect on 1 April 2009), on 30 March 2017, by section 290 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YB 14(4) heading: inserted (with effect on 1 April 2010 and applying for the purposes of provisions other than the land provisions, for the 2010–11 and later income years, or of the land provisions other than section CB 11, for land acquired on or after 6 October 2009, or of section CB 11, for land on which improvements are begun on or after 6 October 2009), on 17 July 2013, by section 100(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 14(4): inserted (with effect on 1 April 2010 and applying for the purposes of provisions other than the land provisions, for the 2010–11 and later income years, or of the land provisions other than section CB 11, for land acquired on or after 6 October 2009, or of section CB 11, for land on which improvements are begun on or after 6 October 2009), on 17 July 2013, by section 100(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YB 14(4): amended (with effect on 1 April 2010), on 29 March 2025, by section 140(1) (and see section 140(2) and (3) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 14 list of defined terms **limited partnership**: inserted (with effect on 1 April 2010), on 17 July 2013, by section 100(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

YB 15 Exceptions for employee trusts

Beneficiaries

(1) Section YB 6(1) does not apply if—

(a) the trust is only for the benefit of employees of an employer; and

(b) neither the beneficiary nor any person associated with the beneficiary directly or indirectly controls the trust.

Non-corporate settlors

(2) For a settlor that is not a company, sections YB 7, YB 8, and YB 9(1) do not apply if—

(a) the settlor settles property on the terms of the trust only for the benefit of employees of the settlor; and

(b) neither the settlor nor any person associated with the settlor directly or indirectly controls the trust.

Corporate settlors

(3) For a settlor that is a company, sections YB 7, YB 8, and YB 9(1) do not apply if—

(a) the settlor settles property on the terms of the trust only for the benefit of its employees; and

(b) none of the following directly or indirectly controls the trust:

(i) the settlor:

(ii) a person associated with the settlor:

(iii) an executive of the settlor:

(iv) a director of the settlor:

(v) a person holding a direct voting interest of 25% or more in the settlor:

(vi) if a market value circumstance exists for the settlor, a person holding a direct market value interest of 25% or more in the settlor.

Persons with power of appointment or removal

(4) Section YB 11 does not apply if—

(a) the trust is only for the benefit of employees of an employer; and

(b) neither the person (**person A**) who has a power of appointment or of removal of a trustee nor a person associated with person A directly or indirectly controls the trust.

Defined in this Act: associated person, company, direct voting interest, employee, employer, market value circumstance, market value interest, settlor

Section YB 15: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 16 Exceptions for certain trusts and charitable organisations

Trustee and beneficiary and trustee for relative tests: certain trusts

(1) Sections YB 5 and YB 6(1) do not apply to a trustee and another person if the trust is—

(a) a lines trust established under the Energy Companies Act 1992:

(b) an approved unit trust referred to in clause 2 of the Income Tax Act (Exempt Unit Trusts) Order 1990.

Trustee and beneficiary and settlor and beneficiary tests: charitable organisation

(2) Sections YB 6(1) and YB 9(1) do not apply to a trustee and a beneficiary or a settlor and a beneficiary if the beneficiary is a charitable organisation.

Securitisation trusts

(3) A person that is a party to a financial arrangement with a securitisation trust and is also a beneficiary of a trust (the **security trust**) established for the main

purpose of securing to the security trust's beneficiaries rights and obligations in relation to the securitisation trust is not associated with the securitisation trust if, but for this subsection, the person and the securitisation trust are associated due to 1 or more of the following reasons:

(a) the person is a settlor of the securitisation trust or of the security trust, because the person is a party to the financial arrangement:

(b) the person has the power of appointment or removal for trustees of the securitisation trust or for trustees of the security trust, because the person is a party to the financial arrangement.

Defined in this Act: charitable organisation, financial arrangement, lines trust, securitisation trust, settlor, trustee, unit trust

Section YB 16: substituted, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YB 16(3) heading: inserted, on 30 March 2025, by section 141(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 16(3): inserted, on 30 March 2025, by section 141(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 16 list of defined terms **financial arrangement**: inserted, on 30 March 2025, by section 141(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 16 list of defined terms **securitisation trust**: inserted, on 30 March 2025, by section 141(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 16 list of defined terms **settlor**: inserted, on 30 March 2025, by section 141(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YB 16 list of defined terms **trustee**: inserted, on 30 March 2025, by section 141(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

YB 16B Limited partnerships treated as companies

Notwithstanding anything else in this subpart, a limited partnership is treated as a company for the purposes of the tests of association in sections YB 2, YB 3, and YB 12(2), (3), and (4) and for section YC 4 (Look-through rule for corporate shareholders) if—

(a) a company is a limited partner of the limited partnership:

(b) the limited partnership is a limited partner of another limited partnership:

(c) another limited partnership is a limited partner of the limited partnership:

(d) the limited partnership has a voting interest in a company or, if a market value circumstance exists for the company, a market value interest in the company.

Defined in this Act: company, limited partner, limited partnership, market value circumstance, market value interest, voting interest

Section YB 16B: inserted (with effect on 26 August 2024), on 29 March 2025, by section 142 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

YB 17 Partnerships: partnership and associate of partner

[Repealed]

Section YB 17: repealed, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 18 Persons habitually acting together: 1988 version provisions

[Repealed]

Section YB 18: repealed, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 19 Person and controlled non-profit organisation: 1990 version provisions

[Repealed]

Section YB 19: repealed, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YB 20 Some definitions

[Repealed]

Section YB 20: repealed, on 1 April 2010, by section 563(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Nominees

YB 21 Transparency of nominees

Treatment of nominee

(1) In this Act, unless the context otherwise requires, if a person holds something or does something as a nominee for another person, the other person holds or does that thing and the nominee is ignored.

Who is a nominee?

(2) A person holds or does something as a nominee for another person if the person acts on the other person's behalf. However, a trustee is a nominee only if the trustee is a bare trustee.

Nominal settlements

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

Defined in this Act: request, trustee

Compare: 2004 No 35 ss HH 1(1), OD 9

Section YB 21(3) heading: added (with effect on 1 April 2008), on 7 December 2009, by section 121(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YB 21(3): added (with effect on 1 April 2008), on 7 December 2009, by section 121(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Section YB 21 list of defined terms **request**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

Section YB 21 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 564 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Subpart YC—Measurement of company ownership

Subpart YC heading: substituted, on 1 April 2010, by section 565 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

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Control

[Repealed]

Heading: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 566(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YC 1 Meaning of control

[Repealed]

Section YC 1: repealed, on 1 April 2010 (applying for the 2010–11 and later income years), by section 566(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Voting and market value interests

YC 2 Voting interests

Percentage of shareholder decision-making rights

(1) A person's voting interest in a company equals the percentage of the total shareholder decision-making rights for the company carried by shares or options held by the person.

When decision-making rights vary

(2) Despite subsection (1), if the percentage of shareholder decision-making rights for a company carried by shares or options held by any person differs as between the types of decision-making listed in the definition of **shareholder decision-making right**, the person's voting interest in the company equals the average of those differing percentages.

Defined in this Act: company, share, shareholder decision-making right, voting interest

Compare: 2004 No 35 s OD 3(1), (2)

YC 3 Market value interests

Percentage of market value

(1) A person's market value interest in a company equals the percentage of the total market value of shares and options over shares in the company that the market value of shares and options over shares in the company held by the person represents.

Adjustments for options

(2) For the purposes of subsection (1), the market value of any share in a company that is subject to an option is calculated having regard to the terms of the option.

Defined in this Act: company, market value, market value interest, option, share

Compare: 2004 No 35 s OD 4(1), (2)

YC 4 Look-through rule for corporate shareholders

When subsection (2) applies

(1) Subsection (2) applies if a company (the **shareholder company**) has or is treated as having, whether under subsection (2) or otherwise, a voting interest in another company (the **issuing company**).

Voting interest attributed to shareholders

(2) Each person (the **shareholder**) who has a voting interest in the shareholder company is treated as having (to be added to any other percentage voting interest in the issuing company which the shareholder has) their portion of the shareholder company's voting interest in the issuing company and the shareholder company is treated as not having that portion.

Calculation of shareholder's portion

(3) The shareholder's portion of the voting interest is calculated by multiplying the shareholder company's voting interest in the issuing company by the shareholder's voting interest in the shareholder company.

When subsection (5) applies

(4) Subsection (5) applies if a company (the **shareholder company**) has or is treated as having, whether under subsection (5) or otherwise, a market value interest in another company (the **issuing company**).

Attributing market value interest to shareholders

(5) Each person (the **shareholder**) who has a market value interest in the shareholder company is treated as having their portion of the shareholder company's market value interest in the issuing company and the shareholder company is treated as not having that portion. The shareholder's portion is added to any other percentage market value interest in the issuing company which the shareholder has at that time.

Calculation of shareholder's portion

(6) The shareholder's portion of the market value interest is calculated by multiplying the shareholder company's market value interest in the issuing company by the shareholder's market value interest in the shareholder company.

When subsection (8) applies

(7) Subsection (8) applies if,—

(a) in the case of a company (the **first company**), no direct market value circumstance exists; but

(b) it is necessary to determine the direct market value interest of a person in the first company in order to apply subsection (5) in relation to an issuing company, whether that issuing company is the first company or any other company, because a direct market value circumstance exists for some other relevant company.

Direct market value interest equal to direct voting interest

(8) The direct market value interest of the person in the first company is equal to the direct voting interest of the person in the first company.

Defined in this Act: company, direct market value circumstance, direct market value interest, direct voting interest, director, market value interest, voting interest

Compare: 2004 No 35 ss OD 3(3)(d), OD 4(3)(d), (4)

Section YC 4(1): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 245(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YC 4(4): amended (with effect on 1 April 2008), on 29 March 2025, by section 143(1) (and see section 143(2) for application) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Section YC 4 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 567 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YC 5 Treatment of special corporate entities

When this section applies

(1) This section applies for the purposes of sections YC 2 to YC 6 to a company that is a special corporate entity.

Company treated as issuing shares

(2) If no shares have been issued by the special corporate entity, it is treated as having issued shares that carry all shareholder decision-making rights and all other rights of ownership in relation to the special corporate entity.

Who is treated as shareholder?

(3) The shares are treated as held by—

(a) the members for the time being of the special corporate entity, if any:

(b) the directors for the time being of the special corporate entity, if no members exist:

(c) in the case of a public authority or state enterprise that has neither members nor directors, the Minister of the Crown for the time being who performs a director's functions.

Persons also treated as holding related rights

(4) The persons treated under subsection (3) as holding the shares are also treated as holding—

(a) any options over the shares; and

(b) any rights derived from the shares and options, including any interests treated as held under section YC 4.

Shareholders treated as notional single person existing with entity

(5) The members, directors, or Ministers are treated as holding their shares and related rights—

(a) in their capacity as members, directors, or Ministers; and

(b) as a notional single person that—

(i) exists as long as the special corporate entity exists; and

(ii) holds nothing other than shares and related rights concerning the entity.

Defined in this Act: company, director, public authority, share, special corporate entity, state enterprise

Compare: 2004 No 35 ss OD 3(3)(a), OD 4(3)(a)

YC 5B Treatment of mixed-ownership enterprises

(1) Section YC 5 applies to the Crown's interest in a mixed-ownership enterprise in the same way as it does to the Crown's interest in a special corporate entity to determine—

(a) who is treated as holding those shares and related rights that represent the Crown's interest in the enterprise:

(b) how those shares and related rights are treated as being held.

Transitional provision for changes in status

(2) If a special corporate entity changes its status to become a mixed-ownership enterprise, no breach of shareholding arises in relation to the Crown's interest.

Defined in this Act: mixed-ownership enterprise, share, special corporate entity

Section YC 5B: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

YC 6 Disregarding certain securities

When this section applies

(1) This section applies for the purposes of sections YC 2 to YC 5 if—

(a) a company has issued an excluded fixed rate security:

(b) an excluded option has been granted in relation to a share in a company:

(c) a company has issued a pre-1991 budget security.

Security treated as not issued or granted

(2) The excluded fixed rate security, excluded option, or pre-1991 budget security is treated as never having been issued or granted.

Holder treated as not holding security

(3) The holder of the excluded fixed rate security, excluded option, or pre-1991 budget security is treated as never having held it.

Credit account continuity provisions: excluded fixed return securities counted

(4) This section is overridden by section YC 20.

Defined in this Act: company, excluded fixed rate security, excluded option, pre-1991 budget security, share

Compare: 2004 No 35 ss OD 3(3)(c), OD 4(3)(c)

Section YC 6(4): amended (with effect on 1 April 2008), on 6 October 2009, by section 568(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Voting and market value interests: modifications for continuity provisions

YC 7 When sections YC 8 to YC 19B apply

Sections YC 8 to YC 19B apply to modify sections YC 2 to YC 6 when the continuity provisions are applied.

Defined in this Act: continuity provisions

Compare: 2004 No 35 s OD 5(1)

Section YC 7 heading: amended (with effect on 1 January 2011), on 2 November 2012, by section 155 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YC 7: amended (with effect on 1 January 2011), on 2 November 2012, by section 155 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

YC 8 Death of share or option holder

If a person acquires a share or option over a share on the death of a person (the **deceased person**), as a beneficiary or trustee under the will or intestacy, the person is treated as—

(a) having acquired the share or option on the date the deceased person acquired it; and

(b) having held it until the person in fact acquired it.

Defined in this Act: company, share, trustee

Compare: 2004 No 35 s OD 5(2)

YC 9 Shares or options held by trustees

Trustees treated as notional single person

(1) All the trustees of a trust holding a share or an option over a share in a company under the trust are treated as the same notional single person that is—

(a) not a company; and

(b) separate and distinct from the trustees in their capacities other than as trustees of the trust.

Exception to subsection (1)

(2) Subsection (1) does not apply if any of the following has a purpose or effect of defeating the intent and application of a continuity provision:

(a) the establishment of the trust:

(b) the termination of the trust:

(c) a change in the trustees of the trust.

Change in ownership of corporate trustee

(3) Subsection (4) applies if—

(a) any share in a company (the **first company**) or option over a share in the first company is held by a trustee; and

(b) the trustee is a company other than—

(i) Public Trust:

(ii) any company in which Public Trust holds all voting and market value interests:

(iii) a statutory trustee company; and

(c) any share in the trustee or option over a share in the trustee is disposed of, issued, or granted; and

(d) to the extent to which the disposal, issue, or grant changes the beneficial ownership of the share or option over a share in the first company, unless it can be shown not to have a purpose or effect of defeating the intent and application of any of the continuity provisions.

Company acting as trustee

(3B) A reference to company in subsection (3)(b) includes a company that is acting in the capacity of trustee.

Trustee treated as disposing of share or option

(4) The trustee is treated as having disposed of the share or option in the first company, at the time of the disposal, issue, or grant, to an unrelated person and having immediately reacquired the share or option.

Avoidance

(5) Section GB 5 (Arrangements involving trust beneficiaries) may apply to treat a share or option held by a trustee as being disposed of at the time of a change in trust beneficiaries.

Defined in this Act: company, continuity provisions, market value interest, share, statutory trustee company, trustee, voting interest

Compare: 2004 No 35 s OD 5(3), (4)

Section YC 9(3B) heading: inserted, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YC 9(3B): inserted, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

YC 10 Shareholders holding less than 10% direct interests

When this section applies

(1) This section applies when—

(a) a person has a direct voting interest or direct market value interest of less than 10% in a company (the **issuing company**), calculated before section YC 4, as modified by section YC 11, is applied; and

(b) the person is not a company that is associated with the issuing company.

Person's interest treated as held by notional single person

(2) The person's direct voting or market value interest is treated as held by a notional single person that—

(a) is not a company; and

(b) exists as long as the issuing company exists; and

(c) holds all interests in the issuing company to which this section applies; and

(d) holds nothing other than voting or market value interests in the company.

Overriding look-through rule for corporate shareholders

(3) This section overrides section YC 4.

Defined in this Act: associated person, company, direct market value interest, direct voting interest, market value interest, shareholder, voting interest

Compare: 2004 No 35 s OD 5(5)

Section YC 10(1)(a): amended, on 24 February 2016, by section 236 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

YC 11 No look-through rule for companies in certain cases

When this section applies

(1) This section applies when a company (the **shareholder company**) has, before section YC 4 is applied to that interest, a voting interest or market value interest in another company (the **issuing company**) and either subsection (2) or (3) applies.

First case: limited attribution company holding less than 50%

(2) The shareholder company—

(a) is a limited attribution company; and

(b) the voting interest or market value interest, when added to any interests which the shareholder company is treated as having under section YC 4, as modified by this section and section YC 10, is less than 50%.

Second case: shareholder not associated and would be attributed less than 10%

(3) A person (the **shareholder**), who holds a voting or market value interest in the shareholder company, to whom the relevant portion of the voting interest or market value interest in the issuing company would be attributed under section YC 4, assuming section YC 10 does not then apply to the portion,—

(a) is not associated with the issuing company; and

(b) the relevant portion, before adding any other voting or market value interest which the shareholder has or is treated as having, is less than 10%.

Overriding look-through rule

(4) Section YC 4 does not apply to the voting or market value interest of the shareholder company.

Defined in this Act: associated person, company, co-operative company, double tax agreement, limited attribution company, market value interest, shareholder, voting interest

Compare: 2004 No 35 s OD 5(6)

Section YC 11(3): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 131(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

YC 12 Public unit trusts

Application by public unit trust

(1) Subsections (2) to (4) apply in relation to a public unit trust if the public unit trust chooses to apply them.

Application by subsidiaries

(1B) A person in which a public unit trust holds an ownership interest may choose, when determining the holders of ownership interests in the person, to treat section YC 4 as not applying to the public unit trust as a shareholder company for the person and to treat the ownership interest as being held in the way described in subsection (2).

Unit holders treated as notional single person

(2) The unit holders' shares in the unit trust are treated as held by a notional single person that—

(a) is not a company; and

(b) exists as long as the unit trust exists; and

(c) holds nothing other than the shares in the unit trust.

Treatment of balances carried forward into 2001–02 tax year

(3) Subsection (4) applies if—

(a) a public unit trust exists on the first day of the 2001–02 tax year; and

(b) the public unit trust chose to apply section OD 5(5B) of the Income Tax Act 1994 from the first day of the tax year.

Notional single person treated as always existing

(4) The notional single person is treated as having accumulated and as having always existed in relation to the balances, at the start of the 2001–02 tax year, of the unit trust's—

(a) imputation credit account:

(b) *[Repealed]*

(c) loss balances.

Defined in this Act: company, imputation credit account, loss balance, public unit trust, share, shareholder, tax year, unit trust

Compare: 2004 No 35 s OD 4(5A)–(5C)

Section YC 12(1) heading: replaced (with effect on 1 April 2008), on 18 March 2019, by section 280(1) (and see section 280(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 12(1): replaced (with effect on 1 April 2008), on 18 March 2019, by section 280(1) (and see section 280(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 12(1B) heading: inserted (with effect on 1 April 2008), on 18 March 2019, by section 280(2) (and see section 280(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 12(1B): inserted (with effect on 1 April 2008), on 18 March 2019, by section 280(2) (and see section 280(3) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 12(4)(b): repealed, on 1 April 2017, by section 291(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YC 12 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 291(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

YC 13 Corporate spin-outs

When this section applies

(1) This section applies if—

(a) a share in a company (the **spun-out company**) is transferred or issued to a shareholder in another company (the **original parent**); and

(b) before the transfer or issue, the original parent is treated, under section YC 11(3), as holding a voting interest or market value interest (the **spun-out subsidiary interest**) in another company (the **spun-out subsidiary**); and

(c) before the transfer or issue, the original parent is treated as holding an interest in the spun-out company that is a voting interest of more than 50% or, if a market value circumstance exists, a market value interest of more than 50%, both calculated as if section YC 4 did not apply to treat the original parent's interests in the spun-out company as being held by others; and

(d) at the time of the transfer or issue, the original parent is a limited attribution company; and

(db) after the transfer or issue, the interest in the spun-out company is treated under section YC 10 as being held by a notional single person; and

(e) after the transfer or issue, the spun-out company is treated under section YC 11(3) as holding the spun-out subsidiary interest; and

(f) after the transfer or issue, the spun-out company is, at all times during the relevant period described in subsection (3), a limited attribution company.

Modified look-through rule for transitional ownership of spun-out company

(1B) For the purposes of applying the continuity provisions to the ownership of the spun-out company from the date of the transfer or issue, if the original parent is treated, in the absence of this subsection, as holding an interest in the spun-out company (the **spun-out company interest**) for a period (the **preceding ownership period**) ending with the transfer or issue, the notional single person referred to in subsection (1)(db) is treated as holding the spun-out company interest—

(a) during the preceding ownership period; and

(b) to the extent to which, immediately after the transfer or issue, a group of persons exists who hold common interests in the original parent and the spun-out company, calculated on the assumption that the only voting interests and market value interests in those companies are those treated as held by a notional single person under section YC 10.

Modified look-through rule for transitional ownership of spun-out subsidiary

(2) Section YC 4 is overridden and the spun-out company is treated as holding the spun-out subsidiary interest—

(a) for the period before the transfer or issue that the original parent was treated as holding the spun-out subsidiary interest; and

(b) for the purposes of applying the continuity provisions from the date of the transfer or issue; and

(c) to the extent to which, immediately after the transfer or issue, a group of persons exists who hold common interests in the original parent and the spun-out company, calculated on the assumption that the only voting interests and market value interests in those companies are those treated as held by those companies under section YC 11(3).

Meaning of relevant period

(3) In subsection (1)(f), **relevant period** means—

(a) in relation to the offset of a loss under Part I (Treatment of tax losses), the period from the date of the transfer or issue until the last day of the period in which the loss is offset:

(b) in relation to a credit subject to a continuity provision, the period from the date of the transfer or issue until the date the credit is cancelled by a subsequent debit.

Meaning of common interest

(4) In subsection (2)(c), **common interest** means—

(a) if a market value circumstance does not exist for the original parent or the spun-out company, the common voting interest described in subsection (5):

(b) if a market value circumstance exists for the original parent but not the spun-out company, the lower of—

(i) the common voting interest described in subsection (5); and

(ii) the market value interest in the original parent:

(c) if a market value circumstance exists for the spun-out company but not the original parent, the lower of—

(i) the common voting interest described in subsection (5); and

(ii) the market value interest in the spun-out company:

(d) if a market value circumstance exists for the original parent and the spun-out company, the lower of the common voting interest described in subsection (5) and the common market value interest described in subsection (6).

Meaning of common voting interest

(5) In subsection (4), **common voting interest**, for a person in relation to the original parent and the spun-out company, means—

(a) the percentage voting interest of the person in each company, if the percentages are the same:

(b) the lower of the percentage voting interests of the person in the companies, if the percentages differ.

Meaning of common market value interest

(6) In subsection (4), **common market value interest**, for a person in relation to the original parent and the spun-out company, means—

(a) the percentage market value interest of the person in each company, if the percentages are the same:

(b) the lower of the percentage market value interests of the person in the companies, if the percentages differ.

Common interests: look-through rules partially overridden

(7) For the purposes of measuring common interests, neither section YB 21 (Transparency of nominees) nor YC 4 apply to treat a nominee's or company's voting interest or market value interest in the original parent or the spun-out company to be held by another person, if the interest the other person would be treated as holding would be less than 10%.

Defined in this Act: common interest, common market value interest, common voting interest, company, continuity provisions, group of persons, limited attribution company, market value circumstance, market value interest, relevant period, share, shareholder, voting interest

Compare: 2004 No 35 s OD 5(6A)–(6F)

Section YC 13(1)(b): amended (with effect on 8 September 2021), on 30 March 2022, by section 173(1) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YC 13(1)(c): substituted (with effect on 1 May 2011), on 29 August 2011, by section 132 of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YC 13(1)(db): inserted (with effect on 8 September 2021), on 30 March 2022, by section 173(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YC 13(1)(e): amended (with effect on 8 September 2021), on 30 March 2022, by section 173(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YC 13(1B) heading: inserted (with effect on 8 September 2021), on 30 March 2022, by section 173(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YC 13(1B): inserted (with effect on 8 September 2021), on 30 March 2022, by section 173(4) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YC 13(2) heading: replaced (with effect on 8 September 2021), on 30 March 2022, by section 173(5) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YC 13(2): amended (with effect on 8 September 2021), on 30 March 2022, by section 173(6) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Section YC 13(2)(a): amended (with effect on 8 September 2021), on 30 March 2022, by section 173(7) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

YC 14 Disregarding concessionary rules

When this section applies

(1) As the provisions of sections YC 10 to YC 13 are intended to have concessionary effect, subsection (2) applies if—

(a) at a time, for a company and a continuity provision, the requirements of the provision are not met; but

(b) the requirements would have been met but for the application to a particular extent of sections YC 10 to YC 13.

Requirements of continuity provision treated as met

(2) The requirements of the continuity provision are treated as met at the time.

Defined in this Act: company, continuity provisions

Compare: 2004 No 35 s OD 5(7)

YC 15 Directors' knowledge of failure to meet requirements of continuity provision

When this section applies

(1) This section applies if—

(a) for a company at a time, the requirements of a continuity provision would not have been met but for the application of section YC 10, YC 11, or both; and

(b) the failure, but for that concessionary application, to meet the requirements would have occurred in the absence of transactions of the following types:

(i) the sale of shares in a company in the ordinary course of trading on a recognised exchange between less than 10% holders:

(ii) the cancellation of shares in a unit trust, that falls within paragraph (a), (b), or (c) of the definition of **widely-held trust**, held by less than 10% holders:

(iii) the cancellation of shares in a unit trust, that falls within paragraph (a), (b), or (c) of the definition of **widely-held trust**, which were acquired from less than 10% holders by the manager or trustee of the unit trust in the ordinary course of their activities in relation to the unit trust:

(iv) the transfer of shares in a company other than in the ordinary course of trading on a recognised exchange between persons, each of which is not a company associated with the company and has a direct voting interest or direct market value interest of less than 5%, calculated before the application of section YC 4 as modified by section YC 11:

(v) the issue, redemption, or cancellation by a company, or the transfer to or from the company, or the transfer to an employee of the company from a trustee of a trust with no beneficiary other than the company and the company's employees, of shares in the company, or options over shares in the company, that in total for the company's income year would be a direct voting interest or direct market value interest of less than 5% if held by a single person; and

(c) the directors of the company know or could reasonably be expected to know, without making enquiries specifically for the purposes of applying the continuity provisions, that the requirements of the continuity provision would not have been met but for that concessionary application.

Requirements of continuity provision treated as not met

(2) The requirements of the continuity provision are treated as not met at the time.

Meaning of less than 10% holder

(3) In this section, **less than 10% holder** means a person whose direct voting interest or direct market value interest is, at all relevant times, an interest to which section YC 10 applies.

Defined in this Act: company, continuity provisions, director, less than 10% holder, recognised exchange, share, trustee, unit trust, widely-held trust

Compare: 2004 No 35 s OD 5(8)

Section YC 15(1)(b): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 133(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YC 15(1)(b)(iii): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 133(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YC 15(1)(b)(iv): added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 133(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YC 15(1)(b)(iv): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 133(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YC 15(1)(b)(v): added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 133(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YC 15(1)(b)(v): substituted (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 133(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

YC 16 Disregarding market value changes

When this section applies

(1) This section applies if—

(a) for a company at a time, the requirements of a continuity provision are not met; and

(b) the requirements would have been met but for a change in the market value interest of 1 or more persons; and

(c) the change is solely attributable to—

(i) a change in the market value of the tangible and intangible assets of the company:

(ii) a change in the market value of any 1 or more shares in the company that is not attributable to any change in the terms of those shares:

(iii) a combination of those factors.

Requirements of continuity provision treated as met

(2) The requirements of the continuity provision are treated as met at the time.

Defined in this Act: company, continuity provisions, market value, market value interest, share

Compare: 2004 No 35 s OD 5(9)

YC 17 Demutualisation of insurers

When this section applies

(1) This section applies if an insurer stops being a special corporate entity as a result of demutualisation.

Former member acquiring voting or market value interest

(2) Subsection (3) applies if—

(a) a person acquires a voting interest or a market value interest in an insurer on the demutualisation of the insurer; and

(b) immediately before the demutualisation, the person was a member of the insurer; and

(c) the interest is acquired solely as a result of that membership.

When person treated as holding interest

(3) With effect from the date of the acquisition but subject to section YC 10, the person is treated as having held the voting interest or market value interest at all times during the period in which the insurer was a special corporate entity.

Trustee for former member acquiring voting or market value interest

(4) Subsection (5) applies if—

(a) a person acquires a voting interest or a market value interest in a life insurer on the demutualisation of the life insurer; and

(b) the person is the trustee of a trust for the benefit of persons who were members of the life insurer immediately before the demutualisation; and

(c) the trust was established before the demutualisation process—

(i) as an interim holding vehicle pending distribution to the members of all shares held by the trust:

(ii) to exercise voting rights on behalf of the members in relation to any holding company established before the demutualisation process which holds all the shares in the life insurer; and

(d) the Commissioner considers that the trust falls within paragraphs (b) and (c), and has notified the trustee.

When trustee treated as holding interest

(5) With effect from the date of the acquisition, the trustee is treated as having held the voting interest or market value interest at all times during the period in which the life insurer was a special corporate entity.

Application of section YC 10 to interests of former members

(6) Subsection (7) applies if—

(a) subsection (5) applies; and

(b) the notional single person referred to in section YC 10 acquires a voting interest or market value interest in the life insurer on—

(i) the distribution by the trustee of the shares from the trust:

(ii) the issue of shares by the holding company; and

(c) the person referred to in section YC 10(1), whose direct voting interest or direct market value interest is treated under section YC 10 as that

of the notional single person resulting in the notional single person's interest in the life insurer,—

(i) was a member of the life insurer immediately before the demutualisation, or is a trustee of a trust for the members; and

(ii) acquired the direct voting interest or direct market value interest as a result of the membership.

When notional single person treated as holding interest

(7) With effect from the date of the acquisition, the notional single person is treated as having existed and having held the voting interest or market value interest at all times during—

(a) the period in which the life insurer was a special corporate entity; and

(b) the period of the trust before the acquisition by the notional single person.

Community trust acquiring voting or market value interest

(8) Subsection (9) applies if—

(a) a person acquires a voting interest or a market value interest in an insurer on and solely as a result of the demutualisation of the insurer; and

(b) the person is the trustee of a community trust for the benefit of some or all of a community which generally includes persons who were members of the insurer immediately before the demutualisation; and

(c) the Commissioner considers that the trust falls within paragraph (b) and has notified the trustee.

When trustee treated as holding interest

(9) With effect from the date of the acquisition, the trustee is treated as having held the voting interest or market value interest at all times during the period in which the insurer was a special corporate entity.

Net losses of years before 1992–93

(10) Subsection (11) applies if—

(a) an insurer undergoes demutualisation; and

(b) the insurer, or another company that is part of the same group of companies (the **loss company**), had a net loss in a tax year before the 1992–93 tax year; and

(c) the loss company carried the loss forward to the 1992–93 tax year under the Income Tax Act 1976; and

(d) the loss has not been offset against net income for any period before demutualisation.

Net loss treated as for 1992–93 tax year

(11) Despite section IZ 5 (Companies' tax losses for tax years before 1991–92 tax year) for the purposes of Part I (Treatment of tax losses), with effect from the date on which the insurer stops being a special corporate entity on the demutualisation, the loss is treated as having arisen on the first day of the loss company's 1992–93 tax year and not to have arisen in the earlier tax year.

Credit account credits arising before 1 April 2002

(12) Subsection (13) applies if—

(a) an insurer undergoes demutualisation; and

(b) the insurer or another company that is part of the same group of companies has, at the time of the commencement of the process of demutualisation, a credit that arose before 1 April 1992 in—

(i) its imputation credit account.

(ii) *[Repealed]*

(iii) *[Repealed]*

Credit treated as arising on 1 April 1992

(13) Despite section OZ 4 (Terminating modifications to debits for loss of shareholder continuity), for the purposes of Part O (Memorandum accounts), with effect from the date on which the insurer stops being a special corporate entity on the demutualisation, the credit is treated as having first arisen in the account on 1 April 1992 and not when it actually arose.

Defined in this Act: branch equivalent tax account, community trust, company, direct market value interest, direct voting interest, imputation credit account, insurer, life insurer, market value interest, net income, net loss, share, special corporate entity, tax year, trustee, voting interest

Compare: 2004 No 35 s OD 5A

Section YC 17(12)(b)(i): amended, on 1 April 2017, by section 292(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YC 17(12)(b)(ii): repealed, on 1 April 2017, by section 292(2) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YC 17(12)(b)(iii): repealed, on 1 July 2012 (applying for income years beginning on or after that date), by section 133(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YC 17 list of defined terms **FDP account**: repealed, on 1 April 2017, by section 292(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

YC 18 Reverse takeovers

When subsections (2) and (3) apply

(1) Subsections (2) and (3) apply if—

(a) a limited attribution company (the **initial parent**) is treated under section YC 11(3) as holding all ownership interests in another company (the **subsidiary**); and

(b) a change in the ownership of the initial parent occurs, or the initial parent ends its existence on an amalgamation (the **changeover**); and

(c) immediately after the changeover, another limited attribution company (the **new parent**) is treated under section YC 11(3) as holding all ownership interests in the subsidiary; and

(d) immediately after the changeover, all or part of the ownership interests in the new parent are treated under section YC 11(3) as being held by persons (the **initial owners**) who were treated as holding ownership interests in the initial parent immediately before the changeover; and

(e) in the case of each initial owner, the percentage ownership interest in the initial parent that the initial owner holds immediately before the changeover is the same as the percentage ownership interest in the new parent that the initial owner holds immediately after the changeover.

Loss balance continuity

(2) If the initial owners hold a total of 49% or more of the ownership interests in the new parent immediately after the changeover, the new parent is treated for the purposes of Part I (Treatment of tax losses) as—

(a) holding, immediately after the changeover, the ownership interests in the subsidiary that the initial parent held immediately before the changeover; and

(b) having held the ownership interests for the period for which the ownership interests were treated as held by the initial parent.

Credit account continuity

(3) If the initial owners hold a total of 66% or more of the ownership interests in the new parent immediately after the changeover, the new parent is treated for the purposes of subparts OB and OP (which relate to imputation credit accounts) as—

(a) holding, immediately after the changeover, the ownership interests in the subsidiary that the initial parent held immediately before the changeover; and

(b) having held the ownership interests for the period for which the ownership interests were treated as held by the initial parent.

When subsection (5) applies

(4) As the provisions of this section are intended to have concessionary effect, subsection (5) applies if—

(a) at a time, for a company and a continuity provision, the requirements of the provision are not met; but

(b) the requirements would have been met but for the application to a particular extent of subsections (2) and (3).

Requirements met

(5) The requirements of the continuity provision are treated as met at the time.

Meaning of ownership interest

[Repealed]

(6) *[Repealed]*

Limited application to changeovers before 3 April 2006

(7) Subsections (2) and (3) apply for a person for a changeover occurring before 3 April 2006 only if, before that date, the person files a return of income on the basis that the requirements of a continuity provision are satisfied in relation to the company and the changeover.

Defined in this Act: amalgamation, company, continuity provisions, limited attribution company, market value interest, ownership interest, return of income, voting interest

Compare: 2004 No 35 s OD 5AA

Section YC 18(3): amended, on 1 April 2017, by section 293 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YC 18(6) heading: repealed (with effect on 1 April 2015), on 18 March 2019, pursuant to section 281 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18(6): repealed (with effect on 1 April 2015), on 18 March 2019, by section 281 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18 list of defined terms **market value circumstance**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 569(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YC 18B Corporate reorganisations not affecting economic ownership

When subsection (3) applies

(1) Subsection (3) applies if a company (the **initial parent**) enters into an arrangement described in subsection (2).

Description of arrangement

(2) The description of the arrangement for the purposes of subsection (1) is as follows:

(a) the initial parent is a limited attribution company that is treated under section YC 11(3) and (4) as holding ownership interests (the **included ownership interests**) that are not excluded preference shares in another company before the arrangement is entered into; and

(b) the ownership of the initial parent is reorganised so that another company (the **new parent**) is a limited attribution company that is treated under section YC 11(3) and (4) as holding included ownership interests in the initial parent after the arrangement is implemented; and

(c) the percentage included ownership interests (the **final percentage**) that a person receives in the new parent is the same as their percentage

included ownership interests (the **initial percentage**) in the initial parent that they cease to hold as a result of the arrangement. For the purposes of this paragraph, a difference between the initial and final percentages is ignored if the difference is caused by a transfer or non-transfer of included ownership interests that—

(i) facilitates the arrangement, and the relevant included ownership interests have a market value that is merely nominal relative to the value of the included ownership interests in the new parent:

(ii) is the direct result of impossibility or impracticability caused by securities law requirements; and

(d) a person holding included ownership interests in the initial parent before the arrangement is entered into does not receive a dividend, gift, or other direct benefit as a result of the arrangement. For the purposes of this paragraph,—

(i) included ownership interests in the initial parent for which paragraph (c)(ii) applies are excluded from a person's holding of included ownership interests:

(ii) included ownership interests in the new parent are excluded from being a dividend, gift, or other direct benefit.

Loss balance and credit account continuity

(3) For the purposes of the tests of ownership and control in Part I and subparts LP, OA, OB, OC, and OP (which relate to loss balances, tax credits, and memorandum accounts), starting from when the initial parent is first treated under section YC 11(3) and (4) as holding the included ownership interests in another company, the new parent is treated as—

(a) existing and having the shareholders it has immediately after the arrangement's implementation:

(b) holding the included ownership interests that the initial parent is treated under section YC 11(3) and (4) as holding:

(c) holding all included ownership interests in the initial parent.

Effect of subsection (3)

(4) Subsection (3) does not prevent a change in shareholders, the holdings of included ownership interests, or other circumstances, after the implementation of the arrangement from having an effect on the application of the continuity provisions and the provisions described in subsection (3) after the implementation of the arrangement.

Definitions

(5) In this section,—

(a) *[Repealed]*

(b) **excluded preference share** means a share that is disregarded, under section 703–37 of the Income Tax Assessment Act 1997 (Aust), in determining whether a company can be a subsidiary member of a consolidated group for the purposes of that Act.

Defined in this Act: arrangement, company, continuity provision, dividend, excluded preference share, limited attribution company, ownership interest, share, shareholder

Section YC 18B: inserted (with effect on 1 April 2008), on 6 October 2009, by section 570 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YC 18B(2)(a): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(2)(b): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(2)(c): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(2)(c): amended, on 2 November 2012, by section 157 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YC 18B(2)(c)(i): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(2)(d): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(2)(d)(i): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(2)(d)(ii): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(4) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(3): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(5) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(3): amended, on 1 July 2012 (applying for income years beginning on or after that date), by section 134(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Section YC 18B(3)(b): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(5) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(3)(c): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(5) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(4): amended (with effect on 1 April 2015), on 18 March 2019, by section 282(6) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 18B(5)(a): repealed (with effect on 1 April 2015), on 18 March 2019, by section 282(7) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

YC 18C Railways restructure not affecting Crown economic ownership

When this section applies

(1) This section applies for New Zealand Railways Corporation, KiwiRail Holdings Limited, and any company that, immediately after the Railways vesting, is in the same wholly-owned group as KiwiRail Holdings Limited for the purposes of the tests of ownership and control in:

(a) Parts I and O (which relate to losses and memorandum accounts):

(b) the consolidation rules:

(c) the amalgamation rules.

Loss balance, credit account, and restructuring continuity

(2) Starting from when New Zealand Railways Corporation is first treated as having a notional single person under section YC 5, KiwiRail Holdings Limited is treated as—

(a) existing and having the same notional single person under section YC 5 that KiwiRail Holdings Limited has immediately after the Railways vesting:

(b) holding the ownership interests in other companies that New Zealand Railways Corporation held before the Railways vesting.

No notice requirement for joining consolidated group

(3) KiwiRail Holdings Limited may choose to join an existing consolidated group on and after 31 December 2012, despite section FM 38 (Notice requirements on forming or joining consolidated group).

Effect of subsection (2)

(4) Subsection (2) does not prevent a change in shareholders, notional single person, the holdings of ownership interests, or other circumstances occurring after the Railways vesting.

Definitions

(5) In this section,—

Railways vesting has the same meaning as in section EZ 68 (Definitions).

Defined in this Act: amalgamation rules, consolidation rules, consolidated group, ownership interest, Railways vesting, shareholder, wholly-owned group

Section YC 18C: inserted (with effect on 31 December 2012), on 17 July 2013, by section 101 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Section YC 18C(5) **ownership interest**: repealed (with effect on 1 April 2015), on 18 March 2019, by section 283 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

YC 19 Legislative conversion of foreign company of proprietors

When this section applies

(1) This section applies if—

(a) a company of proprietors is established by a statute of a legislature outside New Zealand; and

(b) the company of proprietors becomes a limited liability company as a result of another statute.

Proprietor acquiring voting or market value interest

(2) Subsection (3) applies if—

(a) a person acquires a voting interest or a market value interest in a company on the conversion of a company of proprietors; and

(b) immediately before the conversion, the person was a proprietor of the company of proprietors and the person acquired the interest solely as a result of being a proprietor.

Company and person treated as always having held interest

(3) With effect from the date of acquisition but subject to section YC 10,—

(a) the company of proprietors is treated as having been a company with shareholders at all times before the conversion; and

(b) the person is treated as having held the voting interest or market value interest at all times before the conversion.

Defined in this Act: company, market value interest, New Zealand, shareholder, voting interest

Compare: 2004 No 35 s OD 5B

YC 19B Treatment when certain trusts terminated

When this section applies

(1) This section applies when—

(a) a trust established for the sole benefit of the New Zealand government or an overseas government is terminated; and

(b) all the ownership interests held by the trustees of the trust in a company are transferred to the government beneficiary.

Date of acquisition of shares

(2) The government beneficiary is treated as acquiring the ownership interests transferred by the trustees on the date the trustees acquired the ownership interests.

Definition

[Repealed]

(3) *[Repealed]*

Defined in this Act: company, New Zealand, ownership interest, trustee

Section YC 19B: inserted (with effect on 1 January 2011), on 2 November 2012, by section 158 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Section YC 19B(3) heading: repealed (with effect on 1 April 2015), on 18 March 2019, pursuant to section 284 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section YC 19B(3): repealed (with effect on 1 April 2015), on 18 March 2019, by section 284 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

YC 20 Credit account continuity provisions: excluded fixed rate securities

When this section applies

(1) This section applies for the purposes of the credit account continuity provisions.

Counting excluded fixed rate securities

(2) Section YC 6 applies as if—

(a) section YC 6(1)(a) were omitted; and

(b) each other reference to "excluded fixed rate security" were omitted.

Relationship with section YA 1

(3) Section YA 1 (Definitions) applies as if—

(a) paragraph (e) of the definition of **excluded option** were omitted; and

(b) in paragraphs (a), (b), and (f) of the definition of **market value circumstance**, the words "an excluded fixed rate security" were replaced by "a".

Defined in this Act: credit account continuity provisions, excluded fixed rate security

Compare: 2004 No 35 s OD 6

Subpart YD—Residence and source in New Zealand

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[Repealed]

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Residence

YD 1 Residence of natural persons

What this section does

(1) This section contains the rules for determining when a natural person is a New Zealand resident for the purposes of this Act.

Permanent place of abode in New Zealand

(2) Despite anything else in this section, a natural person is a New Zealand resident if they have a permanent place of abode in New Zealand, even if they also have a permanent place of abode elsewhere.

183 days in New Zealand

(3) A natural person is a New Zealand resident if they are personally present in New Zealand for more than 183 days in total in a 12-month period.

Person treated as resident from first of 183 days

(4) If subsection (3) applies, the natural person is treated as resident from the first of the 183 days until the natural person is treated under subsection (5) as ceasing to be a New Zealand resident.

Ending residence: 325 days outside New Zealand

(5) A natural person treated as a New Zealand resident only under subsection (3) stops being a New Zealand resident if they are personally absent from New Zealand for more than 325 days in total in a 12-month period.

Person treated as non-resident from first of 325 days

(6) The natural person is treated as not resident from the first of the 325 days until they are treated again as resident under this section.

Government servants

(7) Despite subsection (5), a natural person who is personally absent from New Zealand in the service, in any capacity, of the New Zealand Government is treated as a New Zealand resident during the absence.

Presence for part-days

(8) For the purposes of this section, a natural person personally present in New Zealand for part of a day is treated as—

(a) present in New Zealand for the whole day; and

(b) not absent from New Zealand for any part of the day.

Special concession for transitional residents

[Repealed]

(9) *[Repealed]*

No application for preceding 12 months

[Repealed]

(10) *[Repealed]*

Treatment of non-resident seasonal workers

(11) Despite subsection (3), a non-resident seasonal worker is treated for the duration of their employment under the recognised seasonal employer (RSE) instructions as a non-resident.

Treatment of trustees

(12) In this section, a natural person includes a natural person who is acting in the capacity of trustee.

Defined in this Act: natural person, New Zealand resident, non-resident seasonal worker, recognised seasonal employer (RSE) instructions, trustee

Compare: 2004 No 35 s OE 1

Section YD 1(1): amended, on 29 March 2018, by section 246(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(2): amended, on 29 March 2018, by section 246(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(3): amended, on 29 March 2018, by section 246(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(4): amended, on 29 March 2018, by section 246(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(5): amended, on 29 March 2018, by section 246(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(6): amended, on 29 March 2018, by section 246(6) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(7): amended, on 29 March 2018, by section 246(7) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(8): amended, on 29 March 2018, by section 246(8) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(9) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 571(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1(9): repealed (with effect on 1 April 2008), on 6 October 2009, by section 571(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1(10) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 571(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1(10): repealed (with effect on 1 April 2008), on 6 October 2009, by section 571(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1(11) heading: added (with effect on 1 April 2009), on 6 October 2009, by section 571(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1(11): added (with effect on 1 April 2009), on 6 October 2009, by section 571(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1(11): amended, on 1 October 2014, by section 146(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YD 1(12) heading: inserted, on 29 March 2018, by section 246(9) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1(12): inserted, on 29 March 2018, by section 246(9) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1 list of defined terms **company**: repealed, on 29 March 2018, by section 246(10)(b) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1 list of defined terms **natural person**: inserted, on 29 March 2018, by section 246(10)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 1 list of defined terms **non-resident seasonal worker**: added (with effect on 1 April 2009), on 6 October 2009, by section 571(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1 list of defined terms **recognised seasonal employer (RSE) instructions**: inserted, on 1 October 2014, by section 146(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YD 1 list of defined terms **recognised seasonal employment scheme**: repealed, on 1 October 2014, by section 146(2) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Section YD 1 list of defined terms **transitional resident**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 571(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 1 list of defined terms **trustee**: inserted, on 29 March 2018, by section 246(10)(a) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

YD 2 Residence of companies

Four bases for residence

(1) A company is a New Zealand resident for the purposes of this Act if—

(a) it is incorporated in New Zealand:

(b) its head office is in New Zealand:

(c) its centre of management is in New Zealand:

(d) its directors, in their capacity as directors, exercise control of the company in New Zealand, even if the directors' decision-making also occurs outside New Zealand.

Treatment of trustees

(1B) In this section, a company includes a company that is acting in the capacity of trustee.

International tax rules

(2) Despite subsection (1), for the purpose of the international tax rules, a company is treated as remaining resident in New Zealand if it becomes a foreign company but is resident in New Zealand again within 183 days afterwards.

Cook Islands National Superannuation Fund trustee

(3) Despite subsection (1), the trustee of the Cook Islands National Superannuation Fund, established by the Cook Islands National Superannuation Fund Deed under the Cook Islands National Superannuation Scheme Act 2000 (Cook Islands), is not a New Zealand resident.

Defined in this Act: company, director, foreign company, New Zealand resident, trustee

Compare: 2004 No 35 ss GC 9(6), OE 2(1), (1B)

Section YD 2(1B) heading: inserted, on 29 March 2018, by section 247(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 2(1B): inserted, on 29 March 2018, by section 247(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 2 list of defined terms **trustee**: inserted, on 29 March 2018, by section 247(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

YD 3 Country of residence of foreign companies

When this section applies

(1) This section applies for the purposes of the international tax rules to determine the country in which a foreign company is treated as resident for an accounting period.

Liability to income tax

(2) The company is treated as resident in a country if, at any time during the accounting period, it is liable to income tax in the country because any of the following is located in the country—

(a) its domicile:

(b) its residence:

(c) its place of management:

(d) any other criterion of a similar nature.

Further rule: first application

(3) Subsection (4) applies if the application of subsection (2) for an accounting period means that—

(a) the company is resident in 2 or more countries:

(b) the company is not resident in any country.

Applying New Zealand rules

(4) The company is treated as resident in the country in which—

(a) it is incorporated:

(b) it has its head office:

(c) it has its centre of management:

(d) its directors, in their capacity as directors, exercise control of the company, even if the directors' decision-making also occurs outside the country.

Further rule: second application

(5) The company is treated as resident in the country in which its centre of management is located for the accounting period if no 1 country of residence is identified under subsection (4).

Final rule

(6) The Commissioner must determine the country of residence if no 1 country of residence is identified under subsection (5).

Defined in this Act: accounting period, Commissioner, company, director, foreign company, international tax rules

Compare: 2004 No 35 s OE 2(2)–(6)

Section YD 3(4)(b): amended (with effect on 1 April 2008), on 6 October 2009, by section 572(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YD 3BA Country of residence of joint trustees

For 2 or more persons who derive income jointly as trustees of a trust, the residence of the joint trustees is given by sections HC 2(3) and HC 33(1C) (which relate to the obligations and residency of trustees).

Section YD 3BA: inserted, on 23 March 2020, by section 186 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

YD 3B Crown

For the purposes of this Act and for the avoidance of doubt, the Sovereign in right of New Zealand is regarded as resident in New Zealand.

Defined in this Act: New Zealand, resident in New Zealand

Section YD 3B: inserted (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 134(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YD 3B: editorial change made by the PCO, on 19 July 2024, under sections 86(1) and 87(a) of the Legislation Act 2019 (2019 No 58).

Source

YD 4 Classes of income treated as having New Zealand source

What this section does

(1) This section lists the types of income that are treated as having a source in New Zealand for the purposes of this Act.

Business in New Zealand

(2) Income derived from a business has a source in New Zealand if—

(a) the business is wholly carried on in New Zealand:

(b) the business is partly carried on in New Zealand, to the extent to which the income is apportioned to a New Zealand source under section YD 5.

Contracts made or performed in New Zealand

(3) Income derived by a person from a contract has a source in New Zealand if the contract is—

(a) made in New Zealand, except to the extent to which the person wholly or partly performs the contract outside New Zealand, and the income is apportioned to a source outside New Zealand under section YD 5:

(b) made outside New Zealand but the person wholly or partly performs the contract here, to the extent to which the income is apportioned to a New Zealand source under section YD 5.

Personal services in New Zealand

(4) An amount that is income under section CE 1 (Amounts derived in connection with employment) has a source in New Zealand if the amount is earned in New Zealand, even if the employer is not a New Zealand resident.

Accident compensation payments

(5) An accident compensation payment as defined in section CF 1(2) (Benefits, pensions, compensation, and government grants) has a source in New Zealand.

Pensions

(6) The following amounts have a source in New Zealand:

(a) a pension or annuity payable by the government of New Zealand:

(b) a pension or annuity payable out of a superannuation scheme established in New Zealand:

(c) a gratuitous payment, within the definition of **pension** in section CF 1(2), if the services are provided in New Zealand.

Income from land owned in New Zealand

(7) Income derived by a person as the owner of land in New Zealand has a source in New Zealand.

Income from use in New Zealand of personal property

(8) Income, other than a royalty, derived as consideration for the use of, or right to use, personal property in New Zealand has a source in New Zealand if the income is—

(a) paid by a New Zealand resident:

(b) paid by a non-resident, and for which the non-resident is allowed a deduction.

Royalties

(9) A royalty has a source in New Zealand if it is—

(a) paid by a New Zealand resident and not made in connection with a business they carry on outside New Zealand through a fixed establishment outside New Zealand:

(b) paid by a non-resident, and for which the non-resident is allowed a deduction.

Dividends

(10) Income derived from shares in, or membership of, a company resident in New Zealand has a source in New Zealand.

Income from debt instruments

(11) The following amounts have a source in New Zealand—

(a) interest or a redemption payment derived from money lent in New Zealand:

(b) interest or a redemption payment derived from money lent outside New Zealand—

(i) to a New Zealand resident, except to the extent to which the money is used by them for the purposes of a business they carry on outside New Zealand through a fixed establishment outside New Zealand and the interest or redemption payment is not apportioned to a New Zealand source under section YD 5(4):

(ii) to a non-resident, if the money is used by them for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand:

(c) income from securities issued by the government of New Zealand:

(d) income derived from debentures issued by a local authority or public authority:

(e) income derived from a mortgage of land in New Zealand.

Income from disposal of New Zealand property

(12) Income derived from the disposal of property situated in New Zealand has a source in New Zealand.

Beneficiary income

(13) Income derived by a beneficiary from a trust has a source in New Zealand to the extent to which the income of the trust fund has a source in New Zealand.

Income from air transport

(14) Income derived from transporting people or property by air has a source in New Zealand if the transportation leaves from New Zealand.

Income from sea transport

(15) Income derived from transporting people or property by sea has a source in New Zealand if the transportation leaves from New Zealand to the extent to which the income is apportioned to a New Zealand source under section YD 6.

Non-resident general insurers

(16) A premium for general insurance paid to a non-resident general insurer of the type described in section YD 8 has a source in New Zealand to the extent set out in section YD 8(2).

Non-resident life insurers: policies in New Zealand

(17) Income of a non-resident life insurer calculated under section EY 48 (Non-resident life insurers with life insurance policies in New Zealand) has a source in New Zealand.

Income from New Zealand partnerships

(17B) Income has a source in New Zealand if, treating all of the partners of a New Zealand partnership as resident in New Zealand, the income is treated as having a source in New Zealand under another provision of this section. The application of the other provisions of this section is unaffected if this subsection does not apply.

Income through permanent establishment

(17C) Income attributable to a permanent establishment in New Zealand of a non-resident has a source in New Zealand, except if—

(a) subsections (15) to (17) provide otherwise:

(b) the income is a dividend from a share in a foreign company that is not revenue account property.

Income taxable under double tax agreement

(17D) Income of a non-resident that may be taxed in New Zealand under a double tax agreement and does not have a source under subsections (15) to (17) has a source in New Zealand unless the income is—

(a) a dividend from a share in a foreign company that is not revenue account property:

(b) fees for technical, management, or similar services that are—

(i) treated as royalties under a double tax agreement:

(ii) subject to article 12 of the double tax agreement between New Zealand and the Republic of India:

(c) a royalty or interest payment attributable, under a double tax agreement, to a permanent establishment outside New Zealand.

Any other source in New Zealand

(18) Income derived directly or indirectly from any other source in New Zealand has a source in New Zealand.

Defined in this Act: accident compensation payment, amount, business, company, debenture, deduction, dispose, dividend, double tax agreement, employer, fixed establishment, foreign company, general insurance, income, interest, life insurer, local authority, money lent, New Zealand, New Zealand partnership, New Zealand resident, non-resident, partner, pay, pension, permanent establishment, public authority, redemption payment, revenue account property, royalty, share, source in New Zealand, superannuation scheme

Compare: 2004 No 35 s FB 2(2)

Section YD 4(11)(b)(i): replaced, on 30 March 2017, by section 294 (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 4(17B) heading: inserted, on 1 April 2008, by section 26(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YD 4(17B): inserted, on 1 April 2008, by section 26(1) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YD 4(17C) heading: inserted, on 1 July 2018, by section 50(1) (and see section 50(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YD 4(17C): inserted, on 1 July 2018, by section 50(1) (and see section 50(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YD 4(17D) heading: inserted, on 1 July 2018, by section 50(1) (and see section 50(3) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YD 4(17D): replaced (with effect on 1 July 2018), on 28 March 2024, by section 120 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Section YD 4(17D)(b): replaced (with effect on 1 July 2018), on 29 March 2025, by section 144 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

List of defined terms **dividend**: inserted, on 1 July 2018, by section 50(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

List of defined terms **double tax agreement**: inserted, on 1 July 2018, by section 50(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

List of defined terms **foreign company**: inserted, on 1 July 2018, by section 50(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YD 4 list of defined terms **New Zealand partnership**: inserted, on 1 April 2008, by section 26(2) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

Section YD 4 list of defined terms **partner**: inserted, on 1 April 2008, by section 26(2) of the Taxation (Limited Partnerships) Act 2008 (2008 No 2).

List of defined terms **permanent establishment**: inserted, on 1 July 2018, by section 50(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

List of defined terms **revenue account property**: inserted, on 1 July 2018, by section 50(2) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YD 4 compare note: amended, on 29 March 2018 (with effect on 1 April 2008), by section 248 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

YD 4B Meaning of permanent establishment

What this section does

(1) This section gives the meaning of **permanent establishment** for a person or other enterprise (the **enterprise**) that makes in New Zealand a supply of goods or services.

Double tax agreement with applicable definition

(2) **Permanent establishment**, for an enterprise that is resident in a country or territory with which New Zealand has a double tax agreement that includes a definition of permanent establishment, has the meaning given by—

(a) the double tax agreement:

(b) section GB 54 (Arrangements involving establishments), if the enterprise meets the requirements of the section.

No double tax agreement with applicable definition

(3) **Permanent establishment**, for an enterprise that is resident in New Zealand or in a country or territory with which New Zealand does not have a double tax agreement that includes a definition of permanent establishment, has the meaning given by schedule 23 (Meaning of permanent establishment).

Interpretation of schedule 23

(4) Schedule 23 is treated as applying consistently with the guidance relevant to the schedule that is provided by the Commentary on Article 5 of the Model Tax Convention on Income and on Capital, in *Model Tax Convention on Income and on Capital* published by the Organisation for Economic Co-operation and Development, as amended at the beginning of the income year in which the enterprise makes the supply.

Defined in this Act: business, double tax agreement, goods, New Zealand, non-resident, permanent establishment, resident in New Zealand, services

Section YD 4B: inserted, on 1 July 2018, by section 51(1) (and see section 51(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

YD 5 Apportionment of income derived partly in New Zealand

When this section applies

(1) This section applies when—

(a) a person carries on business partly in New Zealand and partly outside New Zealand; or

(b) a contract is made in New Zealand and is performed, in whole or in part, by a person outside New Zealand; or

(c) a contract is made outside New Zealand and is performed, in whole or in part, by a person in New Zealand; or

(d) interest or a redemption payment is derived from money lent outside New Zealand to a New Zealand resident (the **borrower**) for the purposes

of a business they carry on outside New Zealand through a fixed establishment outside New Zealand and through which the borrower lends money to another New Zealand resident.

Exception when permanent establishment

(1BA) This section does not apply to business activities that a person carries on through a permanent establishment in New Zealand.

Relationship with source rules

(1B) This section does not apply to limit the effect of—

(a) any of the source rules in section YD 4 other than those in section YD 4(2), (3), and (11)(b)(i); or

(b) the source rules in section YD 4(2), (3), and (11)(b)(i) to the extent to which the income referred to is also income referred to in any source rule other than those in section YD 4(2), (3), and (11)(b)(i).

Apportionment

(2) Subject to subsection (4), the amount of income derived from the business or under the contract, and the amount of expenditure incurred in deriving the income, must be apportioned between New Zealand and sources outside New Zealand to the extent necessary to achieve the result in subsection (3).

Necessary effect of apportionment

(3) The result of the apportionment, to the extent consistent with subsection (2), must be that the person's net income or net loss, in relation to the business or contract, is the same as a separate and independent person would have if they were carrying out only the person's activities in New Zealand and dealing at arm's length.

First formula: Apportionment of income from interest or redemption payment

(4) Subject to subsections (6) and (7), interest or a redemption payment derived as described in subsection (1)(d) is apportioned to a source in New Zealand using the formula—

$$\text{loan ratio} \times \text{amount}.$$

Definition of items in formula

(5) In the formula in subsection (4),—

(a) **loan ratio** is calculated by applying the formula in subsection (8) to the business described in subsection (1)(d):

(b) **amount** is the amount of interest or redemption payment described in subsection (1)(d).

Apportionment if loan ratio 0.05 or less

(6) If the loan ratio calculated by applying the formula in subsection (8) to a business is 0.05 or less, then none of the interest or redemption payment is treated as having a source in New Zealand.

Apportionment if loan ratio 0.95 or more

(7) If the loan ratio calculated by applying the formula in subsection (8) to a business is 0.95 or more, then all of the interest or redemption payment is treated as having a source in New Zealand.

Second formula: loan ratio

(8) The item **loan ratio** in subsection (4) is calculated using the formula—

financial arrangements producing New Zealand income ÷ total assets.

Definition of items in formula

(9) In the formula in subsection (8),—

(a) **financial arrangements producing New Zealand income**, for a business, means the value of the business's assets that are financial arrangements that produce income having a source in New Zealand as at—

(i) the borrower's balance date that immediately precedes the income year; if the borrower has a balance date before the start of the income year; or

(ii) the end of the day before the date on which the interest or redemption payment is paid, if subparagraph (i) does not apply:

(b) **total assets**, for a business, means the value of all of the business's assets as at—

(i) the borrower's balance date that immediately precedes the income year, if the borrower has a balance date before the start of the income year; or

(ii) the end of the day before the date on which the interest or redemption payment is paid, if subparagraph (i) does not apply.

Example

At its balance date of 31 March 2018, NZ Sub UK Branch has total borrowings from the wholesale markets of NZ$2b. NZ$1.5b has been lent to NZ Bank Ltd at 4% p.a., NZ$500m lent to a UK resident at 12% p.a. and there are no other assets. On 31 October 2018, the UK resident repays its loan and NZ Sub UK Branch uses the amount to repay the wholesale market lenders. On 31 January 2019, NZ Sub UK Branch pays interest of NZ$60m. NZ Sub UK Branch calculates the loan ratio in section YD 5(8) as NZ$1.5b ÷ NZ$2b = 0.75. NZ Sub UK Branch calculates the apportionment of income from interest in section YD 5(4) as: 0.75 x NZ$60m = NZ$45m. Therefore, NZ$45m of the interest payment on 31 January 2019 has a New Zealand source, so NZ Sub UK Branch pays AIL of $900,000 which is included in its AIL return for January 2019.

Defined in this Act: amount, business, gross, financial arrangement, fixed establishment, income, income year, interest, loan, money lent, net loss, New Zealand, New Zealand resident, pay, redemption payment, source in New Zealand

Compare: 2004 No 35 s FB 2(1A)

Section YD 5(1)(c): amended, on 30 March 2017, by section 295(1) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(1)(d): inserted, on 30 March 2017, by section 295(2) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(1BA) heading: inserted, on 1 July 2018, by section 52(1) (and see section 52(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YD 5(1BA): inserted, on 1 July 2018, by section 52(1) (and see section 52(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Section YD 5(1B) heading: inserted (with effect on 1 April 2008), on 6 October 2009, by section 574(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 5(1B): inserted (with effect on 1 April 2008), on 6 October 2009, by section 574(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 5(1B)(a): amended, on 30 March 2017, by section 295(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(1B)(b): amended, on 30 March 2017, by section 295(3) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(2): amended, on 30 March 2017, by section 295(4) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(3): amended (with effect on 1 April 2008), on 6 October 2009, by section 574(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 5(4) heading: inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(4): inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(5) heading: inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(5): inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(6) heading: inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(6): inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(7) heading: inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(7): inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(8) heading: inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(8): inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(9) heading: inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5(9): inserted, on 30 March 2017, by section 295(5) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 compare note: amended (with effect on 1 April 2008), on 6 October 2009, by section 574(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YD 5 list of defined terms **financial arrangement**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **fixed establishment**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **income year**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **interest**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **loan**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **money lent**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **New Zealand resident**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **pay**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **redemption payment**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Section YD 5 list of defined terms **source in New Zealand**: inserted, on 30 March 2017, by section 295(6) (and see section 5) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

YD 5B Attribution of income and expenditure to permanent establishment in New Zealand

When this section applies

(1) This section applies when a person carries on business activities through a permanent establishment in New Zealand.

Apportionment

(2) The amounts of income and expenditure of the person that must be attributed to the permanent establishment are the amounts of income and expenditure that the permanent establishment might be expected to derive and incur if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the person.

Defined in this Act: amount, income, New Zealand, permanent establishment

Section YD 5B: inserted, on 1 July 2018, by section 53(1) (and see section 53(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

YD 6 Apportionment of income from sea transport

When this section applies

(1) This section applies when a non-resident derives an amount of income from transporting people or property by sea from New Zealand to a destination outside New Zealand.

Five percent from source in New Zealand

(2) Five percent of the amount is treated as having a source in New Zealand and the remainder of the amount is treated as not having a source in New Zealand.

Reduction by Commissioner

(3) Despite subsection (2), the Commissioner may reduce the amount that is treated as having a source in New Zealand to the extent to which the country in which the non-resident is resident would treat an amount derived by a New Zealand resident from sea transport from that country as—

(a) not having a source in that country:

(b) otherwise as exempt from, or not liable to, income tax in that country.

No deduction

(4) The non-resident is denied a deduction under section DW 3 (Non-resident general insurers and shippers) for expenditure or loss incurred.

Intervening stop in New Zealand

(5) The transport of people or property from a port in New Zealand is treated as transport to a place outside New Zealand even if the ship calls at another New Zealand port before leaving New Zealand.

Defined in this Act: amount, Commissioner, income, income tax, New Zealand resident, non-resident

Compare: 2004 No 35 ss FC 18, FC 19

Section YD 6(3)(b): amended, on 29 March 2018 (with effect on 1 April 2008 and applying for the 2008–09 and later income years), by section 249(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Section YD 6(4): amended, on 2 November 2012, by section 159 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

YD 7 Apportionment of film rental income

[Repealed]

Section YD 7: repealed, on 2 November 2012, by section 160 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

YD 8 Apportionment of premiums derived by non-resident general insurers

When this section applies

(1) This section applies if—

(a) a premium is paid under a contract of insurance; and

(b) the insurance is of 1 of the types listed in subsection (4); and

(c) when the insurer derives the premium, they are a non-resident; and

(d) the premium is not attributable to a business of the insurer which they carry on in New Zealand through a fixed establishment in New Zealand; and

(e) the premium is treated as connected with New Zealand under any of the tests of connection in subsection (5); and

(f) subsection (6) does not apply to override subsection (5).

Ten percent of premium from source in New Zealand

(2) Ten percent of the gross premium is treated as having a source in New Zealand and the remainder of the gross premium is treated as not having a source in New Zealand.

Special rules

(3) The following provisions apply in relation to taxation of the 10% amount:

(a) the insurer is denied a deduction for expenditure or loss incurred, under section DW 3 (Non-resident general insurers and shippers):

(b) sections HD 16 (Non-resident general insurers) and HD 17 (Agent paying premiums to residents of Switzerland) apply to impose certain obligations in relation to payment of income tax and provision of tax returns and other information.

Types of insurance

(4) The types of insurance referred to in subsection (1)(b) are—

(a) general insurance:

(b) a guarantee against risk given by an insurer to an insured person if—

(i) the insured person is liable to pay a premium to the insurer for the guarantee; and

(ii) the insured person is associated with the insurer:

(c) a guarantee against risk given by an insurer to an insured person if—

(i) the insured person is liable to pay a premium to the insurer for the guarantee; and

(ii) the risk arises from money lent to the insured person; and

(iii) the amounts the insured person is liable to pay for the money are significantly less than they would otherwise have been because of the guarantee; and

(iv) the effect of the guarantee on the amounts payable is more than an incidental effect, or comes about as more than an incidental purpose, of the insurer's giving the guarantee.

Connection with New Zealand

(5) The premium is connected with New Zealand if—

(a) the insurance contract from which the premium is derived is offered or entered into in New Zealand:

(b) the insured person is resident in New Zealand:

(c) the insured person is a non-resident but enters into the insurance contract for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand.

No connection if all risk offshore

(6) Despite subsection (5), the premium is treated as not connected with New Zealand if—

(a) all risk covered by the premium is located outside New Zealand; and

(b) the insurer deriving the premium is not associated with the insured person.

Defined in this Act: business, fixed establishment, general insurance, insurance, insurance contract, insured person, insurer, pay, source in New Zealand

Compare: 2004 No 35 ss FC 13, FC 14(1)

Section YD 8(3)(a): amended, on 2 November 2012, by section 161 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

YD 8B Apportionment of life insurance premiums derived by Lloyd's of London

What this section applies to

(1) This section applies when—

(a) a premium is paid under a life insurance policy; and

(b) the premium is derived by Lloyd's of London; and

(c) the life insurance policy is described in subsection (4); and

(d) the life insurance policy is offered or was offered or entered into within New Zealand.

Ten percent of premium from source in New Zealand

(2) Ten percent of the gross premium is treated as having a source in New Zealand and the remainder of the gross premium is treated as not having a source in New Zealand.

Special rules

(3) The following provisions apply in relation to taxation of the 10% amount:

(a) Lloyd's of London is denied a deduction for expenditure or loss incurred, under section DW 3B (Lloyd's of London: deductions for life insurance business):

(b) sections HD 3 (Agents' duties and liabilities), HD 17B (Lloyd's of London: agents for life insurance), and HR 13 (Lloyd's of London: life insurance) impose certain obligations to provide a return of income and pay income tax on the income.

Types of life insurance policies

(4) The life insurance policy referred to in subsection (1) is a life insurance policy that—

(a) is made available to the general public; and

(b) is not a profit participation policy or a savings product policy or both; and

(c) does not provide for a benefit that is an annuity.

Defined in this Act: deduction, income, income tax, life insurance policy, Lloyd's of London, offered or was offered or entered into, pay, premium, profit participation policy, return of income, savings product policy, source in New Zealand

Section YD 8B: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 250(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Conduit tax relief companies: special residence rules

[Repealed]

Heading: repealed (with effect on 1 July 2011), on 7 May 2012, by section 136(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

YD 9 Residence of CTR company shareholders

[Repealed]

Section YD 9: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 136(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

YD 10 Meaning of CTR holding company

[Repealed]

Section YD 10: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 136(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

YD 11 Meaning of CTR group member

[Repealed]

Section YD 11: repealed (with effect on 1 July 2011 and applying for income years beginning on or after that date), on 7 May 2012, by section 136(2) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Subpart YE—References to balance dates and years

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YE 1 References to balance dates and years

When this section applies

(1) This section applies for the purposes of the Act unless the context requires otherwise.

Tax year identified by 2 years

(2) A reference to a tax year that is identified by a reference, in full or short form, to 2 years is a reference to the tax year that—

(a) starts on 1 April in the earlier of those years; and

(b) ends on 31 March in the later of those years.

Income year identified by 2 years

(3) A reference to an income year that is identified by a reference, in full or short form, to 2 years is a reference to the corresponding income year for the tax year that a reference to the same 2 years would identify.

Standard balance date or accounting years

(4) A reference to a person with a standard balance date, a standard accounting year, or a standard income year is a reference to a person who files a return of income under section 33 of the Tax Administration Act 1994 for a tax year on the basis of a corresponding income year also ending on 31 March.

Non-standard balance date, accounting year, or income year

(5) A reference to a person with a non-standard balance date, non-standard accounting year, or non-standard income year is a reference to a person who has approval under section 38 of the Tax Administration Act 1994 to file a return of income for a tax year on the basis of a corresponding income

year ending other than 31 March. Unless the context requires otherwise, the non-standard year is the accounting year that corresponds to the tax year for which the reference is made.

Early balance date

(6) A reference to a person with an early balance date is a reference to a person who has approval under section 38 of the Tax Administration Act 1994 to file a return of income for a tax year on the basis of a corresponding income year that ends in a date between 1 October and the following 30 March, both days inclusive. Unless the context requires otherwise, the year with the early balance date is the accounting year that corresponds with the tax year for which the reference is made.

Late balance date

(7) A reference to a person with a late balance date is a reference to a person who has approval under section 38 of the Tax Administration Act 1994 to file a return of income for a tax year on the basis of a corresponding income year that ends in a date between 1 April and the following 30 September, both days inclusive. Unless the context otherwise requires, the year with the late balance date is the accounting year that corresponds with the tax year in relation to which the reference is made.

Defined in this Act: accounting year, corresponding income year, early balance date, income year, late balance date, non-standard accounting year, non-standard balance date, non-standard income year, return of income, standard accounting year, standard balance date, standard income year

Compare: 2004 No 35 s OF 1

Section YE 1(6): amended (with effect on 1 April 2008), on 30 March 2022, by section 174 of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Subpart YF—Currency conversion

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YF 1 General rules for currency conversion

When this section applies

(1) This section applies when—

(a) an amount is paid or payable in a currency other than New Zealand currency; and

(b) a provision in this Act requires the amount to be taken into account in New Zealand currency, whether expressly or by necessary implication; and

(c) this Act does not contain a specific currency conversion rule that requires the conversion of the amount into New Zealand currency under a method other than those in this section.

Use of spot exchange rate

(2) The amount must be converted into New Zealand currency by applying the close of trading spot exchange rate on the date at which the amount is required to be measured or calculated.

Alternative use of monthly average rates

(3) Despite subsection (2), the amount may be converted into New Zealand currency by applying the average of the close of trading spot exchange rates for the 15th day of each complete month that falls in the relevant period if—

(a) the Commissioner allows it:

(b) a provision in this Act specifically allows it.

Particular cases in which monthly average rate permitted

[Repealed]

(4) *[Repealed]*

General conversion rates and calculation methods approved by Commissioner

(5) Despite subsection (2), the amount may be converted into New Zealand currency by applying a rate—

(a) set by the Commissioner for general use for the purposes of this section:

(b) calculated using a method approved by the Commissioner for general use for the purposes of this section.

Secondary legislation

(5B) An instrument that sets a rate, or sets out an approved method, for general use under subsection (5) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Specific conversion rates and calculation methods approved by Commissioner

(6) Despite subsection (2), a person may convert the amount into New Zealand currency by applying a rate—

(a) approved by the Commissioner for use in the circumstances of the person:

(b) calculated using a method approved by the Commissioner for use in the circumstances of the person.

Defined in this Act: amount, close of trading spot exchange rate, Commissioner, New Zealand, pay

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result	LA19 ss 74(2), 75

	the maker may also have to comply with s 75 of the Legislation Act 2019	
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section YF 1(1)(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 575(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YF 1(3) heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 575(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YF 1(3)(b): substituted (with effect on 1 April 2008), on 6 October 2009, by section 575(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YF 1(4) heading: repealed (with effect on 1 April 2008), on 6 October 2009, pursuant to section 575(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YF 1(4): repealed (with effect on 1 April 2008), on 6 October 2009, by section 575(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section YF 1(5) heading: added (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 118(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YF 1(5): added (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 118(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YF 1(5B) heading: inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section YF 1(5B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section YF 1(6) heading: added (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 118(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Section YF 1(6): added (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 118(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

YF 2 Other rules for currency conversion: approved alternatives

When this section applies

(1) This section applies when—

(a) a provision other than section YF 1 provides a rate or method for currency conversion; and

(b) for the purposes of the provision, a person is required to convert an amount expressed in a currency other than New Zealand currency.

Representative rates

(2) The Commissioner may set a representative conversion rate that the person may use, instead of the rate or method referred to in subsection (1)(a), in converting the amount into New Zealand currency.

Defined in this Act: amount, Commissioner, New Zealand

Section YF 2: added (with effect on 1 April 2008), on 7 September 2010 (applying for the 2008–09 and later income years), by section 119(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Subpart YZ—Terminating provisions

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YZ 1 Source rule for interest

Application from 29 July 1983

(1) Section YD 4(11)(a) and (b) (Classes of income treated as having New Zealand source) applies to—

(a) interest derived from money lent under a binding contract entered into on or after 29 July 1983:

(b) a redemption payment made on a commercial bill if—

(i) it was issued on or after 29 July 1983; and

(ii) it was not issued under a binding contract entered into before that date.

Meaning of issue

(2) In this section, **issue** has the meaning given in section 2 of the Bills of Exchange Act 1908.

Defined in this Act: commercial bill, interest, money lent, redemption payment

Compare: 2004 No 35 s OE 4(1A)

YZ 2 Saving of effect of section 394L(4A) of Income Tax Act 1976

Section 394L(4A) of the Income Tax Act 1976 continues to apply in the same manner as it applied immediately before the repeal of that Act by the Income Tax Act 1994.

Compare: 2004 No 35 s YA 5B

Section YZ 2: added (with effect on 1 April 2008), on 6 October 2009, by section 576(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

YZ 3 Saving effect of section DF 5 of Income Tax Act 1994

When this section applies

(1) This section applies when a person—

(a) has made a payment to which section DC 1 (Lump sum payments on retirement) would otherwise apply in the absence of this section; and

(b) has allocated the deduction for the payment to an income year relying on the wording used in section DF 5 (Retiring allowances payable to employees) of the Income Tax Act 1994; and

(c) has taken the tax position for the allocation on or before 22 February 2011.

Savings provision

(2) Despite the express wording used in section DC 1, section DF 5 continues to apply for the person in relation to the tax position in the same manner as it applied immediately before the repeal of the Income Tax Act 1994 by the Income Tax Act 2004.

Defined in this Act: deduction, income year, pay, tax position

Section YZ 3: added (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 135(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Section YZ 3 list of defined terms **tax position**: inserted, on 24 February 2016, by section 243 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

YZ 4 Saving of effect of certain terms defined in Canterbury Earthquake Recovery Act 2011

For the purposes of sections CZ 23 to CZ 25, CZ 29, DZ 20, EZ 23B, EZ 23BB, EZ 70 to EZ 74, FZ 7, and GZ 3 (which relate to the Canterbury earthquakes), the terms **Canterbury earthquake**, **greater Christchurch**, **rebuilding**, and **recovery** have the meanings set out in the Canterbury Earthquake Recovery Act 2011, which continues to apply for this purpose in the same manner as it applied immediately before the repeal of that Act by the Greater Christchurch Regeneration Act 2016.

Section YZ 4: inserted (with effect on 19 April 2016), on 2 June 2016, by section 73 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

YZ 5 New Zealand Memorial Museum Trust — Le Quesnoy: sunset

[Repealed]

Section YZ 5: repealed, on 1 April 2025, by section 145 of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Part Z
Repeals, amendments, and savings

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ZA 1 Repeals

Schedule 48

(1) The enactments listed in schedule 48 (Enactments repealed) are repealed.

Repeals effective only for 2008–09 income year and later

(2) However, unless the context requires otherwise, the repeals listed in schedule 48 apply only in relation to the tax on income derived in the 2008–09 income year and later income years.

Defined in this Act: income, income year, tax

Compare: 2004 No 35 s YA 1

ZA 2 Consequential amendments to other enactments

Schedules 49 and 50

(1) The enactments listed in schedules 49 (Enactments amended) and 50 (Amendments to the Tax Administration Act 1994) are amended in the manner indicated in the schedule.

Amendments effective only for 2008–09 income year and later

(2) However, unless the context requires otherwise, the amendments to the Tax Administration Act 1994 apply only in relation to the tax on income derived in the 2008–09 income year and later income years.

Defined in this Act: income, income year, tax

Compare: 2004 No 35 s YA 2

ZA 3 Transitional provisions

When reference to this Act includes earlier Act

(1) A reference in an enactment or document to this Act, or to a provision of it, is to be interpreted as a reference to the Income Tax Act 2004, or the Income Tax Act 1994, or the Income Tax Act 1976, or to the corresponding provision

of the earlier Act, to the extent necessary to reflect sensibly the intent of the enactment or document.

When reference to earlier Act includes this Act

(2) A reference in an enactment or document to the Income Tax Act 2004, or the Income Tax Act 1994, or the Income Tax Act 1976, or to a provision of that earlier Act, is to be interpreted as a reference to this Act, or to the corresponding provision in this Act, to the extent necessary to reflect sensibly the intent of the enactment or document.

Intention of new law

(3) The provisions of this Act, including any amendments made by this Act to the Tax Administration Act 1994, are the provisions of the Income Tax Act 2004 in rewritten form, and are intended to have the same effect as the corresponding provisions of the Income Tax Act 2004. Subsection (5) overrides this subsection.

Using old law as interpretation guide

(4) Unless a limit in subsection (5) applies, in circumstances where the meaning of a taxation law that comes into force at the commencement of this Act (the **new law**) is unclear or gives rise to absurdity—

(a) the wording of a taxation law that is repealed by section ZA 1 and that corresponds to the new law (the **old law**) must be used to determine the correct meaning of the new law; and

(b) it can be assumed that a corresponding old law provision exists for each new law provision.

Limits to subsections (3) and (4)

(5) Subsections (3) and (4) do not apply in the case of—

(a) a new law listed in schedule 51 (Identified changes in legislation); or

(b) a new law that is amended after the commencement of this Act, with effect from the date on which the amendment comes into force.

Defined in this Act: taxation law

Compare: 2004 No 35 s YA 3

ZA 4 Saving of binding rulings

When, and extent to which, this section applies

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

(a) either—

(i) an applicant has applied for a private ruling, a product ruling, or a status ruling, before the beginning of the 2008–09 income year on an arrangement that is entered into, or that the applicant seriously contemplates will be entered into before the commencement of this Act; or

(ii) a public ruling is issued before the beginning of the 2008–09 income year; and

(b) the binding ruling is about—

(i) a taxation law that is repealed by section ZA 1 (the **old law**); or

(ii) a taxation law in the Income Tax Act 1994 that preceded and corresponded to the old law; and

(c) a new taxation law that corresponds to the old law (the **new law**) comes into force at the commencement of this Act; and

(d) in the absence of this section, the commencement of this Act would mean that the binding ruling would cease to apply because of section 91G of the Tax Administration Act 1994.

Ruling about new law

(2) The binding ruling is treated as if it were made about the new law, so that the effect of the ruling at the commencement of this Act is the same as its effect before the commencement.

No confirmation rulings

(3) To the extent to which a binding ruling continued by subsection (2) exists and applies to an arrangement, or to a person and an arrangement, the Commissioner must not make a binding ruling on how—

(a) the new law applies to the arrangement or to the person and the arrangement; or

(b) this subsection applies to the arrangement or to the person and the arrangement.

Defined in this Act: apply, arrangement, binding ruling, commencement of this Act, Commissioner, taxation law

Compare: 2004 No 35 s YA 4

Section ZA 4 list of defined terms **apply**: inserted, on 2 June 2016, by section 74 of the Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27).

ZA 5 Saving of accrual determinations

When, and extent to which, this section applies

(1) This section applies when—

(a) a determination has been made before the beginning of the 2008–09 income year under—

(i) section 90 or 90AC of the Tax Administration Act 1994; or

(ii) section 64E of the Income Tax Act 1976; and

(b) the determination has not been cancelled before the beginning of the 2008–09 income year; and

(c) the determination is about—

(i) a taxation law that is repealed by section ZA 1 (the **old law**); or

(ii) a taxation law in the Income Tax Act 1994 or the Income Tax Act 1976 that preceded and corresponded to the old law; and

(d) a new taxation law that corresponds to the old law (the **new law**) comes into force at the commencement of this Act; and

(e) in the absence of this section, the commencement of this Act would mean that that determination would cease to apply because the taxation law to which it applied had ceased to exist.

Determination about new law

(2) The determination is treated as if it were made about the new law, so that the effect of the determination at the commencement of this Act is the same as its effect before the commencement.

No confirmation determinations

(3) To the extent to which a determination continued by subsection (2) applies, the Commissioner must not make a determination on how the new law applies.

Defined in this Act: commencement of this Act, Commissioner, taxation law

Compare: 2004 No 35 s YA 5

ZA 6 Comparative tables of old and new provisions

Schedule 52

(1) Schedule 52 (Comparative tables of old and rewritten provisions) sets out corresponding provisions in the Income Tax Act 2004, the Income Tax Act 1994, the Tax Administration Act 1994, and this Act at the commencement of this Act.

Parts of schedule

(2) The schedule has the following 4 parts:

(a) part A lists each provision in the Income Tax Act 2004 and—

(i) indicates the corresponding provision in this Act; or

(ii) indicates the corresponding provision in the Tax Administration Act 1994; or

(iii) indicates the corresponding provision in the Goods and Services Tax Act 1985; or

(iv) states that the provision has been omitted:

(b) part B lists each provision in this Act and the corresponding provision in the Income Tax Act 2004 and, as applicable, in Parts A to E of the Income Tax Act 1994, or states that the provision is new:

(c) part C lists the provisions that this Act inserts in the Tax Administration Act 1994 and—

(i) indicates the corresponding provision in the Income Tax Act 2004; or

(ii) states that the provision is new:

(d) part D lists each term defined in this Act and its location in this Act, and—

(i) indicates the source of the term in the Income Tax Act 2004; or

(ii) states that the term is new.

Purpose of schedule

(3) The schedule is provided to assist readers to identify corresponding provisions but must not be interpreted as a definitive guide to the correspondence of provisions.

Defined in this Act: commencement of this Act

Compare: 2004 No 35 s YA 6

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

Schedule 1 heading: amended, on 1 April 2008, by section 554(1) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Part A
Basic income tax rates

1 Taxable income: general

To the extent to which a person does not have a basic rate under clauses 2 to 14, the basic rate of income tax for the person on each dollar of the person's taxable income is calculated using the formula—

tax under table 1 ÷ taxable income:

(a) **tax under table 1** means the total tax, calculated for each dollar in the person's taxable income, using table 1:

(b) **taxable income** means the number of dollars in the person's taxable income.

Table 1

Row	Range of dollar in taxable income	Tax rate
1	$0 – $15,600	0.105
2	$15,601 – $53,500	0.175
3	$53,501 – $78,100	0.300
4	$78,101 – $180,000	0.330
5	$180,001 upwards	0.390

How to use this table:

Find the range in the second column for each dollar in the person's taxable income, and apply the relevant rate for the dollar in the third column.

Schedule 1 part A clause 1: amended, on 1 April 2024, by section 121(1) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 1 part A clause 1: amended (with effect on 1 April 2011 and applying for the 2011–12 and later income years), on 27 February 2014, by section 128(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Schedule 1 part A table 1: replaced, on 1 April 2025, by section 37(1) (and see section 37(4) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

2 Taxable income: companies

To the extent to which a company does not have a basic rate under clauses 3 to 9, the basic rate of income tax for the company on each dollar of the company's taxable income is 0.28.

Schedule 1 part A clause 2: amended (with effect on 1 April 2011), on 29 August 2011 (applying for the 2011–12 and later income years), by section 136(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 1 part A clause 2: amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 97(1) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

3 Taxable income: trustees

To the extent to which a trustee does not have a basic rate under clause 4, 5, 6, or 6B, the basic rate of income tax for the trustee on each dollar of the trustee's taxable income is 0.39.

Schedule 1 part A clause 3: amended, on 1 April 2024, by section 121(2)(a) (and see section 121(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 1 part A clause 3: amended, on 1 April 2024, by section 121(2)(b) (and see section 121(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

4 Taxable distribution: non-complying trust

The basic rate of income tax on each dollar of a taxable distribution made by a non-complying trust is 0.45.

5 Schedular taxable income: category A income

The basic rate of income tax for a trustee on each dollar of the trustee's schedular taxable income that is for category A income is 0.28.

Schedule 1 part A clause 5: amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 97(2) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

6 Taxable income: trustees of certain funds

To the extent to which a trustee does not have a basic rate under clause 4 or 5, the basic rate of income tax on each dollar of taxable income is 0.28 if the income is of a trustee of—

(a) an approved unit trust to which the Income Tax Act (Exempt Unit Trusts) Order 1990 applies:

(b) a widely-held GIF:

(c) a widely-held superannuation fund:

(d) a legacy superannuation fund.

Schedule 1 part A clause 6 heading: inserted, on 1 April 2008, by section 554(2) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 1 part A clause 6: amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 97(3) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 1 part A clause 6(c): replaced, on 1 April 2024, by section 121(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 1 part A clause 6(d): inserted, on 1 April 2024, by section 121(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

6B Taxable income: trustees of certain trusts and estates

To the extent to which a trustee does not have a basic rate under clause 4, the basic rate of income tax on each dollar of the trustee's taxable income is 0.33 if the trustee is a trustee of—

(a) a disabled beneficiary trust:

(b) an estate referred to in section HC 8B (Income in income year of person's death and following 3 income years):

(c) a lines trust:

(d) a de minimis trust.

Schedule 1 part A clause 6B: inserted, on 1 April 2024, by section 121(4) (and see section 121(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 1 part A clause 6B(b): amended (with effect on 1 April 2024), on 29 March 2025, by section 146(1) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

7 Taxable income: Maori authorities

The basic rate of income tax for a Maori authority on each dollar of the Maori authority's taxable income is 0.175.

Schedule 1 part A clause 7: amended, on 1 April 2011, by section 136(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

8 Schedular taxable income: schedular policyholder base income

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is for schedular policyholder base income is 0.28.

Schedule 1 part A clause 8 heading: amended, on 1 July 2010, by section 577(1)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 1 part A clause 8: amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 97(4) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 1 part A clause 8: amended, on 1 July 2010, by section 577(1)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

9 Investment income from portfolio investment entities

The basic rate of income tax for a person who is an investor in a PIE on each dollar of income attributed by the PIE is the rate set out in schedule 6 as notified by the person to the PIE.

Schedule 1 part A clause 9: inserted (with effect on 1 April 2008), on 2 November 2012, by section 162(4) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 1 part A clause 9: repealed (with effect on 1 April 2011), on 2 November 2012, by section 162(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 1 part A clause 9: inserted (with effect on 1 April 2011), on 1 April 2012, by section 136(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

10 Taxable income: New Zealand Superannuation Fund

The basic rate of income tax on each dollar of taxable income derived by the Crown through the New Zealand Superannuation Fund is the rate applying to companies set out in clause 2.

Schedule 1 part A clause 10: inserted (with effect on 1 April 2011), on 2 November 2012 (applying for the 2011–12 and later income years), by section 162(6) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

11 Schedular taxable income: life insurance premiums derived by Lloyd's of London

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is income under section CR 3B (Lloyd's of London: income from life insurance premiums) is 0.28.

Schedule 1 part A clause 11: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying in relation to a life insurance premium that is derived on or after that date by Lloyd's of London), by section 251(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

12 Taxable income: Venture Capital Fund

The basic rate of income tax on each dollar of taxable income derived by the Crown through the VCF is the rate applying to companies set out in clause 2.

Schedule 1 part A clause 12: inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

13 Schedular taxable income: accident compensation payments for period of more than 1 year

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is income from a payment to which section RD 20B (Treatment of certain support payments made for period of more than 1 year) applies is the tax rate given by section RD 20B(3) for the payment and the tax year in which the person derives the payment.

Schedule 1 part A clause 13: inserted, on 1 April 2024, by section 121(5) (and see section 121(7) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 1 part A clause 13: amended (with effect on 1 April 2024), on 29 March 2025, by section 146(2) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

14 Schedular taxable income: recalculated main benefit payments

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is income from a payment to which section RD 20C (Payments of recalculated main benefit) applies is the rate of income tax given by section RD 20C(3) for the payment and the tax year in which the person derives the payment.

Schedule 1 part A clause 14: inserted, on 1 April 2024, by section 121(5) (and see section 121(7) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

15 Schedular taxable income: beneficiary income of minors

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is income from a trust to which section HC 35 (Beneficiary income of minors) applies is 0.39.

Schedule 1 part A clause 15: inserted (with effect on 1 April 2024), on 29 March 2025, by section 146(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

16 Schedular taxable income: beneficiary income of certain close companies

The basic rate of income tax for a person on each dollar of the person's schedular taxable income that is income from a trust to which section HC 38 (Beneficiary income of certain close companies) applies is 0.39.

Schedule 1 part A clause 16: inserted (with effect on 1 April 2024), on 29 March 2025, by section 146(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Part B
Low income amount

[Repealed]

Schedule 1 part B: repealed (with effect from 1 April 2008), on 29 May 2008, by section 50(1) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Part C
Basic rates for attributed fringe benefits

Table 1

Row	Range of dollar in pay	Tax rate
1	$0 – $13,962	0.1173
2	$13,963 – $45,230	0.2121
3	$45,231 – $62,450	0.4286
4	$62,451 – $130,723	0.4925
5	$130,724 upwards	0.6393

How to use this table:

Find the range in the second column for each dollar in the person's pay, and apply the relevant rate for the dollar in the third column.

Schedule 1 part C table 1: replaced, on 1 April 2025, by section 37(2) (and see section 37(4) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Part D
Basic rates for withholding

Basic rates for ESCT

1 Amount of tax for section RD 67(a)

For the purposes of section RD 67(a), the amount of tax is determined by applying the relevant rate given by table 1 to each dollar of an employer's superannuation contribution.

Table 1

Row	ESCT rate threshold amount	Tax rate
1	$0 – $18,720	0.105
2	$18,721 – $64,200	0.175
3	$64,201 – $93,720	0.300
4	$93,721 – $216,000	0.330
5	$216,001 upwards	0.390

How to use this table:

Find the range in the second column for the last dollar of the amount of the ESCT rate threshold amount, and apply the relevant rate in the third column.

Schedule 1 part D clause 1 heading: amended, on 1 April 2012, by section 136(4) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 1 part D clause 1: amended, on 1 April 2012, by section 136(5) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 1 part D clause 1: amended, on 1 April 2012, by section 14(b) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Schedule 1 part D table 1: replaced, on 1 April 2025, by section 37(3) (and see section 37(4) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

2 Amount of tax for section RD 67(b)

[Repealed]

Schedule 1 part D clause 2: repealed, on 1 April 2012, by section 14(d) of the Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23).

Basic Rates for RWT

3 Interest: general

If clause 4 does not apply, the payment rate for a payment of resident passive income that consists of interest is set out in table 2.

Table 2

Row	Conditions	Payment rate
1	The payer of the interest has not been supplied with the tax file number of a person who is paid the interest.	0.450
2	The payer of the interest— (a) has been supplied with the tax file number of a person; and (b) has not received a payment rate election from the recipient of the interest; and (c) is not required to use a rate notified by the Commissioner under section 26B of the Tax Administration Act 1994.	0.330
3	The payer of the interest— (a) has been supplied with the tax file number of a person who is paid the interest; and (b) has received a payment rate election from the recipient of the interest choosing the 0.390 payment rate.	0.390
4	The payer of the interest— (a) has been supplied with the tax file number of a person who is paid the interest; and (b) has received a payment rate election from the recipient of the interest choosing the 0.330 payment rate.	0.330
5	The payer of the interest— (a) has been supplied with the tax file number of a person who is paid the interest; and (b) has received a payment rate election from the recipient of the interest choosing the 0.300 payment rate.	0.300
6	The payer of the interest— (a) has been supplied with the tax file number of a person who is paid the interest; and (b) has received a payment rate election from the recipient of the interest choosing the 0.175 payment rate.	0.175
7	The payer of the interest— (a) has been supplied with the tax file number of a person, other than a trustee, who is paid the interest; and (b) has received a payment rate election from the recipient of the interest choosing the 0.105 payment rate; and (c) the recipient has a reasonable expectation at the time of the election that their income for the income year will be $15,600 or less.	0.105
8	The payer of the interest— (a) has been supplied with the tax file number of a person who is paid the interest as a trustee of a testamentary trust to which section HC 37 applies; and	

Row	Conditions	Payment rate
	(b) has received a payment rate election from the recipient of the interest choosing the 0.105 payment rate.	0.105

How to use this table:

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

Schedule 1 part D clause 3: amended (with effect on 1 April 2008), on 7 December 2009, by section 122(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Schedule 1 part D clause 3: amended (with effect from 1 April 2008), on 29 May 2008, by section 50(3) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Schedule 1 part D table 2: replaced, on 1 October 2021, by section 19 of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Schedule 1 part D table 2 row 7: amended, on 31 July 2024, by section 29 of the Taxation (Budget Measures) Act 2024 (2024 No 19).

4 Interest: most companies

(1) The payment rate for a payment of resident passive income that consists of interest is set out in table 3 if the recipient of the payment is a company that is not a Maori authority.

(2) For the purposes of subclause (1), a company includes a company that is acting in the capacity of trustee for a portfolio investment entity.

Table 3

Row	Conditions	Payment rate
1	The payer of the interest has been supplied with the tax file number of a person who is paid the interest, and neither of rows 2 and 3 apply.	0.280
2	The payer of the interest—	
	(a) has been supplied with the tax file number of a person who is paid the interest; and	
	(b) has received a payment rate election from the recipient of the interest choosing the 0.330 payment rate.	0.330
3	The payer of the interest—	
	(a) has been supplied with the tax file number of a person who is paid the interest; and	
	(b) has received a payment rate election from the recipient of the interest choosing the 0.390 payment rate.	0.390
4	The payer of the interest has not been supplied with the tax file number of a person who is paid the interest.	0.450

How to use this table:

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

Schedule 1 part D clause 4: replaced, on 29 March 2018, by section 258 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 1 part D table 3: replaced, on 1 October 2021, by section 20 of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

5 Dividends and replacement payments

The payment rate for a payment of resident passive income that consists of a dividend, or a replacement payment under a share-lending arrangement, is 0.33.

Schedule 1 part D clause 5: amended (with effect on 1 April 2008), on 7 December 2009, by section 122(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

6 Taxable Maori authority distributions

The payment rate for a payment of resident passive income that consists of a taxable Maori authority distribution is set out in table 4.

Table 4

Row	Conditions	Payment rate
1	The Maori authority makes a taxable Maori authority distribution and does not meet the condition for the 0.390 payment rate in row 2.	0.175
2	The Maori authority: (a) makes a taxable Maori authority distribution that is more than $200; and (b) does not have a record of the tax file number of the member to whom the distribution is made.	0.390

How to use this table:

Find the applicable condition, in the middle column, in order to find the relevant rate to apply, in the right column.

Schedule 1 part D clause 6: amended (with effect on 1 April 2008), on 7 December 2009, by section 122(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Schedule 1 part D table 4 row 1: amended, on 1 April 2021, by section 21(1) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Schedule 1 part D table 4 row 1: amended, on 1 April 2011, by section 136(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Schedule 1 part D table 4 row 2: amended, on 1 April 2021, by section 21(2) (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Basic rates for RSCT

Schedule 1 part D heading: added, on 1 July 2008, by section 554(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

7 Retirement scheme contributions

The payment rate for an amount of a retirement scheme contribution made by a retirement scheme contributor for a person is set out in table 5.

Table 5

Row	Conditions	Payment rate
1	The person responsible for withholding RSCT—	
	(a) has been notified under section 28C of the Tax Administration Act 1994 that 10.5 cents in the dollar is the person's retirement scheme prescribed rate; and	
	(b) has been supplied with the tax file number of the person.	0.105
2	The person is a non-resident and a distribution of no more than $200 is made to them by a retirement scheme contributor that is a Maori authority.	0.105
3	The person responsible for withholding RSCT—	
	(a) has been notified under section 28C of the Tax Administration Act 1994 that 17.5 cents in the dollar is equal to or greater than the person's retirement scheme prescribed rate; and	
	(b) has been supplied with the tax file number of the person.	0.175
4	The person responsible for withholding RSCT—	
	(a) has been notified under section 28C of the Tax Administration Act 1994 that 30 cents in the dollar is equal to or greater than the person's retirement scheme prescribed rate; and	
	(b) has been supplied with the tax file number of the person.	0.300
5	The person responsible for withholding RSCT—	
	(a) has been notified under section 28C of the Tax Administration Act 1994 that 33 cents in the dollar is equal to or greater than the person's retirement scheme prescribed rate; and	
	(b) has been supplied with the tax file number of the person.	0.330
6	When none of rows 1 to 5 apply.	0.390

How to use this table:

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

Schedule 1 part D clause 7: added, on 1 July 2008, by section 554(3) of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 1 part D table 5: replaced, on 1 April 2021, by section 22 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Part E
Shoulder references

The shoulder references for this schedule are the following sections:

CB 28, CD 53, CS 1, EK 8, EK 12, EK 23, EX 20, EX 50, EY 43, FE 22, HA 15, HA 24, HC 22, HC 34, HF 1, HL 29, LC 1, LC 2, LE 2, LJ 5, LP 8, LP 10, OA 18, OB 19, OB 42, OB 46, OB 69, OB 73, OB 75, OB 78, OB 80, OE 7, OE 8, OP 100, OP 102, RD 50, RD 51, RD 66, RD 67, RD 69, RD 70, RD 72, RE 11–RE 19, RF 9, RF 12, RM 21, YA 1.

Schedule 1 part E: amended, on 1 April 2017, by section 296 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 1 part E: amended (with effect on 30 June 2009), on 6 October 2009, by section 577(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 2
Basic tax rates for PAYE income payments

ss RD 9–RD 11, RD 13, RD 17, YA 1

Schedule 2 heading: amended, on 1 April 2019, by section 252(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Part A
Salary or wages

1 "M" and "ME" tax codes: payments for weekly pay periods

The basic tax rate amount for a payment of salary or wages is set by applying the Commissioner's weekly PAYE table to the amount, using the employee's tax code, if—

(a) the payment is for a weekly pay period (including the case of section RD 3 applying); and

(b) the employee has notified their employer that the employee's tax code is "M" or "ME" under section 24B(3) of the Tax Administration Act 1994.

Schedule 2 part A clause 1 heading: amended, on 1 April 2013, by section 8(1)(a) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Schedule 2 part A clause 1(b): amended, on 1 April 2013, by section 8(1)(b) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

2 "M" and "ME" tax codes: payments for pay periods longer than a week

If an employee has notified their employer that the employee's tax code is "M" or "ME" referred to in schedule 5, part A, clause 4, row 1 of the Tax Administration Act 1994, and the payment of salary or wages is for a pay period longer than a week, then the basic tax rate amount for the payment is calculated using the formula—

(total payment ÷ weekly portion of payment) × weekly PAYE table amount.

(a) **total payment** means the payment of salary or wages to which this clause applies:

(b) **weekly portion of the payment** means the portion of the payment that is attributable to the part of the pay period that is for a week if it is assumed that the payment accrued at a uniform daily rate throughout the pay period:

(c) **weekly PAYE table amount** means the amount that results from applying the Commissioner's weekly PAYE table to the weekly portion of the payment (described in paragraph (b)) using the employee's tax code, as if the weekly portion is a payment for a weekly pay period.

Schedule 2 part A clause 2 heading: amended, on 1 April 2013, by section 8(2)(a) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Schedule 2 Part A clause 2: amended, on 1 April 2019, by section 252(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 2: amended, on 1 April 2013, by section 8(2)(b) of the Taxation (Budget Measures) Act 2012 (2012 No 38).

Schedule 2 part A clause 2 formula: substituted (with effect on 1 April 2008), on 7 December 2009, by section 123(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

3 Non-notified tax code

If an employee's tax code is a non-notified tax code under section 24E of the Tax Administration Act 1994, the basic tax rate amount for a payment of salary or wages is set by applying the rate of 0.45 for each dollar of the payment.

Schedule 2 Part A clause 3: replaced, on 1 April 2019, by section 252(4) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

4 "S" tax code

If an employee has notified their employer that the employee's tax code is "S" under section 24C of the Tax Administration Act 1994, the basic tax rate amount for a payment of secondary employment earnings is set by applying the rate of 0.175 for each dollar of the payment.

Schedule 2 Part A clause 4: amended, on 1 April 2019, by section 252(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 4: amended, on 1 October 2010, by section 36(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

5 "SH" tax code

If an employee has notified their employer that the employee's tax code is "SH" under section 24C of the Tax Administration Act 1994, the basic tax rate amount for a payment of secondary employment earnings is set by applying the rate of 0.300 for each dollar of the payment.

Schedule 2 Part A clause 5: amended, on 1 April 2019, by section 252(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 5: amended, on 1 October 2010, by section 36(b) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

6 "ST" tax code

If an employee has notified their employer that the employee's tax code is "ST" under section 24C of the Tax Administration Act 1994, the basic tax rate amount for a payment of secondary employment earnings is set by applying the rate of 0.330 for each dollar of the payment.

Schedule 2 Part A clause 6: amended, on 1 April 2019, by section 252(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 6: amended, on 1 October 2010, by section 36(c) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

6B "SA" tax code

If an employee has notified their employer that the employee's tax code is "SA" under section 24C of the Tax Administration Act 1994, the basic tax rate amount for a payment of secondary employment earnings is set by applying the rate of 0.390 for each dollar of the payment.

Schedule 2 part A clause 6B: inserted, on 1 April 2021, by section 23 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

7 "CAE" or "EDW" tax code

If an employee has notified their employer that the employee's tax code is "CAE" or "EDW" under section 24C of the Tax Administration Act 1994, the basic tax rate amount for a payment for employment as a casual agricultural employee or an election day worker (as applicable) is set by applying the rate of 0.175 for each dollar of the payment.

Schedule 2 Part A clause 7: amended, on 1 April 2019, by section 252(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 7: amended, on 29 March 2018 (with effect on 1 April 2008), by section 252(6) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 7: amended, on 1 October 2010, by section 36(d) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

8 "NSW" tax code

If an employee has notified their employer that the employee's tax code is "NSW" under section 24C of the Tax Administration Act 1994, the basic tax rate amount for a payment for employment as a non-resident seasonal worker is set by applying the rate of 0.105 for each dollar of the payment.

Schedule 2 Part A clause 8: amended, on 1 April 2019, by section 252(5) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 8: amended, on 1 April 2011 (applying for the 2011–12 and later income years), by section 137(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Schedule 2 part A clause 8: added, on 6 October 2009, by section 578 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

9 "SB" tax code

If an employee has notified their employer that the employee's tax code is "SB" under section 24C of the Tax Administration Act 1994, the basic tax rate amount for a payment of secondary employment earnings is set by applying the rate of 0.105 for each dollar of the payment.

Schedule 2 Part A clause 9: amended, on 1 April 2019, by section 252(7) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 2 part A clause 9: amended, on 1 October 2010, by section 36(e) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 2 part A clause 9: added, on 1 April 2010 (applying for the 2010–11 and later income years), by section 123(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Part B
Extra pays

Table 1

Row	Condition	Tax rate
1	Section RD 10(2C) applies.	0.105
2	Section RD 17(2)(a) applies and the sum is $15,600 or less.	0.105
3	Section RD 10(2)(a) or RD 17(2)(b) applies.	0.175
4	Section RD 10(2)(b) or RD 17(2)(c) applies.	0.300
5	Section RD 10(2)(c) or RD 17(2)(d) applies.	0.330
6	Section RD 10(2)(d) or RD 17(2)(e) applies.	0.390
7	Section RD 10(2D) applies.	0.450

How to use this table:

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

Schedule 2 part B table 1: replaced, on 1 April 2021, by section 24 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Schedule 2 part B table 1 row 2: amended, on 1 April 2025, by section 38(1) (and see section 38(2) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 3
Payment of provisional tax and terminal tax

ss EF 3, RA 13, RA 14, RC 1, RC 9, RC 10B, RC 21, RC 25, RM 24, YA 1

Schedule 3 heading: amended, on 1 April 2018, by section 47(1) (and see section 47(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Schedule 3 heading: amended (with effect on 1 April 2008 and applying for the 2008–09 income year and later income years), on 17 July 2013, by section 102(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Part A
Dates for payment of provisional tax and terminal tax

Month of balance date	A	A1	B	B1	C	C1	D	D1	E	E1	F	F1	G	H
October	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	Sep	Nov
November	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	Oct	Dec
December	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	Nov	Jan
January	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	Dec	Feb
February	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	Jan	Mar
March	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	Feb	Apr
April	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	Feb	Apr
May	28 Aug	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	Feb	Apr
June	28 Sep	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	Feb	Apr
July	28 Oct	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	Feb	Apr
August	28 Nov	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	Feb	Apr
September	15 Jan	28 Jan	28 Feb	28 Mar	7 May	28 May	28 Jun	28 Jul	28 Aug	28 Sep	28 Oct	28 Nov	Feb	Apr

Schedule 3 Part A table: replaced, on 1 April 2018, by section 47(2) (and see section 47(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

For the purposes of this schedule, **balance date**, in relation to provisional tax or terminal tax payable by a person for a tax year to which an income year corresponds, means—

(a) if neither of paragraphs (b) and (c) apply, the person's annual balance date for their accounts for the income year:

(b) if the person has an income year that coincides with the tax year or is not required to provide a return of income for the tax year, 31 March:

(c) if the person is a non-resident company that does not have a fixed establishment in New Zealand, 31 March.

Part AB
Calculation periods for AIM method

Instalment date	6 instalments: 2-monthly period	12 instalments: monthly period
15 Jan	Oct, Nov	Nov
28 Jan	Nov, Dec	Dec
28 Feb	Dec, Jan	Jan
28 Mar	Jan, Feb	Feb
7 May	Feb, Mar	Mar
28 May	Mar, Apr	Apr
28 Jun	Apr, May	May
28 Jul	May, Jun	Jun
28 Aug	Jun, Jul	Jul
28 Sep	Jul, Aug	Aug
28 Oct	Aug, Sep	Sep
28 Nov	Sep, Oct	Oct

How to use this table:
Find the applicable instalment date in the first column, and use the period for that instalment in the second column if section RC 9(4B)(a) or (b) applies or use the period in the third column if section RC 9(4B)(c) applies.

Schedule 3 Part AB: inserted, on 1 April 2018, by section 47(3) (and see section 47(4) for application) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Part B
Months for payment under sections RC 9 and RC 22 to RC 25

Monthly and 2-monthly non-ratio and non-GST provisional taxpayers

Transitional year length	New instalment months	
0–4 mths	1	month following final month
5–8 mths	2	5th month, month following final month
9–12 mths	3	5th, 9th months, month following final month
13–16 mths	4	5th, 9th, 13th months, month following final month
17–20 mths	5	5th, 9th, 13th, 17th months, month following final month
21–24 mths	6	5th, 9th, 13th, 17th, 21st months, month following final month

6-monthly non-ratio provisional taxpayers

Transitional year length	New instalment months	
0–6 mths	1	month following final month
7–12 mths	2	7th month, month following final month
13–18 mths	3	7th, 13th months, month following final month
19–24 mths	4	7th, 13th, 19th months, month following final month

GST ratio provisional taxpayers

Transitional year length	New instalment months	
0–2 mths	1	month following final month
3–4 mths	2	3rd month, month following final month
5–6 mths	3	3rd, 5th months, month following final month
7–8 mths	4	3rd, 5th, 7th months, month following final month
9–10 mths	5	3rd, 5th, 7th, 9th months, month following final month
11–12 mths	6	3rd, 5th, 7th, 9th, 11th months, month following final month
13–14 mths	7	3rd, 5th, 7th, 9th, 11th, 13th months, month following final month
15–16 mths	8	3rd, 5th, 7th, 9th, 11th, 13th, 15th months, month following final month
17–18 mths	9	3rd, 5th, 7th, 9th, 11th, 13th, 15th, 17th months, month following final month
19–20 mths	10	3rd, 5th, 7th, 9th, 11th, 13th, 15th, 17th, 19th months, month following final month
21–22 mths	11	3rd, 5th, 7th, 9th, 11th, 13th, 15th, 17th, 19th, 21st months, month following final month
23–24 mths	12	3rd, 5th, 7th, 9th, 11th, 13th, 15th, 17th, 19th, 21st, 23rd months, month following final month

For the purposes of counting months under this schedule, the number is reckoned as set out in section RC 21(5).

Schedule 4
Standard rates of tax for schedular payments

ss RD 8, YA 1

Schedule 4 heading: replaced, on 1 April 2017, by section 99(1) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Part A
Payments to non-resident contractors

1 A contract payment that relates to a non-resident contractor's contract activity or service has a standard rate of tax of 0.15 for each dollar of the payment, if the payment is—

(a) to the non-resident contractor:

(b) to an agent of the non-resident contractor:

(c) to a person acting on behalf of the non-resident contractor.

Schedule 4 part A clause 1: amended, on 1 April 2017, by section 99(2) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Part B
Payments of company directors' fees, examiners' fees, honoraria, and other payments

Schedule 4 part B heading: amended (with effect on 1 April 2008), on 7 September 2010, by section 121(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

1 A payment of a company director's fee, or an examiner's fee, or an honorarium, has a standard rate of tax of 0.33 for each dollar of the payment.

Schedule 4 part B clause 1: amended, on 1 April 2017, by section 99(3) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

1B A payment has a standard rate of tax of 0.33 for each dollar of the payment, if it is for work or services performed by—

(a) a local government elected representative:

(b) an official of a community organisation, society, or club:

(c) a chair or member of a committee, board, or council:

(d) an official, chair, or member of a body or organisation similar to one described in paragraph (b) or (c).

Schedule 4 part B clause 1B: inserted (with effect on 1 April 2008), on 7 September 2010, by section 121(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 4 part B clause 1B: amended, on 1 April 2017, by section 99(4) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

2 In this part, **examiner's fee** means fees or remuneration for work or services that relate to examining an examination candidate, if the work or services have the following nature:

(a) setting an examination paper or question:

(b) marking a candidate's answer:

(c) examining a candidate orally:

(d) examining a candidate's practical work or performance.

Part C
Payments for work or services relating to primary production

1 A payment for work or services referred to in the following paragraphs has a standard rate of tax of 0.15 for each dollar of the payment:

(a) farming contract work:

(b) cultivation contract work:

(c) shearing:

(d) droving:

(e) *[Repealed]*

(f) forestry or bush work (including bush felling, road and tramway work, removal of timber, undergrowth cutting, burning, or clearing):

(g) planting or cutting flax:

(h) work described in section DO 1 or DO 2 that is related to land that is used or intended to be used for farming or agriculture.

Schedule 4 part C clause 1: amended, on 1 April 2017, by section 99(5) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Schedule 4 part C clause 1(b): substituted, on 1 April 2010, by section 579(1)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 4 part C clause 1(e): repealed, on 1 April 2010, by section 579(1)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

2 In this part,—

cultivation contract work—

(a) means work or services provided under a contract or arrangement—

(i) for the supply of labour, or substantially for the supply of labour; and

(ii) on or in connection with land that is used or intended to be used for the cultivation of fruit crops, vegetables, orchards, or vineyards:

(b) excludes work or services provided by—

(i) a post-harvest facility:

(ii) a management entity under a formal management agreement under which the entity is responsible for payment for the work or services provided

farming contract work means work that is related to land that is used or intended to be used for farming or agriculture, if the work has the following nature:

(a) firewood cutting, or post or rail splitting:

(b) cutting down trees incidental to work under paragraph (a):

(c) grass or grass seed cutting:

(d) hedge cutting:

(e) planting trees:

(f) planting or cutting flax:

(g) threshing, chaffcutting, hay making, hay baling, or harvesting or gathering crops

Schedule 4 part C clause 2 **cultivation contract work**: substituted (with effect on 1 April 2010), on 7 September 2010, by section 121(3) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 4 part C clause 2 **horticultural contract work**: repealed, on 1 April 2010, by section 579(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part D
Payments for commercial cleaning and maintenance work, or for general contracting

1 A payment for commercial cleaning or maintenance work has a standard rate of tax of 0.20 for each dollar of the payment.

Schedule 4 part D clause 1: amended, on 1 April 2017, by section 99(6) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

2 A payment for work or services referred to in the following paragraphs has a standard rate of tax of 0.15 for each dollar of the payment:

(a) mail delivery or collection:

(b) transporting school children:

(c) milk delivery:

(d) refuse removal:

(e) caretaking or acting as a guard:

(f) street or road cleaning.

Schedule 4 part D clause 2: amended, on 1 April 2017, by section 99(7) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

3 In this part,—

commercial cleaning or maintenance work means work or services that are related to schedular commercial land, if the work or services have the following nature:

(a) cleaning all or part of premises:

(b) cleaning or laundering plant, vehicles, furniture, furnishings, fittings, or equipment:

(c) gardening (including grass cutting and hedge cutting):

(d) destroying vermin:

(e) destroying weeds

schedular commercial land means land that—

(a) is not used for farming or agriculture purposes:

(b) is not a dwellinghouse:

(c) is not premises that are used exclusively for residential purposes.

Part E
Payments for labour-only building work, or for labour-only fishing boat operating

1 A payment for labour-only building work, or for labour-only fishing boat work, has a standard rate of tax of 0.20 for each dollar of the payment.

Schedule 4 part E clause 1: amended, on 1 April 2017, by section 99(8) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

2 In this part,—

labour-only fishing boat work means work or services under a contract, arrangement, or agreement for profit-sharing which is exclusively or substantially for the supply of labour in connection with operating or maintaining a fishing boat that is required to be registered under section 103 of the Fisheries Act 1996

labour-only building work means work or services under a contract or arrangement which is exclusively or substantially for the supply of labour in connection with a building or a construction (including pre-fabrication and pre-cutting for the relevant building or construction), if the work or services have the following nature:

(a) work or services that, customarily, may form part of the work or services of a carpenter under a building contract:

(b) work or services connected with roof-fixing, steel-fixing, erecting fences, or laying concrete, bricks, blocks, tiles, slabs, or stones, if the

relevant building or construction is not land that is used or intended to be used for farming or agriculture:

(c) work or services connected with hanging wallpaper, hanging decorative wall coverings or furnishings, or painting or decorating (including plastering):

(d) work or services connected with installing fibrous plaster, wallboard, insulating material, interior tiles, interior lining, floor tiles, carpet, linoleum, or floor coverings.

Part F
Payments for activities related to sports, media, entertainment, and public speaking

Schedule 2 part F heading: amended (with effect on 1 April 2008), on 6 October 2009, by section 579(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

1 A payment of a media contribution fee, or of a promotional appearance fee, has a standard rate of tax of 0.25 for each dollar of the payment.

Schedule 4 part F clause 1: amended, on 1 April 2017, by section 99(9) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

2 A payment that relates to media production work has a standard rate of tax of 0.20 for each dollar of the payment, if part A of this schedule, and clauses 4 and 5 of this part do not apply to the payment.

Schedule 4 part F clause 2: amended, on 1 April 2017, by section 99(10) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

3 A payment of a modelling fee has a standard rate of tax of 0.20 for each dollar of the payment.

Schedule 4 part F clause 3: amended, on 1 April 2017, by section 99(11) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

4 A payment for services connected with a non-resident entertainer providing or performing a Part F activity has a standard rate of tax of 0.20 for each dollar of the payment, if the payment is—

(a) to the non-resident entertainer:

(b) to an agent of the non-resident entertainer:

(c) to a person acting on behalf of the non-resident entertainer.

Schedule 4 part F clause 4: amended, on 1 April 2017, by section 99(12) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Schedule 4 part F clause 4: amended (with effect on 1 April 2008), on 6 October 2009, by section 579(4) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

5 A payment for services connected with a New Zealand resident providing or performing a Part F activity has a standard rate of tax of 0.20 for each dollar of the payment, if clause 6 does not apply to the payment and it is—

(a) to the New Zealand resident:

(b) to an agent of the resident:

(c) to a person acting on behalf of the resident.

Schedule 4 part F clause 5: amended, on 1 April 2017, by section 99(13) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Schedule 4 part F clause 5: amended (with effect on 1 April 2008), on 6 October 2009, by section 579(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

6 A payment for services connected with a New Zealand resident providing or performing a Part F activity has a standard rate of tax of 0.15 for each dollar of the payment, if the payment relates to shares of riding or driving fees and it is—

(a) to the New Zealand resident, and the resident is an apprentice jockey or an apprentice driver:

(b) to an agent of the apprentice jockey or apprentice driver:

(c) to a person acting on behalf of the apprentice jockey or apprentice driver.

Schedule 4 part F clause 6: amended, on 1 April 2017, by section 99(14) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Schedule 4 part F clause 6: amended (with effect on 1 April 2008), on 6 October 2009, by section 579(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

7 In this part,—

media contribution fee means fees or remuneration, paid to a contributor, that relate to a contribution for television, radio, theatre, stage, or printed media

media production work means work or services that relate to television, videos, or films, if the work or services have the following nature:

(a) on-set and off-set pre-production work or services:

(b) on-set and off-set production work or services:

(c) on-set and off-set post-production work or services

modelling fee means fees or remuneration that relate to modelling, including a personal attendance for any promotional purpose, for photography, for supplying personal photographs, or for supplying personal endorsements or statements

Part F activity means an activity or performance—

(a) connected with—

(i) a sporting event or competition:

(ii) making speeches or giving lectures or talks for any purpose:

(iii) acting, singing, playing music, dancing, or entertaining generally, for any purpose and whether alone or not; and

(b) undertaken by a person who meets the requirements of any of the following paragraphs:

(i) they are not fully or partly sponsored under a cultural programme of an overseas government or the Government of New Zealand:

(ii) they are not an official representative of a body that administers a game or sport in an overseas country:

(iii) they are not undertaking an activity or performance under a programme of a foundation, trust, or organisation outside New Zealand which exists for the promotion of a cultural activity and is not carried on for individual profit of the member or shareholder:

(iv) if they are an employee, officer, or principal of a company, firm, or other person, includes the company, firm, or other person

promotional appearance fee means fees or remuneration that relate to a personal attendance for exhibiting or demonstrating goods

Schedule 4 part F clause 7 **Part F activity**: inserted (with effect on 1 April 2008), on 6 October 2009, by section 579(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 4 part F clause 7 **schedular entertainment activities**: repealed (with effect on 1 April 2008), on 6 October 2009, by section 579(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part G
Sales commission

1 A payment of commission or remuneration to an insurance agent or sub-agent, or to a salesperson has a standard rate of tax of 0.20 for each dollar of the payment.

Schedule 4 part G clause 1: amended, on 1 April 2017, by section 99(15) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Part H
Payments to purchase natural products

1 A payment that relates to a purchase of schedular natural products has a standard rate of tax of 0.25 for each dollar of the payment, if the payment is made to the seller and it is not an exempt natural products payment.

Schedule 4 part H clause 1: amended, on 1 April 2017, by section 99(16) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

2 A payment that relates to a purchase of game has a standard rate of tax of 0.25 for each dollar of the payment, if the payment is made to the seller.

Schedule 4 part H clause 2: amended, on 1 April 2017, by section 99(17) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

3 In this part,—

exempt natural products payment means a payment that relates to the purchase of schedular natural products, if the payment is made—

(a) to a natural products dealer:

(b) on a purchase that occurs after a disposal by a natural products dealer:

(c) to an auctioneer or a dealer acting as agent for the seller:

(d) at retail, in a shop

game means all or part of a wild deer, wild pig, or wild goat, whether dead or alive

natural products dealer means a person who—

(a) is registered under any Act or regulation as a broker, dealer, or trader in relation to schedular natural products:

(b) holds a natural product dealer certificate, issued by the Commissioner under section 44D of the Tax Administration Act 1994:

(c) holds an unrevoked certificate from the Commissioner showing that the person would be a licensed dealer for purposes of the Income Tax (Withholding Payments) Regulations 1979 if those regulations had not been revoked by this Act

schedular natural products means—

(a) greenstone (nephrite):

(b) eel:

(c) whitebait:

(d) sphagnum moss.

Part I
Personal service rehabilitation payments

Schedule 4 part I: added, on 1 April 2008, by section 556 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

1 A personal service rehabilitation payment for a person under the Accident Compensation Act 2001 has a standard rate of tax of 0.105 for each dollar of the payment.

Schedule 4 part I clause 1: amended, on 1 April 2017, by section 99(18) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Schedule 4 part I clause 1: amended, on 21 December 2010, by section 189 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Part J
Payments under labour-hire arrangements

Schedule 4 part J: inserted, on 1 April 2017, by section 99(19) (and see section 99(21)) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

1 A payment by a person (the **payer**) to another person (the **payee**) has a standard rate of tax of 0.20 for each dollar of the payment if—

(a) 1 of the payer's main activities is the business of arranging for a person or persons to perform work or services directly for clients of the payer; and

(b) the payment is made under an arrangement the performance of which, in whole or in part, involves the performance of work or services by the payee directly for a client of the payer, or directly for a client of another person; and

(c) in the case of the payer and the payee being associated persons described in section YB 2 or YB 3, the payer has chosen to apply this part to the payment.

Schedule 4 part J clause 1: inserted, on 1 April 2017, by section 99(19) (and see section 99(21)) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Part W
Voluntary schedular payments

Schedule 4 part W: inserted, on 1 April 2017, by section 99(20) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

1 A payment to a person is treated as a schedular payment (a **voluntary schedular payment**) and has a standard rate of tax of 0.20 for each dollar of the payment if—

(a) there is no obligation to withhold an amount from the payment under this Act or under the Tax Administration Act 1994; and

(b) the payer and the payee have agreed that the payment is a voluntary schedular payment, and have recorded their agreement in a document.

Schedule 4 part W clause 1: inserted, on 1 April 2017, by section 99(20) of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3).

Schedule 5
Fringe benefit values for motor vehicles

ss GB 31, RD 28, RD 29, RD 56, RD 57

1 The following paragraphs apply to determine the value of the benefit that an employee has for a quarter, tax year, or income year when section RD 60 applies, if in the quarter, tax year, or income year, a motor vehicle is provided by a person for the private use of an employee, or is made available for their private use:

(a) if the vehicle is owned by the person, jointly or otherwise,—

(i) on the basis of the cost price of the vehicle to the person: for a quarter, 5% of the cost price, and for a tax year or income year, 20% of the cost price:

(ii) subject to clause 10, on the basis of the tax value of the vehicle to the person: for a quarter, 9% of the tax value, and for a tax year or income year, 36% of the tax value:

(b) if the vehicle is leased or rented by the person from another person, whether they are associated or not,—

(i) on the basis of the cost price of the vehicle to its owner at the time the benefit is provided to the employee: for a quarter, 5% of the cost price, and for a tax year or income year, 20% of the cost price:

(ii) subject to clause 10, on the basis of the tax value of the vehicle to its owner at the time the benefit is provided to the employee: for a quarter, 9% of the tax value, and for a tax year or income year, 36% of the tax value.

2 If a motor vehicle to which this schedule applies is 1 of a number of motor vehicles, each of which is available for private use as described in clause 1, the value of the benefit is determined as follows:

(a) if the employee mainly uses the same vehicle, clause 1 applies to that vehicle:

(b) if paragraph (a) does not apply, and the employee is employed in a business engaged in the selling of motor vehicles, and the vehicles available for use are trading stock of the business, clause 1 applies to the quotient obtained by dividing the sum of either the cost price of the vehicles or their tax value, by the total number of those vehicles:

(c) if paragraphs (a) and (b) do not apply, clause 1 applies to the highest value of any vehicle used by the employee.

3 In this schedule, a motor vehicle's tax value in a quarter, tax year, or income year is—

(a) the value of the vehicle as determined under subpart EE for the beginning of the tax year or income year, if paragraphs (b) and (c) do not apply; or

(b) the cost price of the vehicle, if the vehicle is acquired after the beginning of the tax year or income year, and paragraph (c) does not apply; or

(c) determined under clause 4 if, in the period of 2 years before the vehicle's acquisition by the person (**person A**) providing it to the employee, the vehicle is owned by person A or by a person (**person B**) associated with them.

Schedule 5 clause 3(a): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 5 clause 3(c): substituted (with effect on 1 April 2008), on 6 October 2009, by section 580(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

4 For the purposes of clause 3(c), the tax value of the vehicle is the value it would have under subpart EE at the beginning of the tax year or income year, or at the time of acquisition in the year, treating the cost of the vehicle on acquisition as the amount determined under—

(a) clause 5, if—

(i) the cost price was last used by person A or person B for the vehicle under clause 1:

(ii) clause 1 did not apply to the vehicle in the 2-year period referred to in clause 3(c) and neither person A nor person B has used the tax value for the vehicle under clause 1:

(b) clause 6, if person A did not own the vehicle and person B last used the tax value of the vehicle under clause 1:

(c) clause 7, if person A owned the vehicle and the tax value was last used for the vehicle under clause 1.

5 The highest of the following amounts is the relevant amount for clause 4(a):

(a) the highest cost of the vehicle to person A on an acquisition of it by them:

(b) the highest cost of the vehicle to person B on an acquisition of it by them.

6 The highest of the following amounts is the relevant amount for clause 4(b):

(a) the tax value of the vehicle under this schedule for person B, immediately before the last disposal of the vehicle by them:

(b) the cost of the vehicle to person A on acquisition.

7 The highest of the following amounts is the relevant amount for clause 4(c):

(a) the tax value of the vehicle under this schedule for whichever of person A or person B last used tax value for the vehicle under clause 1, immediately before the last disposal of the vehicle by that person:

(b) the cost of the vehicle to person A on the last acquisition of it by them.

7B For the purposes of this schedule, if a person who owns a motor vehicle to which this schedule applies receives a payment under the clean vehicle discount scheme for the vehicle,—

(a) the cost price of the vehicle to the person on the first acquisition of it by them is net of the amount of the payment; and

(b) the cost of the vehicle to the person on the first acquisition of it by them is net of the amount of the payment.

Schedule 5 clause 7B: inserted (with effect on 1 July 2021), on 22 February 2022, by section 27(1) of the Land Transport (Clean Vehicles) Amendment Act 2022 (2022 No 2).

7C For the purposes of this schedule, if a person who owns a motor vehicle to which this schedule applies receives a payment under the State Sector Decarbonisation Fund for the vehicle,—

(a) the cost price of the vehicle to the person on the first acquisition of it by them is the cost price before the payment is taken into account; and

(b) the cost of the vehicle to the person on the first acquisition of it by them is the cost before the payment is taken into account; and

(c) when determining the tax value of the vehicle under subpart EE, the cost for the purposes of section EE 57 is not reduced by the payment under section DF 1.

Schedule 5 clause 7C: inserted, on 1 April 2023, by section 116(1) (and see section 116(2) for application) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

8 To determine the value of a benefit under clause 1—

(a) any GST paid on the acquisition of a vehicle by the owner or lessor of the vehicle is,—

(i) subject to clause 7B, included in the cost price of the motor vehicle or in the calculation of the motor vehicle's tax value:

(ii) not reduced by an amount of input tax on the supply of the vehicle to the owner or lessor:

(b) if, in the period of 2 years before the vehicle's acquisition by the person providing it to the employee, the vehicle is owned by the person or by someone associated with them, the cost price is treated as being the highest one of the cost prices paid for the vehicle by the person or an associate since its manufacture:

(c) subject to paragraph (b), the cost price of the vehicle is treated as being equal to the vehicle's market value if,—

(i) the cost to the person who acquires the vehicle is zero; or

(ii) the cost price is unable to be established to the satisfaction of the Commissioner by the person who acquires the vehicle; or

(iii) at the time the vehicle is acquired, the cost price to the person who acquires the vehicle is less than the market value because of an arrangement between that person and an associated person, and that arrangement has the purpose of defeating the intent and application of the FBT rules.

Schedule 5 clause 8(a): amended (with effect on 1 July 2021), on 22 February 2022, by section 27(2) of the Land Transport (Clean Vehicles) Amendment Act 2022 (2022 No 2).

Schedule 5 clause 8(a)(i): amended (with effect on 1 July 2021), on 22 February 2022, by section 27(3) of the Land Transport (Clean Vehicles) Amendment Act 2022 (2022 No 2).

9 Despite clause 8(a), a person who in a quarter, tax year, or income year provides a benefit that is valued under clause 1 may choose to value the vehicle on the basis of its cost price exclusive of GST or its tax value calculated exclusive of GST using clause 1 as modified by clause 10.

10 The following paragraphs apply to a person who values a vehicle on the basis of its cost price exclusive of GST or its tax value calculated exclusive of GST:

(a) the terms ‘cost price’ and ‘tax value’ in clause 1 do not include an amount of GST payable:

(b) the references to 5% in clause 1 are treated as if they were references to a percentage calculated using the formula—

5 + (5 × rate of GST applying on last day of relevant quarter):

(c) the references to 9% in clause 1 are treated as if they were references to a percentage calculated using the formula—

9 + (9 × rate of GST applying on last day of relevant quarter):

(d) the references to 20% in clause 1 are treated as if they were references to a percentage calculated using the formula—

20 + (20 × rate of GST applying on last day of relevant tax year or corresponding income year):

(e) the references to 36% in clause 1 are treated as if they were references to a percentage calculated using the formula—

36 + (36 × rate of GST applying on last day of relevant tax year or corresponding income year).

11 When a vehicle is leased or rented to the person after it has been leased or rented to another person (the **other person**), the cost price of a vehicle is its market value at the time it is first leased or rented to the person if—

(a) the person is not associated with the other person; and

(b) the person is not associated with the lessor or owner of the vehicle; and

(c) the employee is not the lessor or owner of the vehicle; and

(d) the employee is not associated with the lessor or owner of the vehicle.

12 If the vehicle is leased or rented by the person from another person and the lessee requests that the lessor disclose the cost price or tax value of the vehicle for the lessor, the lessor must disclose to the lessee the information requested.

13 The minimum tax value of a motor vehicle to which this schedule applies is $8,333.

Schedule 6
Prescribed rates: PIE investments and retirement scheme contributions

ss CX 50B, HM 56

Schedule 6: inserted, on 1 April 2010 (applying to income years beginning on or after 1 April 2010), by section 124(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

1 PIE investments

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

Table 1

Row	Conditions	Prescribed rate
1	For a natural person who is resident in New Zealand, other than a person described in row 4 or 6.	0.280
2	For a non-resident person other than a person described in row 7B or 9.	0.280
3	For a person who— (a) is resident in New Zealand and who derives income for the relevant tax year as a trustee of a trust other than a trust with income that is exempt income under section CW 41 or CW 42; and (b) notifies this rate for the relevant tax year.	0.280
4	For a natural person who is resident in New Zealand and is not a person described in row 6 and who, in either of the 2 income years before the relevant tax year, derives— (a) $53,500 or less in taxable income; and (b) $78,100 or less in the sum of their taxable income and attributed PIE income after subtracting any attributable PIE loss	0.175
5	For a person who— (a) is resident in New Zealand and derives income for the relevant tax year as a trustee of a trust other than a trust with income that is exempt income under section CW 41 or CW 42; and (b) notifies this rate for the relevant tax year.	0.175
6	For a natural person who is resident in New Zealand and who, in either of the 2 income years before the relevant tax year, derives— (a) $15,600 or less in taxable income; and (b) $53,500 or less in the sum of their taxable income and attributed PIE income after subtracting any attributable PIE loss.	0.105
7	For a person who—	0.105

Row	Conditions	Prescribed rate
	(a) is resident in New Zealand and derives income for the relevant tax year as a trustee of a testamentary trust to which section HC 37 applies other than a trust with income that is exempt income under section CW 41 or CW 42; and (b) notifies this rate for the relevant tax year.	
7B	For a non-resident person who is a notified foreign investor in a foreign investment variable-rate PIE, *see* **table 1B** for the applicable rate for the amount of income.	variable
8	For a person who is a zero-rated investor or an investor treated under section HM 61 as zero-rated.	0.000
9	For a non-resident person who is a notified foreign investor in a foreign investment zero-rate PIE.	0.000
10	For a transitional resident who is an investor in a foreign investment zero-rate PIE.	0.000

How to use this table

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

Schedule 6 table 1: substituted (with effect on 1 April 2010), on 7 September 2010, by section 122 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 6 table 1 row 1: amended, on 1 October 2010, by section 39(a) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 6 table 1 row 2: substituted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 137(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 6 table 1 row 3: amended, on 1 October 2010, by section 39(c) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 6 table 1 row 4: amended, on 1 April 2025, by section 39(1) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 1 row 4: amended, on 1 April 2025, by section 39(2) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 1 row 4: amended, on 1 October 2010, by section 39(d) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 6 table 1 row 5: amended, on 1 October 2010, by section 39(e) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 6 table 1 row 6: amended, on 1 April 2025, by section 39(3) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 1 row 6: amended, on 1 April 2025, by section 39(4) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 1 row 6: amended, on 1 October 2010, by section 39(f) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 6 table 1 row 7: amended, on 1 October 2010, by section 39(g) of the Taxation (Budget Measures) Act 2010 (2010 No 27).

Schedule 6 table 1 row 7B: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 137(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 6 table 1 row 8: replaced, on 2 November 2012, by section 163(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 6 table 1 row 9: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 137(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 6 table 1 row 10: added, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 137(2) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

1B Foreign investment variable-rate PIEs and notified foreign investors

A foreign investment variable-rate PIE must apply the prescribed investor rates set out in table 1B in relation to income attributed to notified foreign investors in the PIE.

Table 1B

Row	Amounts	Prescribed rate
1	To the extent to which it is not fully imputed, a dividend derived from a company resident in New Zealand attributed to an investor who does not reside in a country with which New Zealand has a double tax agreement that provides a rate for withholding an amount of NRWT for dividends that is less than that provided by section RF 8(2).	0.3000
2	An amount other than an amount referred to in rows 1, 3 to 7, and 9 that has a source in New Zealand.	0.2800
3	To the extent to which it is not fully imputed, a dividend derived from a company resident in New Zealand attributed to an investor who resides in a country with which New Zealand has a double tax agreement that provides a rate for withholding an amount of NRWT for dividends that is less than that provided by section RF 8(2).	0.1500
4	A fully imputed dividend derived from a company resident in New Zealand in relation to which a supplementary dividend is paid.	0.1500
5	A supplementary dividend.	0.1500
6	Interest derived under a financial arrangement, being an amount referred to in the definition of interest, paragraph (a) or (b), that has a source in New Zealand and is of an amount calculated under subpart EW.	0.0144
7	A fully imputed dividend derived from a company resident in New Zealand, other than a dividend in relation to which a supplementary dividend is paid.	0.0000
8	A foreign-sourced amount.	0.0000
9	An amount derived under a financial arrangement that has a source in New Zealand other than an amount of interest referred to in row 6.	0.0000

Schedule 6 clause 1B: inserted, on 29 August 2011 (applying for the 2012–13 and later income years for a foreign investment variable-rate PIE and a notified foreign investor in the PIE), by section 137(3) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 6 table 1B: replaced, on 1 April 2013 (applying for the 2013–14 and later income years), by section 163(3) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 6 table 1B row 1: amended (with effect on 1 April 2012 and applying for the 2012–13 and later income years but not applying for a dividend attributed to an investor by a PIE before 26 February 2015, if the PIE takes, before that date, a tax position for the dividend relying on the table amended by section 237 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 as it was immediately before the amendments made by section 237 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016), on 24 February 2016, by section 237(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 6 table 1B row 3: amended (with effect on 1 April 2012 and applying for the 2012–13 and later income years but not applying for a dividend attributed to an investor by a PIE before 26 February 2015, if the PIE takes, before that date, a tax position for the dividend relying on the table amended by section 237 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 as it was immediately before the amendments made by section 237 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016), on 24 February 2016, by section 237(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 6 table 1B row 9: amended, on 29 March 2018 (with effect on 1 April 2012 and applying for the 2012–13 and later income years), by section 253(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

2 Retirement scheme contributions

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

Table 2

Row	Conditions	Prescribed rate
1	For a person other than a person described in any of rows 2 to 8.	0.390
2	For a person who, in either of the 2 income years before the income year in which the contribution is made, derives more than $78,100 but not more than $180,000 in taxable income.	0.330
3	For a person who is not a person described in row 2 and who, in either of the 2 income years before the income year in which the contribution is made, derives more than $53,500 but not more than $78,100 in taxable income.	0.300
4	For a person who is not a person described in row 2 or 3 and who, in either of the 2 income years before the income year in which the contribution is made, derives more than $15,600 but not more than $53,500 in taxable income.	0.175
5	For a person who is not a person described in row 2, 3, or 4 and who, in either of the 2 income years before the income year in which the contribution is made, derives taxable income of $15,600 or less.	0.105

Row	Conditions	Prescribed rate
6	For a non-resident person to whom a distribution of no more than $200 is made by a retirement scheme contributor that is a Maori authority.	0.105
7	For a non-resident person who supplies a retirement scheme contributor that is a Maori authority with a notice under section 28C of the Tax Administration Act 1994.	0.105
8	For a non-resident person in relation to a contribution that consists of non-resident passive income.	0.000

How to use this table

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

Schedule 6 table 2: replaced, on 1 April 2021, by section 25 (and see section 3 for application) of the Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65).

Schedule 6 table 2 row 2: amended, on 1 April 2025, by section 39(5) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 2 row 3: amended, on 1 April 2025, by section 39(6) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 2 row 3: amended, on 1 April 2025, by section 39(7) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 2 row 4: amended, on 1 April 2025, by section 39(8) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 2 row 4: amended, on 1 April 2025, by section 39(9) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 6 table 2 row 5: amended, on 1 April 2025, by section 39(10) (and see section 39(11) for application) of the Taxation (Budget Measures) Act 2024 (2024 No 19).

Schedule 10
Straight-line equivalents of diminishing value rates of depreciation

ss EE 40, EE 41, EZ 14, EZ 15

Column 1 **Diminishing value depreciation rate** (%)	*Column 2* **Straight-line equivalent** (%)
1	1
2	1.5
2.5	2
3	2.5
4	3
5	3.5
6	4
7	5
7.5	5.5
8	6
9.5	6.5
10	7
11	7.5
12	8
13	8.5
13.5	9
14	9.5
15	10
16	10.5
16.5	11
17	11.5
17.5	12
18	12.5
19	13
20	13.5
20.5	14
21	14.5
21.5	15
22	15.5
23	16
24	16.5
24.5	17
25	17.5

Column 1 **Diminishing value depreciation rate** (%)	*Column 2* **Straight-line equivalent** (%)
26	18
27	18.5
27.5	19
28	19.5
28.5	20
29	20.5
30	21
31	22
32	22.5
32.5	23
33	24
34	24.5
34.5	25
35	25.5
36	26
37	27
38	27.5
39	28
39.5	29
40	30
41	31
42	32
43	32.5
44	33
45	33.5
45.5	34
46	34.5
46.5	35
47	35.5
47.5	36
48	36.5
48.5	37
49	39
50	40
50.5	41
51	42

Column 1 **Diminishing value depreciation rate** (%)	*Column 2* **Straight-line equivalent** (%)
52	43
53	44
54	45
55	45.5
56	46
57	47
58	47.5
60	48
61	49
62	50
63	51
63.5	63.5
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
100	100

Schedule 11
New banded rates of depreciation

ss EE 27, EE 28

Other assets (excluding fixed life intangible property, excluded depreciable property, and buildings)		**Buildings**	
Column 1	*Column 2*	*Column 3*	*Column 4*
D.V. rate (%)	**Straight-line rate** (%)	**D.V. rate** (%)	**Straight-line rate** (%)
100	100	0	0
67	67	0	0
50	40	0	0
40	30	0	0
30	21	0	0
25	17.5	0	0
20	13.5	0	0
16	10.5	13.5	8
13	8.5	11	6.5
10	7	8.5	5
8	6	6.5	4
6	4	4.5	3
4	3	3	2
2	1.5	1.3	1

Schedule 12
Old banded rates of depreciation

ss DB 46, EC 34, EC 35, EE 30, EZ 23

Column 1 **Diminishing value depreciation rate** (%)	*Column 2* **Straight-line equivalent** (%)
2	1.5
4	3
6	4
7.5	5.5
9.5	6.5
12	8
15	10
18	12.5
22	15.5
26	18
33	24
40	30
50	40
63.5	63.5
100	100

Schedule 13
Depreciable land improvements

s EE 7

1 airport runways
2 bores and wells
3 bridges
4 chimneys
5 culverts
6 dams
7 fences
8 hardstanding
9 reservoirs
10 retaining walls
11 roads
12 spillways
13 swimming pools
14 tanks
15 tunnels
16 wharves
17 pipes
18 purpose-built surfaces for outdoor sports facilities

Schedule 13: amended (with effect on 1 April 2008), on 6 October 2009, by section 581(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 13: amended (with effect on 1 April 2008), on 6 October 2009, by section 581(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 14
Depreciable intangible property

ss DZ 11, EE 43, EE 2, EZ 12

Schedule 14 heading: amended, on 1 April 2008, by section 557 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

1 the right to use a copyright

2 the right to use a design or model, plan, secret formula or process, or other like property or right

3 a patent or the right to use a patent

4 a patent application with a complete specification lodged on or after 1 April 2005

5 the right to use land

6 the right to use plant or machinery

7 the copyright in software, the right to use the copyright in software, or the right to use software

8 the right to use a trademark

9 management rights and licence rights created under the Radiocommunications Act 1989

10 a consent granted under the Resource Management Act 1991 to do something that otherwise would contravene sections 12 to 15B of that Act (other than a consent for a reclamation), being a consent granted in or after—

(a) the 1996–97 tax year, if the consent relates to sections 12 to 15 of that Act; or

(b) the 2014–15 income year, if the consent relates to sections 15A and 15B of that Act

11 the copyright in a sound recording, if the copyright was produced or acquired by the taxpayer on or after 1 July 1997, and copies of the recording have been sold or offered for sale to the public

12 plant variety rights granted under the Plant Variety Rights Act 2022 or similar rights given similar protection under the laws of a country or territory other than New Zealand

13 a right to use plant variety rights granted under the Plant Variety Rights Act 1987 or a similar right under the laws of a country or territory other than New Zealand

14 a design registration

15 a design registration application

16 industrial artistic copyright

Schedule 14 item 10: replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Schedule 14 item 11: amended (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 242(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 14 item 12: amended, on 24 January 2023, by section 159 of the Plant Variety Rights Act 2022 (2022 No 61).

Schedule 14 item 14: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 238(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 14 item 15: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 238(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 14 item 16: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 238(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 15
Excepted residential land

[Repealed]

s DH 5

Schedule 15: repealed, on 1 April 2025, by section 122 of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 17
Types and classes of livestock

ss EC 15, YA 1

Column 1 **Types of livestock**	*Column 2* **Classes of livestock**
Beef cattle	*Beef breeds and beef crosses*
	Rising 1 year heifers
	Rising 2 year heifers
	Mixed-age cows
	Rising 1 year steers and bulls
	Rising 2 year steers and bulls
	Rising 3 year and older steers and bulls
	Breeding bulls
Dairy cattle	*Friesian and related breeds, Jersey, and other dairy breeds*
	Rising 1 year heifers
	Rising 2 year heifers
	Mixed-age cows
	Rising 1 year steers and bulls
	Rising 2 year steers and bulls
	Rising 3 year and older steers and bulls
	Breeding bulls
Deer	*Red deer, wapiti, elk, and related crossbreeds*
	Rising 1 year hinds
	Rising 2 year hinds
	Mixed-age hinds
	Rising 1 year stags
	Rising 2 year and older stags (non-breeding)
	Breeding stags
	Other breeds
	Rising 1 year hinds
	Rising 2 year hinds
	Mixed-age hinds
	Rising 1 year stags
	Rising 2 year and older stags (non-breeding)
	Breeding stags
Goats	*Angora and angora crosses (mohair producing)*
	Rising 1 year does
	Mixed-age does
	Rising 1 year bucks (non-breeding)/wethers

Column 1 **Types of livestock**	*Column 2* **Classes of livestock**
	Bucks (non-breeding)/wethers over 1 year
	Breeding bucks
	Other fibre and meat producing goats (cashmere or cashgora producing)
	Rising 1 year does
	Mixed-age does
	Rising 1 year bucks (non-breeding)/wethers
	Bucks (non-breeding)/wethers over 1 year
	Breeding bucks
	Milking (dairy) goats
	Rising 1 year does
	Does over 1 year
	Breeding bucks
	Other dairy goats
Pigs	Breeding sows less than 1 year of age
	Breeding sows over 1 year of age
	Breeding boars
	Weaners less than 10 weeks of age (excluding sucklings)
	Growing pigs 10 to 17 weeks of age (porkers/baconers)
	Growing pigs over 17 weeks of age (baconers)
Sheep	Ewe hoggets
	Ram and wether hoggets
	Two-tooth ewes
	Mixed-age ewes (rising 3 year and rising 4 year ewes)
	Rising 5 year and older ewes
	Mixed-age wethers
	Breeding rams

Schedule 17: amended (with effect on 1 April 2012 and applying for the 2014–15 and later income years and, for the purposes of section EC 8(3), applying for the 2012–13 and later income years), on 17 July 2013, by section 103(1)(a) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Schedule 17: amended (with effect on 1 April 2012 and applying for the 2014–15 and later income years and, for the purposes of section EC 8(3), applying for the 2012–13 and later income years), on 17 July 2013, by section 103(1)(b) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Schedule 17: amended (with effect on 1 April 2012 and applying for the 2014–15 and later income years and, for the purposes of section EC 8(3), applying for the 2012–13 and later income years), on 17 July 2013, by section 103(1)(c) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Schedule 17: amended (with effect on 1 April 2012 and applying for the 2014–15 and later income years and, for the purposes of section EC 8(3), applying for the 2012–13 and later income years),

on 17 July 2013, by section 103(1)(d) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Schedule 18
Categories of livestock for which national standard costs to be declared

ss EC 23, EC 24

Column 1 **Types of livestock**	*Column 2* **Categories for which national standard costs to be declared**	*Column 3* **Types of costs to be declared**
Beef cattle	Rising 1 year	Breeding, rearing, and growing
	Rising 2 year	Rearing and growing
	Rising 3 year male non-breeding cattle (all breeds)	Rearing and growing
Dairy cattle	Purchased bobby calves	Rearing and growing
	Rising 1 year	Breeding, rearing, and growing
	Rising 2 year	Rearing and growing
Deer	Rising 1 year	Breeding, rearing, and growing
	Rising 2 year	Rearing and growing
Goats (dairy)	Rising 1 year	Breeding, rearing, and growing
	Rising 2 year	Rearing and growing
Goats (meat and fibre)	Rising 1 year	Breeding, rearing, and growing
	Rising 2 year	Rearing and growing
Pigs	Weaners to 10 weeks of age	Breeding, rearing, and growing
	Growing pigs 10 to 17 weeks of age	Rearing and growing
Sheep	Rising 1 year	Breeding, rearing, and growing
	Rising 2 year	Rearing and growing

Schedule 18B
Premier yearling sales

ss EC 39B, YA 1

Schedule 18B: inserted (with effect on 1 January 2019), on 18 March 2019, by section 287 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part A
Premier standardbred yearling sales

Australasian Classic Yearling Sale (Auckland)

New Zealand National Standardbred Yearling Sale (Auckland and Christchurch)

New Zealand Premier Yearling Sale (Christchurch)

Part B
Premier thoroughbred yearling sales

Karaka – National Yearling Sale Series – Book 1 Sale

Schedule 18C
Breeds and classes of bloodstock

ss EC 39C, EZ 6B

Schedule 18C: inserted (with effect on 1 January 2019), on 18 March 2019, by section 287 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Column 1	*Column 2*
Breeds of bloodstock	**Classes of bloodstock**
Standardbred	Yearling fillies
	Yearling colts
Thoroughbred	Yearling fillies
	Yearling colts

Schedule 19
Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise

ss CB 28, DB 46, EK 2, EK 11, EK 12, EK 20, EK 23

Schedule 19 heading: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(1) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part A
Expenditure relating to activity or improvement to land

1 expenditure on investigating and testing locations and methods, before a decision is made to use a location or method, for an activity or improvement that is intended to avoid, remedy, or mitigate future detrimental effects on the environment from the discharge of a contaminant or on people or animals from the making of noise

Schedule 19 part A item 1: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(2) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

2 expenditure, in the construction of an improvement on land in New Zealand, incurred in order to avoid or mitigate future detrimental effects on the environment from the discharge of a contaminant or on people or animals from the making of noise

Schedule 19 part A item 2: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(3) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

3 expenditure on screen planting, on land in New Zealand, incurred in association with the construction of an improvement to the land that is intended to avoid, or mitigate future detrimental effects on the environment from the discharge of a contaminant or on people or animals from the making of noise

Schedule 19 part A item 3: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(4) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

4 expenditure on riparian planting, on land in New Zealand, incurred in order to avoid or mitigate future detrimental effects on the environment from the discharge of a contaminant or on people or animals from the making of noise

Schedule 19 part A item 4: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(5) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

5 expenditure on an activity that is intended to avoid or mitigate the future discharge of a contaminant or the future making of noise

Schedule 19 part A item 5: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(6) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Part B
Expenditure relating to monitoring, remedies, and mitigation

1 expenditure related to monitoring the discharge of a contaminant or the making of noise

Schedule 19 part B item 1: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(7) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

2 expenditure related to monitoring detrimental effects on the environment from the discharge of a contaminant or on people or animals from the making of noise

Schedule 19 part B item 2: amended (with effect on 1 April 2018), on 18 March 2019, by section 288(8) (and see section 288(9) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

3 expenditure, incurred after the discharge of a contaminant, on avoiding, remedying, or mitigating detrimental effects on the environment from the discharged contaminant

4 expenditure, incurred after the discharge of a contaminant, on removing an improvement to land in New Zealand for the purpose of avoiding, remedying, or mitigating detrimental effects on the environment from the discharged contaminant

5 expenditure, incurred after the discharge of a contaminant, on the installation of impermeable surfaces on land in New Zealand with the purpose of avoiding, remedying, or mitigating detrimental effects on the environment from the discharged contaminant

6 expenditure, incurred after the discharge of a contaminant, on replanting land in New Zealand in association with expenditure to avoid, remedy, or mitigate detrimental effects on the environment from the discharged contaminant

7 expenditure, on disposing of a stored substance that is a potential contaminant in a way that avoids detrimental effects on the environment

Schedule 19 part B clause 7: amended, on 2 November 2012, by section 164 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Part C
Excluded expenditure

1 expenditure related to land reclamation

2 expenditure relating to dredging, other than dredging for the principal purpose of remedying or mitigating detrimental effects on the environment from a discharged contaminant

3 expenditure related to the acquisition of land

Schedule 20
Expenditure on farming, horticultural, aquacultural, and forestry improvements

ss DO 4, DO 5, DO 11, DO 12, DO 13, DP 3, DZ 17, DZ 18, YA 1

	Improvement	Percentage of diminished value of improvement allowed as deduction
	Part A Farming	
1	unless clause 2 applies, preparation of the land for farming or agriculture, including cultivation and grassing	5
2	regrassing and fertilising all types of pasture in the course of a significant capital activity that relates to a type of pasture with an estimated useful life of more than 1 year	45
3	draining of swamp or low-lying lands	5
4	construction of access roads or tracks to or on the land	5
5	construction of dams, stopbanks, irrigation or stream diversion channels, or other improvements for the purpose of conserving or conveying water for use on the land or for preventing or combating soil erosion, other than planting or maintaining trees, whether or not on the land, for the purpose of providing shelter to the land	5
6	construction of earthworks, ponds, settling tanks, or other similar improvements mainly for the purpose of the treatment of waste products in order to prevent or combat pollution of the environment	5
7	sinking of bores or wells for the purpose of supplying water for use on the land	5
8	construction of aeroplane landing strips to facilitate aerial topdressing of the land	5
9	planting of non-listed horticultural plants on the land (see section 44C of the Tax Administration Act 1994)	10
10	erection on the land of electric power lines or telephone lines	10
11	construction on the land of feeding platforms, feeding yards, plunge sheep dips, or self-feeding ensilage pits	10
12	construction on the land of supporting frames for growing crops	10
13	construction on the land of structures for shelter purposes	10

	Part B Freshwater fish farming	
1	drilling of water bores	5
2	draining of land or the excavating of sites for ponds, races, or tanks	5

	Improvement	Percentage of diminished value of improvement allowed as deduction
3	construction of ponds, races, settling ponds, sluices, or tanks of impervious materials to conduct or contain waters	5
4	supply and installation of pipes for water reticulation	5
5	construction of access paths, embankments, service paths, walkways, or walls	5
6	construction of effluent ponds	5
7	supply and installation of baffles or screens for the containing or excluding of fish	10
8	construction of fencing on the fish farm	10

Part C
Mussel farming

1	acquisition, preparation, and mooring of pontoons or rafts or other floating structures for collecting spat	20
2	acquisition, mooring, and outfitting of moored floating platforms or longlines from which the collected spat is suspended for subsequent growth	20
3	collecting and depositing of shell or other suitable material on the sea bed to create spatting surfaces	20

Part D
Rock oyster farming

1	acquisition and preparation of spatting sticks	20
2	construction and erection of posts, rails, or other structures for the holding of spatting sticks during spat catching and maturing	20
3	construction of fences (including breakwater fences)	20

Part E
Scallop farming

1	acquisition, preparation, and mooring of floating structures for collecting spat	20
2	acquisition, mooring, and outfitting of longlines from which the collected spat is suspended for subsequent growth	20

Part F
Sea-cage salmon farming

1	acquisition, preparation, and mooring of pontoons or rafts or other floating structures for securing or protecting cages or other containment vessels	20
2	acquisition, preparation, and placing of equipment or structures, including cages, nets, tanks, or other vessels, for the containment of live salmon	20

	Improvement	Percentage of diminished value of improvement allowed as deduction
3	acquisition and placing of buoys and ropes used in the breeding or maturing of salmon	20

Part G
Forestry

1	felling, clearing, destruction, or removal of timber, stumps, scrub, or undergrowth on the land in the preparation of the land for the planting of trees on the land	5
2	eradication or extermination, to enable the planting of trees on the land, of animal or vegetable pests on the land	5
3	destruction, to enable the planting of trees on the land, of weeds or plants detrimental to the land	5
4	draining of swamp or low-lying lands in the preparation of the land for the planting of trees on the land	5
5	construction of roads to or on the land (including any culverts or bridges necessary for the construction), when the roads are formed and wholly or mainly metalled or sealed	5
6	construction of roads to or on the land (including any culverts or bridges necessary for the construction), when the roads— (a) are not access tracks to which section DP 1(1)(h) applies; and (b) are 1 of the following: (i) roads that are formed and partially metalled or sealed; or (ii) roads that are not metalled or sealed	20
7	construction of dams, stopbanks, irrigation or stream diversion channels, or other improvements for the purpose of conserving or conveying water for use on the land or for preventing or combating soil erosion	5
8	repair of flood or erosion damage	5
9	sinking of bores or wells for the purpose of supplying water for use on the land	5
10	construction of aeroplane landing strips to facilitate aerial topdressing or disease control work or firefighting on the land	5
11	construction on the land of fences, including the purchase of wire or wire netting for the purpose of making new or existing fences rabbit-proof	10
12	erection on the land of electric power lines or telephone lines	10

Schedule 20: amended (with effect on 1 April 2013 and applying for an improvement made on or after the first day of the 2013–14 income year), on 30 June 2014, by section 148(1)(a) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Schedule 20: amended (with effect on 1 April 2013 and applying for an improvement made on or after the first day of the 2013–14 income year), on 30 June 2014, by section 148(1)(b) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Schedule 20: amended (with effect on 1 April 2013 and applying for an improvement made on or after the first day of the 2013–14 income year), on 30 June 2014, by section 148(1)(c) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Schedule 20: amended (with effect on 1 April 2013), on 17 July 2013, by section 104(1)(a) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52); and applying (as amended, with effect on 17 July 2013, on 24 February 2016) for an improvement made on or after the first day of the 2013–14 income year.

Schedule 20: amended (with effect on 1 April 2013), on 17 July 2013, by section 104(1)(b) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52); and applying (as amended, with effect on 17 July 2013, on 24 February 2016) for an improvement made on or after the first day of the 2013–14 income year.

Schedule 20: amended (with effect on 1 April 2013), on 17 July 2013, by section 104(1)(c) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52); and applying (as amended, with effect on 17 July 2013, on 24 February 2016) for an improvement made on or after the first day of the 2013–14 income year.

Schedule 20 part G clause 6(a): amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 20: amended (with effect on 1 April 2008), on 6 October 2009, by section 582(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 20: amended (with effect on 1 April 2008), on 6 October 2009, by section 582(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 21
Excluded activities for research and development activities tax credits

s LY 2

Schedule 21: inserted, on 1 April 2019, by section 22 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Part A
Activities that are excluded from the definition of *core research and development activity*

Schedule 21 Part A: inserted, on 1 April 2019, by section 22 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

1 Preproduction activities, including demonstration of commercial viability and tooling up.

2 Routine de-bugging of existing computer software.

3 Supporting or making minor improvements to existing computer software using known methods.

4 Routine software and computer maintenance.

5 *[Repealed]*

6 Market research, market testing, market development, or sales promotion, including consumer surveys.

7 Commercial, legal, or administrative aspects of patenting, licensing, or other similar activities.

8 Activities involved in complying with statutory requirements or standards.

9 Management studies.

10 Activities relating to organisational design.

11 Ineligible internal software development.

12 Research in social sciences, arts, or humanities.

13 Quality control or routine testing of processes, services, or goods.

14 Routine collection of information.

15 Minor adaption of, or improvement to, existing processes, services, or goods.

16 Bug testing, beta testing, system requirement testing, user acceptance testing, and data integrity testing.

17 Data mapping and data migration testing.

18 Testing or comparing the efficiency of algorithms that are already known to work.

19 Testing security protocols or arrangements.

20 Converting existing systems to, or integrating existing systems with, new software platforms.

21 Making cosmetic or stylistic changes to processes, services, or goods.

22 Reproduction of a commercial product or process by a physical examination of an existing product or system, or from plans, blueprints, detailed specifications, or publicly available information.

23 Carrying out routine operations on data, including presentation of data.

24 If section 68CB of the Tax Administration Act 1994 applies for the person, activities that are not approved under that section.

Schedule 21 Part A clause 5: repealed (with effect on 1 April 2019), on 30 March 2021, by section 136(1) (and see section 136(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Part B

Activities that are excluded from the definition of *supporting research and development activity*

Schedule 21 Part B: inserted, on 1 April 2019, by section 22 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

1 Preproduction activities, including demonstration of commercial viability and tooling up.

2 Routine de-bugging of existing computer software.

3 Supporting or making minor improvements to existing computer software using known methods.

4 Routine software and computer maintenance.

5 *[Repealed]*

6 Market research, market testing, market development, or sales promotion, including consumer surveys.

7 Commercial, legal, or administrative aspects of patenting, licensing, or other similar activities.

8 Activities involved in complying with statutory requirements or standards for pre-existing processes, services, or goods.

9 Management studies.

10 Activities relating to organisational design.

11 Ineligible internal software development.

12 If section 68CB of the Tax Administration Act 1994 applies for the person, activities that are not approved under that section.

Schedule 21 Part B clause 5: repealed (with effect on 1 April 2019), on 30 March 2021, by section 136(2) (and see section 136(3) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21 Part B clause 12: inserted (with effect on 1 April 2019), on 23 March 2020, by section 187(1) (and see section 187(2) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 21
Expenditure and activities related to research and development

[Repealed]

LH 3(1), LH 5(3), (4), LH 7(2), LH 8

Schedule 21: repealed, on 1 October 2009, by section 22 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Schedule 21B
Expenditure or loss for research and development tax credits

s LY 5

Schedule 21B: inserted, on 1 April 2019, by section 22 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

Part A
Eligible expenditure or loss for research and development tax credits

Schedule 21B Part A: inserted, on 1 April 2019, by section 22 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

1 Depreciation loss and amounts deductible under section DI 5 for an item of depreciable property to the extent to which the depreciable property is used in performing a research and development activity.

2 Expenditure or loss, including amounts deductible under sections DB 49, DB 50, and DI 5, that is not for employees and is incurred in acquiring goods and services that are not depreciable property, to the extent to which—

(a) the goods and services relate to performing a research and development activity; and

(b) the expenditure or loss is not an unexpired amount under section CH 1 or CH 2 (which relate to end of year adjustments).

3 Amounts for employees, to the extent to which the employee's employment relates to performing a research and development activity.

Schedule 21B Part A clause 1: amended (with effect on 22 May 2025), on 29 May 2025, by section 15(1) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Schedule 21B Part A clause 2: amended (with effect on 22 May 2025), on 29 May 2025, by section 15(2) of the Taxation (Budget Measures) Act 2025 (2025 No 26).

Part B
Ineligible expenditure or loss for research and development tax credits

Schedule 21B Part B: inserted, on 1 April 2019, by section 22 (and see section 3 for application) of the Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15).

1 Amounts that, but for this clause, are eligible research and development expenditure under section LY 5, to the extent to which the amounts, together with associated persons' eligible research and development expenditure returned by them in their research and development supplementary return, are greater than $120 million or their approved research and development cap, as the case may be.

2 Expenditure or loss incurred in acquiring property that is depreciable property or that would be depreciable in the absence of an election under section EE 8, but ignoring expenditure or loss incurred in making the property.

3 Expenditure or loss, other than amounts for employees or contractor labour in relation to core research and development activities, to the extent to which the expenditure or loss contributes to the cost of tangible depreciable property, or tangible property that would be depreciable in the absence of an election under section EE 8, but ignoring expenditure or loss for property if the property is used solely in performing a research and development activity, is intended to be used in the future solely in performing a research and development activity, and the expenditure or loss is for a core research and development activity.

3B Expenditure or loss, other than amounts for employees or contractor labour in relation to core research and development activities, incurred by—

(a) a petroleum miner:

(b) a mineral miner:

(c) a person that would be a mineral miner if geothermal energy and all minerals were included on the list of listed industrial minerals in section CU 8.

Expenditure or loss is ignored for the purposes of this clause to the extent to which the expenditure or loss contributes to the cost of tangible depreciable property, if the property is used solely in performing a research and development activity, is intended to be used in the future solely in performing a research and development activity, and the expenditure or loss is for a core research and development activity.

4 Depreciation loss for an item of depreciable property to the extent to which the item's cost is eligible research and development expenditure under section LY 5.

5 Depreciation loss for an item of depreciable property, if the item is in a pool of depreciable property and an item in the pool is not used solely in performing a research and development activity.

6 Depreciation loss for an item of depreciable property under sections EE 11(2) to (6), and EE 39.

7 Depreciation loss for an item of depreciable property acquired from an associated person, if the associate has used the item for a research and development activity, to the extent to which the depreciation loss relates to consideration paid or payable to the associated person for the acquisition of the item in excess of the associate's adjusted tax value for the property at the time of acquisition.

8 Amounts for goods or services, other than a right to use property, acquired directly or indirectly from an associated person to the extent to which the consideration paid or payable to the associated person for the goods or services is more than the lowest cost of the goods and services to an associate.

9 Amount for a right to use property acquired from an associate, to the extent to which the consideration paid or payable to the associate for the goods or services that relate to the right is more than the market value of the right.

10 Expenditure or loss to acquire land.

11 Expenditure under a financial arrangement.

12 A deduction under sections DB 5 to DB 15 (which relate to financing and financial arrangement adjustments).

13 Expenditure or loss incurred in determining a person's entitlement or lack of entitlement to a research and development tax credit.

13B Expenditure or loss incurred in performing corporate governance activities.

14 Expenditure or loss to purchase, lease, or otherwise acquire an interest in intangible property other than software.

15 Expenditure or loss to purchase, lease, or otherwise acquire software that is bespoke or customised, or is not widely commercially available.

16 Amounts that, but for this clause, are both eligible research and development expenditure under section LY 5 and internal software development expenditure, to the extent to which the amounts, together with associated persons' amounts that are both eligible research and development expenditure and internal software development expenditure, returned by them in their research and development supplementary return, are greater than $25 million. For the purposes of this clause only, sections HB 1 and HG 2 (which relate to entity transparency) are ignored and the person's partnership or look-through company is substituted as the relevant person.

17 Expenditure or loss in relation to goods and services, to the extent to which the consideration paid or payable for the goods and services is greater than market value consideration.

18 Gifts.

19 Expenditure or loss that is ineligible technology expenditure.

20 Expenditure or loss for plant, machinery, or materials to commercialise research and development activities' results, including preproduction expenditure or loss.

20B Expenditure or loss incurred in decommissioning.

20C Expenditure or loss incurred in remediating land.

21 Expenditure or loss that is a precondition to, subject to the terms of, or required by, a grant made by the Crown or a local authority. However, this expenditure does not include an amount funded through a loan made under the research and development loan scheme. Nor does it include an amount related to a Callaghan Innovation project grant, to the extent to which the amount exceeds the estimated cost of the project specified in the contract for the Callaghan Innovation project grant. Nor does it include an amount spent by a recipient of

a New to R&D Grant, to the extent to which the amount exceeds the amount covered by the New to R&D Grant contract. Nor does it include an amount related to an RDTI transition support payment.

22 Expenditure or loss incurred in acquiring or producing goods, including expenditure or loss for energy (**inputs**), to the extent to which the expenditure or loss does not exceed the market value of goods that result from the total inputs being used in, or subject to, a process or transformation.

23 Expenditure or loss to the extent to which a country or territory outside New Zealand allows a credit of tax (a **foreign credit**) of a similar nature to the research and development tax credit for the expenditure or loss, and the person receives the foreign credit for the expenditure or loss.

24 Expenditure or loss that is not for an approved research provider performing a research and development activity on behalf of the person, if section LY 4(1)(b) applies, and section LY 4(1)(a) does not apply.

Schedule 21B Part B clause 2: replaced (with effect on 1 April 2019), on 30 March 2021, by section 137(1) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 3: replaced (with effect on 1 April 2019), on 30 March 2021, by section 137(2) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 3B: inserted (with effect on 1 April 2019), on 30 March 2021, by section 137(3) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 10: replaced (with effect on 1 April 2019), on 30 March 2021, by section 137(4) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 13: amended (with effect on 1 April 2019), on 30 March 2021, by section 137(5) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 13B: inserted (with effect on 1 April 2019), on 30 March 2021, by section 137(6) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 20B: inserted (with effect on 1 April 2019), on 30 March 2021, by section 137(7) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 20C: inserted (with effect on 1 April 2019), on 30 March 2021, by section 137(7) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 21: amended (with effect on 6 December 2022), on 31 March 2023, by section 118 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 21B Part B clause 21: amended (with effect on 1 April 2019), on 30 March 2022, by section 177(1) (and see section 177(2) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 21B Part B clause 21: amended (with effect on 1 April 2019), on 30 March 2021, by section 137(8)(a) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 21: amended (with effect on 1 April 2019), on 30 March 2021, by section 137(8)(b) (and see section 137(9) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 21B Part B clause 21: amended (with effect on 1 July 2020), on 6 August 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58).

Schedule 22
Proscribed R&D activities

s YA 1, definitions of R&D expenditure, R&D material

Schedule 22: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 239(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

1 An activity performed outside of New Zealand.

2 Acquiring or disposing of land, and related activities, except if the land is used exclusively for housing research or development facilities.

3 Acquiring, disposing of, or transferring intangible property, core technology, intellectual property, or know-how, and related activities (for example, drafting sale and purchase agreements for patents).

4 Prospecting for, exploring for, or drilling for, minerals, petroleum, natural gas, or geothermal energy.

5 Research in social sciences, arts, or humanities.

6 Market research, market testing, market development, or sales promotion, including consumer surveys.

7 Quality control or routine testing of materials, products, devices, processes, or services.

8 Making cosmetic or stylistic changes to materials, products, devices, processes, or services.

9 Routine collection of information.

10 Commercial, legal, and administrative aspects of patenting, licensing, or other activities.

11 Activities involved in complying with statutory requirements or standards.

12 Management studies or efficiency surveys.

13 Reproduction of a commercial product or process by a physical examination of an existing system or from plans, blueprints, detailed specifications, or publicly available information.

14 Pre-production activities, such as a demonstration of commercial viability, tooling-up, and trial runs.

Schedule 23
Meaning of permanent establishment

s YD 4B(3)

Schedule 23: inserted, on 27 June 2018, by section 54(1) (and see section 54(2) for application) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16).

Permanent establishment

1 The term **permanent establishment** means a fixed place of business through which the business of a person or other entity (an **enterprise**) is wholly or partly carried on.

2 The term **permanent establishment** includes especially—

(a) a place of management; and

(b) a branch; and

(c) an office; and

(d) a factory; and

(e) a workshop; and

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3 A building site, or a construction, installation or assembly project, or supervisory activities in connection with that building site or construction, installation or assembly project, constitutes a permanent establishment if it lasts more than 6 months.

4 An enterprise shall be deemed to have a permanent establishment in a country or territory (the **State**) and to carry on business through that permanent establishment if for more than 183 days in any 12-month period—

(a) it carries on activities in that State which consist of, or which are connected with, the exploration for or exploitation of natural resources, including standing timber, situated in that State; or

(b) it operates substantial equipment in that State.

5 Notwithstanding the provisions of clauses 1 and 2 where an enterprise of a State performs services in another State (the **other State**)—

(a) through an individual who is present in that other State for a period or periods exceeding in the aggregate 183 days in any 12-month period, and more than 50% of the gross revenues attributable to active business activities of the enterprise during this period or periods are derived from the services performed in that other State through that individual; or

(b) for a period or periods exceeding in the aggregate 183 days in any 12-month period, and these services are performed for the same project or for connected projects through 1 or more individuals who are present and performing such services in that other State—

the activities carried on in that other State in performing these services shall be deemed to be carried on through a permanent establishment of the enterprise situated in that other State, unless these services are limited to those mentioned in clause 7 which, if performed through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that clause. For the purposes of this clause, services performed by an individual on behalf of one enterprise shall not be considered to be performed by another enterprise through that individual unless that other enterprise supervises, directs or controls the manner in which these services are performed by the individual.

6 For the sole purpose of determining whether the time period referred to in clauses 3, 4, and 5 has been exceeded,—

(a) where an enterprise of a State carries on activities referred to in clause 3, 4, or 5 for a period of more than 30 days and these activities are carried on during periods of time that do not last more than the period stipulated in those clauses; and

(b) connected activities are carried on in that other State during different periods of time, each exceeding 30 days, by 1 or more enterprises closely related to the first-mentioned enterprise.

These different periods of time shall be added to the period of time during which the first-mentioned enterprise has carried on the activities referred to in clause 3, 4, or 5.

7 Notwithstanding the preceding provisions of this section, the term **permanent establishment** shall be deemed not to include—

(a) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise:

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display, or delivery:

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise:

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise:

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity:

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subclauses (a) to (e)—

Provided that such activity, or in the case of subclause (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

7.1 Clause 7 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same State and—

(a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Schedule; or

(b) the overall activity resulting from the combination of the activities carried on by the 2 enterprises at the same place, or by the same enterprise or closely related enterprises at the 2 places, is not of a preparatory or auxiliary character—

Provided that the business activities carried on by the 2 enterprises at the same place, or by the same enterprise or closely related enterprises at the 2 places, constitute complementary functions that are part of a cohesive business operation.

8 Notwithstanding the provisions of clauses 1 and 2 but subject to the provisions of clause 9, where a person is acting in a State on behalf of an enterprise and, in doing so,—

(a) habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are—

(i) in the name of the enterprise; or

(ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or

(iii) for the provision of services by that enterprise; or

(b) manufactures or processes in a State for the enterprise goods or merchandise belonging to the enterprise,—

that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in clause 7 which, if exercised through a fixed place of business (other than a fixed place of business to which clause 7.1 would apply), would not make this fixed place of business a permanent establishment under the provisions of that subsection.

9 Clause 8 shall not apply where the person acting in a State on behalf of an enterprise of the other State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of 1 or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this clause with respect to any such enterprise.

10 The fact that a company which is a resident of a State controls or is controlled by a company which is a resident of the other State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

11 For the purposes of this clause, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, 1 has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if 1 possesses directly or indirectly more than 50% of the beneficial interest in the other (or, in the case of a company, more than 50% of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50% of the beneficial interest (or, in the case of a company, more than 50% of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the 2 enterprises.

Schedule 24
International tax rules: grey list countries

ss DZ 11, YA 1

Schedule 24 heading: amended (with effect on 30 June 2009), on 6 October 2009, by section 584 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part A
Grey list countries

1 Australia, excluding the Territory of Norfolk Island

2 Canada

3 Federal Republic of Germany

4 Japan

5 United Kingdom of Great Britain and Northern Ireland

6 United States of America, excluding its possessions and territories

7 Norway

8 Kingdom of Spain

Part B
Features of the taxation law of countries specified in Part A

1 Any exemption from income tax for income derived from business activities carried on outside the country.

2 In the case of Australia, any special allowances, reliefs, or exemptions with respect to offshore banking units.

3 In the case of Canada, any special allowances, reliefs, or exemptions with respect to international banking centres.

4 In the case of the Federal Republic of Germany, any special allowances, reliefs, or exemptions with respect to regional located investment in the former German Democratic Republic or in West Berlin.

5 In the case of the United Kingdom of Great Britain and Northern Ireland, any special allowances, reliefs, or exemptions with respect to activities carried on in enterprise zones.

6 In the case of Canada, any special allowances, reliefs, or exemptions provided to non-resident owned investment corporations pursuant to section 133 of the Income Tax Act (Canada).

7 In the case of the Kingdom of Spain, any special allowances, reliefs, or exemptions with respect to activities that are carried on in, or by an enterprise registered in, the following:

(a) Canary Islands:

(b) Ceuta:

(c) Melilla:

(d) Alava:

(e) Guipúzcoa:

(f) Vizcaya:

(g) Navarra.

Schedule 25
Foreign investment funds

ss CQ 5, DN 6, ED 2B, EX 28, EX 29, EX 30, EX 31, EX 32, EX 36, EX 37, EX 38

Schedule 25 heading: amended, on 30 March 2025, by section 147(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 25 heading: amended, on 30 March 2025, by section 147(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 25 heading: amended, on 29 March 2018 (with effect on 1 April 2016), by section 254 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 25 heading: amended (with effect on 1 April 2008), on 6 October 2009, by section 585(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part A
Entities treated as foreign investment funds

Part B
Foreign entities to which the FIF exemptions do not apply

Schedule 25 part B heading: substituted (with effect on 1 April 2008), on 6 October 2009, by section 585(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part C
Foreign entities for which accounting profits method may not be used

[Repealed]

Schedule 25 part C heading: repealed (with effect on 1 July 2011), on 7 May 2012 (applying for the income years beginning on or after 1 July 2011), by section 137(1) of the Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34).

Schedule 25B
Items modifying global anti-base erosion model rules

ss DB 1, HP 3, LJ 3, OB 7BB, OP 11BA

Schedule 25B: inserted, on 1 January 2025, by section 123(1) (and see section 123(5) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 25B heading: amended, on 1 January 2026, by section 123(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

1 Each of the following formulations of wording are replaced by the words "New Zealand" in each place:

(a) "[insert name of implementing-jurisdiction]":

(b) "[insert name of implementing-Jurisdiction]":

(c) "[insert name of implementing jurisdiction]".

1B The following Articles are inserted after Article 2.1.6:

2.1.7 A Parent Entity located in New Zealand that is a member of an MNE Group that includes an Ultimate Parent Entity located in New Zealand shall apply the provisions of Articles 2.1.1 to 2.1.5 with respect to a Low-Taxed Constituent Entity that is located in New Zealand. For this purpose, an Ultimate Parent Entity shall be treated as owning all Ownership Interests in itself.

2.1.8 Article 2.1.7 does not apply to a Parent Entity of an MNE Group that is in the initial phase of its international activity (*see* Article 9.3.2).

2 Articles 2.4.1 and 2.4.2 are replaced with:

2.4.1 Constituent Entities of an MNE Group located in New Zealand shall, for a Fiscal Year, pay a tax in an amount equal to the least of the following amounts:

(a) the amount that is equal to the sum of the UTPR Top-up Tax Amount for the Fiscal Year allocated to New Zealand and any amount carried forward to the Fiscal Year under Article 2.4.2:

(b) the amount that results from multiplying the sum of the annual total deduction and available tax losses for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year:

(c) the amount that results from multiplying the sum of the annual gross income for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year.

2.4.2 If, for a Fiscal Year, the amount described in Article 2.4.1(a) exceeds the amount of the tax liability described in that Article, an amount equal to the excess is carried forward to the next Fiscal Year.

3 Article 7.2.1(b)(i) is replaced with:

(i) is a tax resident in the UPE Jurisdiction, or has a fixed establishment in the UPE Jurisdiction, or both; and

4 Article 8.1 is disregarded.

5 Article 8.3 is disregarded.

5B In Article 9.3.2, in the words before the paragraphs, "Article 9.3" is replaced with "Articles 2.1 and 9.3".

6 In Article 9.3.5, in the words before the paragraphs, the words "[*Optional provision*]" are disregarded.

7 In Article 9.3.5(a), the words "[*Optional provision*]" are disregarded.

8 Article 9.4 is disregarded.

9 The following Article is inserted after Article 10.1.1:

10.1.2 The terms **annual gross income**, **annual total deduction**, **available tax loss**, **fixed establishment**, **income year**, and **tax year** have the same meanings as in the Income Tax Act 2007 (NZ).

Schedule 25B item 1B: inserted, on 1 January 2026, by section 123(3) (and see section 123(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 25B item 5B: inserted, on 1 January 2026, by section 123(4) (and see section 123(6) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 26
Low tax jurisdictions or territories

[Repealed]

s LZ 1

Schedule 26: repealed, on 2 November 2012, by section 165 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 27
Countries and types of income with unrecognised tax

ss LJ 1, LK 2

Schedule 27 heading: amended (with effect on 30 June 2009), on 6 October 2009, by section 586 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Country or territory	Types of income

Schedule 28
Requirements for complying fund rules

RD 66

Schedule 28: inserted, on 1 April 2008, by section 136 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

KiwiSaver rules

1 The first requirement is that the rules are the same, though modified as necessary, as the rules for KiwiSaver schemes set out in—

(a) sections 101G and 127 of the KiwiSaver Act 2006; and

(b) schedule 1, clauses 2, 4(1), (2), (4), (5), and (6), 7, 9, 12B, and 17 of that Act.

Withdrawals

2 The second requirement is that the rules—

(a) allow a withdrawal in some or all of the circumstances described in regulations made under section 229(1) of the KiwiSaver Act 2006 and the rules for KiwiSaver schemes in schedule 1, clauses 8 and 10 to 14 of the KiwiSaver Act 2006, modified as necessary, or in none of those circumstances; and

(b) do not allow a withdrawal under any circumstances other than those described in paragraph (a) or clause 1; and

(c) require the trustees, if the employee asks, to pay any withdrawal allowed under this clause and clause 1 as a lump sum, as if the withdrawal were a permitted withdrawal to which schedule 1, clause 5 of the KiwiSaver Act 2006 applies, modified as necessary.

Transfers

3 The third requirement is that the rules require—

(a) a transfer, if the employee asks, of some or all of an employee's superannuation accumulation to another complying superannuation fund or to a KiwiSaver scheme, and for the latter when the requirements of the KiwiSaver Act 2006 are met; and

(b) that the complying fund rules apply to an employee's superannuation accumulation if it is transferred to another complying superannuation fund under paragraph (a); and

(c) a transfer of an employee's superannuation accumulation to a KiwiSaver scheme, if the employee does not ask for a transfer under paragraphs (a) and (b), and the employee—

(i) is no longer eligible to be a member of their complying superannuation fund:

(ii) may not remain a member for any reason, but this paragraph does not apply to a transfer under paragraphs (a), (b), and (d), or a withdrawal of some or all of an employee's superannuation accumulation under these rules; and

(d) a transfer of an employee's superannuation accumulation to a KiwiSaver scheme, if the FMA revokes approval of the superannuation fund as a complying superannuation fund and the accumulation is not transferred to another complying superannuation fund and is not subject to these rules.

Notification

4 The fourth requirement is that the rules require that—

(a) the Commissioner is notified if the employee's superannuation accumulation must be transferred under clause 3(c) and (d):

(b) the fund provider is notified if the employee's superannuation accumulation is transferred to another complying superannuation fund under clause 3(a).

Notification details

5 For the purposes of clause 4,—

(a) notification under clause 4(a) must include the name, address, and tax file number of the employee, the name and address of their employer, and the name and tax file number of the employee's complying superannuation fund:

(b) notification under clause 4(b) must include—

(i) notice of any written evidence given to the old fund provider under section MK 2(2):

(ii) the amount of tax credits received by the old fund provider under subpart MK:

(iii) information held by the old fund provider that would be relevant to the new provider in making a claim under section 68C of the Tax Administration Act 1994, such as information about the periods for which claims have already been made.

Age restriction

[Repealed]

6 *[Repealed]*

Minimum contributions

7 The sixth requirement is that the rules require, as a minimum, contributions to be deducted for an employee at the rate of 3% of gross **salary or wages** (as defined in section 4 of the KiwiSaver Act 2006).

Funding benefits

8 The seventh requirement is that the rules require that an employee's superannuation accumulation is used to fund benefits that are calculated only by reference to the amount of the accumulation.

Continuation as member

9 The eighth requirement is that the rules commit an employee to continue to be a member unless otherwise provided by clauses 1 to 8.

Schedule 28: amended, on 1 April 2020, by section 188 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 28: amended, on 1 July 2019, by section 289(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 28: amended, on 1 July 2019, by section 289(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 28: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Schedule 28: amended, on 1 April 2013 (applying for the payments of salary or wages for pay periods beginning on or after that date), by section 166(1) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 28: amended, on 1 May 2011, by section 85(1) of the Financial Markets Authority Act 2011 (2011 No 5).

Schedule 28: amended (with effect on 1 April 2009), on 6 October 2009, by section 587 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 28: amended, on 1 April 2009, by section 57 of the Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105).

Schedule 29
Portfolio investment entities: listed investors

ss HM 21, HM 22

Schedule 29: inserted, on 1 April 2010, by section 588 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part A

1 A PIE or an entity that qualifies for PIE status.

2 A foreign PIE equivalent.

3 A life insurer.

4 The Crown as owner of the New Zealand Superannuation Fund.

4BA The Crown as owner of the VCF.

4B A Fund investment entity that is treated as being wholly owned by the Crown under section HR 4B.

4BB A VCF investment vehicle, as referred to in section 25 of the Venture Capital Fund Act 2019, that is treated as being wholly owned by the Crown under section HR 4B.

4C A company that is treated as being wholly owned by the Crown under section HR 4B.

5 The Accident Compensation Corporation, or a Crown entity subsidiary of the Corporation.

6 Toka Tū Ake – Natural Hazards Commission.

7 A local authority.

7B *[Repealed]*

8 A boutique investor class, treating interests combined under section HM 16 as held by 1 person.

9 A community trust.

10 *[Repealed]*

11 A lines trust.

12 A company in which a local authority or a lines trust holds—

(a) a voting interest of 100%; and

(b) if a market value circumstance exists for the company, a market value interest of 100%.

Schedule 29 part A item 4: replaced, on 23 October 2015, by section 7 of the Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94).

Schedule 29 part A item 4BA: inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Schedule 29 part A item 4B: replaced, on 5 June 2024, by section 17 of the New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16).

Schedule 29 part A item 4BB: inserted, on 14 December 2019, by section 17 of the New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77).

Schedule 29 part A item 4C: inserted, on 23 October 2015, by section 7 of the Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94).

Schedule 29 part A item 6: replaced, on 1 July 2024, by section 163 of the Natural Hazards Insurance Act 2023 (2023 No 1).

Schedule 29 part A item 7: replaced, on 18 March 2019, by section 290(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 29 part A item 7B: repealed, on 30 March 2021, by section 138(1) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 29 part A item 9: added (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 123(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 29 part A item 10: repealed, on 18 March 2019, by section 290(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 29 part A item 11: inserted, on 30 March 2021, by section 138(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 29 part A item 12: inserted, on 30 March 2021, by section 138(2) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Part B

1 A superannuation fund established under the proposal for the restructuring of the National Provident Fund required by the National Provident Fund Restructuring Act 1990.

2 The fund established by the Government Superannuation Fund Act 1956.

3 A public unit trust.

4 *[Repealed]*

5 A superannuation fund that—

(i) was in existence before 17 May 2006; and

(ii) would, if treated as a unit trust, meet the requirements of 1 or more of paragraphs (a) and (c) to (e) of the definition of **public unit trust**; and

(iii) has no investor, other than its manager or trustee, who can control its investment decisions.

Schedule 29 part B item 4: repealed (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 123(2) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 31
Annualised equivalent amount for Part M

ss MF 3, MF 7

Column 1 **Annual amount, calculated in accordance with section MF 3(2)(a)**	*Column 2* **Annualised equivalent amount for section MF 3(2)(b)**
	$
Amount does not exceed $42,700	42,700
Amount exceeds $42,700 but does not exceed $44,000	44,000
Amount exceeds $44,000 but does not exceed $45,500	45,500
Amount exceeds $45,500 but does not exceed $47,000	47,000
Amount exceeds $47,000 but does not exceed $48,500	48,500
Amount exceeds $48,500 but does not exceed $50,000	50,000
Amount exceeds $50,000 but does not exceed $51,500	51,500
Amount exceeds $51,500 but does not exceed $53,000	53,000
Amount exceeds $53,000 but does not exceed $54,500	54,500
Amount exceeds $54,500 but does not exceed $56,000	56,000
Amount exceeds $56,000 but does not exceed $57,500	57,500
Amount exceeds $57,500 but does not exceed $59,000	59,000
Amount exceeds $59,000 but does not exceed $60,500	60,500
Amount exceeds $60,500 but does not exceed $62,000	62,000
Amount exceeds $62,000 but does not exceed $63,500	63,500
Amount exceeds $63,500 but does not exceed $65,000	65,000
Amount exceeds $65,000 but does not exceed $66,500	66,500
Amount exceeds $66,500 but does not exceed $68,000	68,000
Amount exceeds $68,000 but does not exceed $69,500	69,500
Amount exceeds $69,500 but does not exceed $71,000	71,000
Amount exceeds $71,000 but does not exceed $72,500	72,500
Amount exceeds $72,500 but does not exceed $74,000	74,000
Amount exceeds $74,000 but does not exceed $75,500	75,500
Amount exceeds $75,500 but does not exceed $77,000	77,000
Amount exceeds $77,000 but does not exceed $78,500	78,500
Amount exceeds $78,500 but does not exceed $80,000	80,000
Amount exceeds $80,000 but does not exceed $81,500	81,500
Amount exceeds $81,500 but does not exceed $83,000	83,000
Amount exceeds $83,000 but does not exceed $84,500	84,500
Amount exceeds $84,500 but does not exceed $86,000	86,000
Amount exceeds $86,000 but does not exceed $87,500	87,500
Amount exceeds $87,500 but does not exceed $89,000	89,000

Column 1 **Annual amount, calculated in accordance with section MF 3(2)(a)**	*Column 2* **Annualised equivalent amount for section MF 3(2)(b)**
	$
Amount exceeds $89,000 but does not exceed $90,500	90,500
Amount exceeds $90,500 but does not exceed $92,000	92,000
Amount exceeds $92,000 but does not exceed $93,500	93,500
Amount exceeds $93,500 but does not exceed $95,000	95,000
Amount exceeds $95,000 but does not exceed $96,500	96,500
Amount exceeds $96,500 but does not exceed $98,000	98,000
Amount exceeds $98,000 but does not exceed $99,500	99,500
Amount exceeds $99,500 but does not exceed $101,000	101,000
Amount exceeds $101,000 but does not exceed $102,500	102,500
Amount exceeds $102,500 but does not exceed $104,000	104,000
Amount exceeds $104,000 but does not exceed $105,500	105,500
Amount exceeds $105,500 but does not exceed $107,000	107,000
Amount exceeds $107,000 but does not exceed $108,500	108,500
Amount exceeds $108,500 but does not exceed $110,000	110,000
Amount exceeds $110,000 but does not exceed $111,500	111,500
Amount exceeds $111,500 but does not exceed $113,000	113,000
Amount exceeds $113,000 but does not exceed $114,500	114,500
Amount exceeds $114,500 but does not exceed $116,000	116,000
Amount exceeds $116,000 but does not exceed $117,500	117,500
Amount exceeds $117,500 but does not exceed $119,000	119,000
Amount exceeds $119,000 but does not exceed $120,500	120,500
Amount exceeds $120,500	the number of dollars of the annual amount

Schedule 31: amended, on 1 July 2018, by section 255(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 31: amended, on 1 July 2018, by section 255(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 31: amended, on 1 October 2008, by section 52(a) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Schedule 31: amended, on 1 October 2008, by section 52(b) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Schedule 31: amended, on 1 October 2008, by section 52(c) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Schedule 31: amended, on 1 October 2008, by section 52(d) of the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36).

Schedule 32
Recipients of charitable or other public benefit gifts

ss DB 41, DV 12, LD 3, YA 1

Active Hearts Foundation
ADC Incorporated (Aotearoa Development Cooperative)
Adullam Humanitarian Aid Trust
Adventist Development and Relief Agency
African Enterprise (New Zealand) Aid and Development Fund
Against Malaria Foundation (New Zealand)
Alhay Buhay Foundation Trust
Altus Pacific Aid
Amnesty International
Anglican World Aid (Aotearoa) Limited
Books for Africa
Butterfly Trust
Byond Disaster Relief New Zealand
Cambodia Trust (Aotearoa-New Zealand)
Caritas Aotearoa-New Zealand
Cheboche Area Trust Incorporated
Child Rescue Charitable Aid Trust
Childfund New Zealand Limited
Children of the Light
Christian Blind Mission International (New Zealand)
Christian World Service
Circuit International
Community Transformation Trust
CORSO (Incorporated)
Cotton On Foundation New Zealand Limited
Cry for the World Foundation New Zealand Humanitarian Aid Fund
Cure Kids
Deepavali Charitable Trust
Develop Together
DIPS'N Charitable Trust (International)
Effective Altruism NZ Charitable Trust
Educational Aid for International Development Trust Board

Ekal Vidyalaya Foundation of New Zealand
Emergency Alliance
Engineers Without Borders New Zealand Incorporated
Every Home Global Concern Incorporated
Face Nepal Charitable Trust Board New Zealand
Family for Every Child New Zealand Trust
Firefly Children's Home Charitable Trust
First Steps Himalaya
Flame Cambodia
Flow Foundation
Flying for Life Charitable Trust
Forests for People Limited
Forgotten Sherpas of Nepal
Fountain of Peace Children's Foundation New Zealand
Four Sherpa Trust
Fund for Timor
GC Aid
Global Development Group Limited
Global Hope
Good Trust
Greater Mekong Subregion Tertiary Education Consortium Trust
Habitat for Humanity New Zealand Limited
Hadassah Medical Relief Association of New Zealand
Hagar Humanitarian Aid Trust
Hamlin Charitable Fistula Hospitals Trust
Hands Across the Water New Zealand Trust
Heilala Vanilla Foundation
Himalayan Trust
Hope Foundation Development Trust
Hope International Charitable Trust
Hope Street Charitable Trust
Hornsby Pacific Education Trust
INF Humanitarian Aid Trust
Ingwavuma Orphan Trust Fund of New Zealand
Institute for Indian Mother and Child Aotearoa Charitable Trust

International Christian Aid (ICA)
International Needs Humanitarian Aid Trust
Jasmine Charitable Trust No 2
Joyya Trust
Kailakuri Health Care Project – New Zealand Link
Kapuna Education Charitable Trust
Karunai Illam Trust
Kiwilink
LIFT International
Limbs 4 All Charitable Trust
Little Brothers and Sisters International
Kiwi Trust for Palestinian Children Relief
Marama Global – Education
Marama Global – Health
Médecins Sans Frontières New Zealand Charitable Trust
Medic to Medic
Mercy Mission of New Zealand Trust Board
Mercy Ships New Zealand
Microdreams Foundation New Zealand Humanitarian Trust
Missio Benevolent Society
Mission Without Borders (NZ), Humanitarian Aid Account
Mobility Equipment for the Needs of Disabled Trust
Namibian Educational Trust
New Zealand Disaster Assistance Response Team Trust
New Zealand for UNHCR (United Nations High Commissioner for Refugees)
New Zealand Good Samaritan Heart Mission to Samoa Trust
New Zealand Jesuits in India Trust
New Zealand Memorial Museum Trust — Le Quesnoy
New Zealand Red Cross Incorporated
New Zealand Sports Foundation (Incorporated)
NZ-Iraqi Relief Charitable Trust
New Zealand Viet Nam Health Trust
NPH New Zealand Charitable Trust
Nyingje Trust
Open Home Foundation International Trust

Operation Restore Hope Charitable Trust
Orphans Aid International Charitable Trust
Orphans of Nepal
Oxfam Aotearoa
Pacific Island Food Revolution Limited
Partners Relief & Development - New Zealand
Pasifika Safe Shelter Trust
Plan New Zealand
Prabh Aasra Trust
Project Moroto
“Raphael” (The Ryder-Cheshire Foundations of New Zealand)
Reemi Charitable Trust
Register of Engineers for Disaster Relief New Zealand
ReliefAid
Rescue and Prevent Trust
RNZWCS Limited
Ruel Foundation
Rwenzori Special Needs Foundation (NZ)
Save the Children New Zealand (and its branches)
School Aid: Global Partnerships Through Schools
ShelterBox New Zealand Charitable Trust
Shimshal Trust
Siphala Foundation
Sir Ray Avery Foundation
Solomon Island Medical Mission Charitable Trust
Solomon Outreach Society
So They Can
Sport and Recreation New Zealand
St Columban’s Mission Society Trust Board
St Stanislas Charitable Trust of New Zealand
Support Services for Humanity
Surf Aid International Incorporated
Talalelei Life Futures Fund
Te Tuao Tawahi: Volunteer Service Abroad Incorporated
Tender Trust

The Branch Foundation
The Cambodia Charitable Trust
The Commonwealth Foundation
The Evangelical Alliance Relief Fund (TEAR Fund)
The Fred Hollows Foundation (NZ)
The Hillary Himalayan Foundation
The Hunger Project New Zealand
The Leprosy Mission New Zealand Incorporated
The Limapela Foundation
The Make My Name Count NZ Charitable Trust
The New Zealand Council of the Ramabai Mukti Mission Trust Board
The New Zealand Rotary Clubs Charitable Trust
The New Zealand Society for the Intellectually Handicapped (Incorporated)
The Norman Kirk Memorial Trust Fund
The Pacific Leprosy Foundation
The Palestine Children's Relief Fund Charitable Trust
The Sir Edmund Hillary Trust
The Unions Aotearoa International Development Trust
The United Nations International Children's Emergency Fund (UNICEF)
The Winston Churchill Memorial Trust
Tony McClean Nepal Trust
Toraja Rural Development Charitable Trust
Triyog Himalaya Trust
UN Women Aotearoa New Zealand Incorporated
Valehead Community Health Centre Trust
Water for Survival
Waterharvest Trust
World Vision of New Zealand (Incorporated)
Youth Education and Training Initiatives (YETI) Nepal Trust
YWAM Ships Aotearoa Limited
Zimbabwe Rural Schools Library Trust
Zonta International District 16 (New Zealand) Charitable Trust

Schedule 32 **Active Hearts Foundation**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 139(1) (and see section 139(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 32 **ADC Incorporated (Aotearoa Development Cooperative)**: inserted (with effect on 20 June 2014), on 24 February 2016, by section 240(1) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Adullam Humanitarian Aid Trust**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Against Malaria Foundation (New Zealand)**: inserted, on 29 March 2018 (with effect on 3 July 2008), by section 256(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 32 **Akha Rescue Ministry Charitable Trust**: repealed, on 29 March 2024, by section 124(4)(a) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Altus Pacific Aid**: inserted (with effect on 8 May 2024), on 29 March 2025, by section 148(6) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Altus Resource Trust**: repealed (with effect on 8 May 2024), on 29 March 2025, by section 148(6) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Altus Resource Trust**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 148(2)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Anglican World Aid (Aotearoa) Limited**: inserted (with effect on 11 April 2022), on 31 March 2023, by section 119(8) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Aotearoa Development Cooperative**: repealed (with effect on 1 April 2015), on 24 February 2016, by section 240(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Astha Childrens Home (Nepal/New Zealand)**: repealed, on 29 March 2024, by section 124(4)(b) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Bangladesh Flood Appeal Trust**: repealed, on 29 March 2024, by section 124(4)(c) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Bicycles for Humanity, Auckland**: repealed (with effect on 3 December 2015), on 30 March 2017, by section 297(3) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Books for Cambodia Trust**: repealed, on 30 March 2022, by section 178(5)(a) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Bright Hope International Trust**: repealed, on 6 October 2009, by section 589(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 32 **Butterfly Trust**: inserted (with effect on 1 April 2023), on 28 March 2024, by section 124(2)(a) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Byond Disaster Relief New Zealand**: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 256(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 32 **Cambodia Trust (Aotearoa-New Zealand)**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Channel 2 Cyclone Aid for Samoa**: repealed, on 30 March 2022, by section 178(5)(b) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Child Rescue Charitable Aid Trust**: inserted (with effect on 11 August 2017), on 30 March 2022, by section 178(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Child Rescue Charitable Trust**: repealed (with effect on 11 August 2017), on 30 March 2022, by section 178(2) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Childfund New Zealand Limited**: inserted, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **Children of the Light**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Children on the Edge (NZ) Trust**: repealed (with effect on 28 March 2011), on 24 February 2016, by section 240(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Christian Children's Fund of New Zealand Limited (CCFNZ)**: repealed, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **Circuit International**: inserted (with effect on 10 April 2016), on 18 March 2019, by section 291(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Community Action Overseas (Oxfam NZ)**: repealed (with effect on 25 May 2021), on 29 March 2025, by section 148(7) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Community Transformation Trust**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(a) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Cotton On Foundation Limited**: repealed (with effect on 1 April 2022), on 29 March 2025, by section 148(8) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Cotton On Foundation New Zealand Limited**: inserted (with effect on 1 April 2022), on 29 March 2025, by section 148(8) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Cure Kids**: inserted (with effect on 1 April 2010), on 7 September 2010 (applying for the 2010–11 and later income years), by section 124(1) of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Schedule 32 **Cyclone Ofa Relief Fund**: repealed, on 30 March 2022, by section 178(5)(c) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Cyclone Val Relief Fund**: repealed, on 30 March 2022, by section 178(5)(d) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Deepavali Charitable Trust**: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 168(1)(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 32 **Destiny Rescue Charitable Aid Trust**: repealed, on 29 March 2018 (with effect on 11 August 2017), by section 256(3) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 32 **Develop Together**: inserted (with effect on 1 April 2023), on 28 March 2024, by section 124(2)(b) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Education Aid for International Development Trust Board**: inserted, on 6 October 2009, by section 589(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 32 **Effective Altruism NZ Charitable Trust**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Ekal Vidyalaya Foundation of New Zealand**: inserted (with effect on 1 April 2023), on 28 March 2024, by section 124(2)(c) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Emergency Alliance**: inserted (with effect on 26 October 2023), on 28 March 2024, by section 124(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Engineers Without Borders New Zealand Incorporated**: inserted (with effect on 1 April 2022), on 31 March 2023, by section 119(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Every Home Global Concern Incorporated**: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 149(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Schedule 32 **Face Nepal Charitable Trust Board New Zealand**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Family for Every Child New Zealand Trust**: inserted (with effect on 1 April 2022), on 31 March 2023, by section 119(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Firefly Children's Home Charitable Trust**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(b) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **First Steps Himalaya**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Flame Cambodia**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Flow Foundation**: inserted (with effect on 4 September 2018), on 18 March 2019, by section 291(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Flying for Life Charitable Trust**: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 256(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 32 **Forests for People Limited**: inserted (with effect on 1 April 2022), on 31 March 2023, by section 119(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Forgotten Sherpas of Nepal**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Fountain of Peace Children's Foundation New Zealand**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Fund for Timor**: inserted, (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 105(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Schedule 32 **GC Aid**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Global Development Group Limited**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Global Hope**: inserted, on 6 October 2009, by section 589(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 32 **Good Trust**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Hadassah Medical Relief Association of New Zealand**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(c) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Hagar Humanitarian Aid Trust**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Hamlin Charitable Fistula Hospitals Trust**: inserted, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **Hands Across the Water New Zealand Trust**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(d) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Heilala Vanilla Foundation**: inserted (with effect on 15 January 2022), on 31 March 2023, by section 119(2) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Help a Child Foundation New Zealand**: repealed, on 30 March 2025, by section 148(4)(a) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Himalayan Trust**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Hope Foundation Development Trust**: inserted, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **Hope International Charitable Trust**: inserted, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **Hope Street Charitable Trust**: inserted (with effect on 15 June 2019), on 23 March 2020, by section 189(4)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Hornsby Pacific Education Trust**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **INF Humanitarian Aid Trust**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Ingwavuma Orphan Trust Fund of New Zealand**: inserted, on 6 October 2009, by section 589(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 32 **Institute for Indian Mother and Child Aotearoa Charitable Trust**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(e) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **International Needs Humanitarian Aid Trust**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Jasmine Charitable Trust No 2**: inserted, on 1 April 2012 (applying for the 2012–13 and later tax years), by section 138(1)(a) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 32 **Joyya Trust**: inserted (with effect on 1 April 2022), on 31 March 2023, by section 119(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Kailakuri Health Care Project – New Zealand Link**: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 129(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Schedule 32 **Kapuna Education Charitable Trust**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 148(2)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Kiwilink**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 139(1) (and see section 139(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 32 **Kiwi Trust for Palestinian Children Relief**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 148(2)(c) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Kyrgyzstan New Zealand Rural Trust**: repealed, on 30 March 2022, by section 178(5)(e) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **L Women of Africa Fund**: repealed, on 30 March 2022, by section 178(5)(f) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **LIFT International**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Little Brothers and Sisters International**: inserted (with effect on 1 April 2019), on 23 March 2020, by section 189(2) (and see section 189(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Limbs 4 All Charitable Trust**: inserted, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **Marama Global – Education**: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 129(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Schedule 32 **Marama Global – Health**: inserted, on 1 April 2014 (applying for the 2014–15 and later income years), by section 129(1) of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Schedule 32 **Médecins Sans Frontières New Zealand Charitable Trust**: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 256(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 32 **Medic to Medic**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(f) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Medicine Mondiale**: repealed (with effect on 28 May 2018), on 23 March 2020, by section 189(1)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Mercy Mission of New Zealand Trust Board**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Mercy Ships New Zealand**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Microdreams Foundation New Zealand Humanitarian Trust**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Missio Benevolent Society**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(g) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Namibian Educational Trust**: inserted, on 1 April 2015 (applying for the 2015–16 and later income years), by section 149(1) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39).

Schedule 32 **Nelson Mandela Trust (New Zealand)**: repealed, on 29 March 2024, by section 124(4)(d) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **New Zealand Disaster Assistance Response Team Trust**: inserted, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **New Zealand for UNHCR (United Nations High Commissioner for Refugees)**: inserted (with effect on 15 February 2022), on 31 March 2023, by section 119(4) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **New Zealand Good Samaritan Heart Mission to Samoa Trust**: inserted, on 1 April 2012 (applying for the 2012–13 and later tax years), by section 138(1)(b) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 32 **New Zealand Memorial Museum Trust — Le Quesnoy**: inserted, on 1 April 2025, by section 148(3) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **New Zealand Red Cross Incorporated**: inserted (with effect on 14 December 1993), on 30 March 2017, by section 297(1)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **NPH New Zealand Charitable Trust**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Nyingje Trust**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **NZ-Iraqi Relief Charitable Trust**: inserted, on 1 April 2012 (applying for the 2012–13 and later tax years), by section 138(1)(c) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 32 **OneSight New Zealand**: repealed (with effect on 30 May 2019), on 23 March 2020, by section 189(3) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Operation Hope (Aid Ship to Africa)**: repealed, on 29 March 2024, by section 124(4)(e) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Operation Restore Hope Charitable Trust**: inserted, on 1 April 2008, by section 559 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 32 **Operation Vanuatu Charitable Trust**: repealed, on 30 March 2025, by section 148(4)(b) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Orphans Aid International Charitable Trust**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Orphans of Nepal**: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 168(1)(c) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 32 **Orphans Refugees and Aid (ORA International) of NZ Charitable Trust**: repealed (with effect on 15 June 2019), on 23 March 2020, by section 189(4)(b) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Oxfam Aotearoa**: inserted (with effect on 25 May 2021), on 29 March 2025, by section 148(7) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Pacific Island Food Revolution Limited**: inserted (with effect on 1 April 2022), on 31 March 2023, by section 119(6) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Partners Relief & Development - New Zealand**: inserted (with effect on 1 April 2019), on 23 March 2020, by section 189(2) (and see section 189(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Partners Relief and Development NZ**: repealed (with effect on 10 April 2016), on 18 March 2019, by section 291(3) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Pasifika Safe Shelter Trust**: inserted (with effect on 1 April 2023), on 28 March 2024, by section 124(2)(d) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **Prabh Aasra Trust**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(h) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Project Moroto**: inserted (with effect on 1 April 2019), on 23 March 2020, by section 189(2) (and see section 189(5) for application) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Queen Elizabeth II Diamond Jubilee Trust**: repealed, on 1 April 2014, by section 168(2) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 32 **Reemi Charitable Trust**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(i) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **ReliefAid**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 148(2)(d) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Rescue and Prevent Trust**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 148(2)(e) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **RNZWCS Limited**: inserted, on 1 April 2012 (applying for the 2012–13 and later tax years), by section 138(1)(d) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 32 **Ruel Foundation**: inserted, on 1 April 2012 (applying for the 2012–13 and later tax years), by section 138(1)(e) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 32 **Rwenzori Special Needs Foundation (NZ)**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Sampoerna Foundation Limited**: repealed, on 30 March 2025, by section 148(4)(c) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **School Aid: Global Partnerships Through Schools**: inserted, on 1 April 2013 (applying for the 2013–14 and later income years), by section 168(1)(e) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Schedule 32 **ShelterBox New Zealand Charitable Trust**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **Shimshal Trust**: inserted (with effect on 1 April 2020), on 30 March 2021, by section 139(1) (and see section 139(2) for application) of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 32 **Siphala Foundation**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Sir Ray Avery Foundation**: inserted (with effect on 28 May 2018), on 23 March 2020, by section 189(1)(a) of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 32 **Solomon Island Medical Mission Charitable Trust**: inserted (with effect on 1 April 2022), on 31 March 2023, by section 119(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **Solomon Outreach Society**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **So They Can**: inserted (with effect on 1 April 2015 and applying for the 2015–16 and later income years), on 24 February 2016, by section 240(5) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

Schedule 32 **SpinningTop Trust**: repealed, on 30 March 2025, by section 148(4)(d) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Support Services for Humanity**: inserted (with effect on 1 April 2024), on 29 March 2025, by section 148(2)(f) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **St Columban's Mission Society Trust Board**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Talalelei Life Futures Fund**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(j) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Talkingtech Foundation Trust**: repealed (with effect on 4 September 2018), on 18 March 2019, by section 291(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Talkingtech Foundation Trust**: inserted (with effect on 1 April 2018), on 18 March 2019, by section 291(1) (and see section 291(4) for application) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 32 **Te Tuao Tawahi: Volunteer Service Abroad Incorporated**: inserted, on 21 December 2010, by section 139(1)(a) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Schedule 32 **Tender Trust**: inserted, on 6 October 2009, by section 589(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 32 **The Band Aid Box**: repealed, on 30 March 2022, by section 178(5)(g) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **The Bouganville Library Trust**: repealed, on 29 March 2024, by section 124(4)(f) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **The Branch Foundation**: inserted, on 1 April 2011, by section 139(1)(c) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Schedule 32 **The Cambodia Charitable Trust**: inserted, on 1 April 2012 (applying for the 2012–13 and later tax years), by section 138(1)(f) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 32 **The Destitute Children's Home, Pokhara, Charitable Trust**: repealed (with effect on 1 April 2013), on 30 March 2017, by section 297(2)(a) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **The Food Bank of New Zealand**: repealed, on 30 March 2025, by section 148(4)(e) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **The Hunger Project New Zealand**: inserted, (with effect on 1 April 2013 and applying for the 2013–14 and later income years), on 17 July 2013, by section 105(1) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52).

Schedule 32 **The Limapela Foundation**: inserted (with effect on 1 April 2023), on 28 March 2024, by section 124(2)(e) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **The Make My Name Count NZ Charitable Trust**: inserted (with effect on 1 April 2023), on 28 March 2024, by section 124(2)(f) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **The Mutima Charitable Trust**: repealed, on 29 March 2024, by section 124(4)(g) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 32 **The Palestine Children's Relief Fund Charitable Trust**: inserted, on 6 October 2009, by section 589(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 32 **The Red Cross Society Incorporated**: repealed (with effect on 14 December 1993), on 30 March 2017, by section 297(1)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **The Serious Road Trip Charitable Trust**: repealed, on 30 March 2022, by section 178(5)(h) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **The Sir Walter Nash Vietnam Appeal**: repealed, on 30 March 2022, by section 178(5)(i) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **The Unions Aotearoa International Development Trust**: inserted, on 1 April 2012 (applying for the 2012–13 and later tax years), by section 138(1)(g) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 32 **The Volunteer Service Abroad (Incorporated)**: repealed, on 21 December 2010, by section 139(1)(e) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Schedule 32 **The World Swim for Malaria Foundation (New Zealand)**: repealed, on 29 March 2018 (with effect on 3 July 2008), by section 256(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 32 **Together for Uganda**: repealed, on 30 March 2025, by section 148(4)(f) of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9).

Schedule 32 **Tony McClean Nepal Trust**: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 256(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 32 **Toraja Rural Development Charitable Trust**: inserted (with effect on 1 April 2016 and applying for the 2016–17 and later income years), on 30 March 2017, by section 297(4) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **Triyog Himalaya Trust**: inserted, on 6 October 2009, by section 589(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 32 **UNHCR (United Nations High Commissioner for Refugees)**: repealed, on 1 April 2023, by section 119(5) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5).

Schedule 32 **UN Women Aotearoa New Zealand Incorporated**: inserted (with effect on 4 May 2020), on 30 March 2022, by section 178(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **UN Women National Committee Aotearoa New Zealand Incorporated**: repealed (with effect on 4 May 2020), on 30 March 2022, by section 178(3) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Youth Education and Training Initiatives (YETI) Nepal Trust**: inserted (with effect on 1 April 2013), on 30 March 2017, by section 297(2)(b) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14).

Schedule 32 **YWAM Ships Aotearoa Limited**: inserted (with effect on 1 April 2021), on 30 March 2022, by section 178(4)(k) (and see section 178(6) for application) of the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10).

Schedule 32 **Zimbabwe Rural Schools Library Trust**: inserted, on 29 March 2018 (with effect on 1 April 2017 and applying for the 2017–18 and later income years), by section 256(1) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 33
Default fractions of foreign superannuation withdrawals

s CF 3

Schedule 33: inserted, on 1 April 2014, by section 130 of the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4).

Column 1 schedule year	*Column 2* schedule year fraction (%)
1	4.76
2	9.45
3	14.06
4	18.60
5	23.07
6	27.47
7	31.80
8	36.06
9	40.26
10	44.39
11	48.45
12	52.45
13	56.39
14	60.27
15	64.08
16	67.84
17	71.53
18	75.17
19	78.75
20	82.28
21	85.74
22	89.16
23	92.58
24	95.83
25	99.08

Column 1 schedule year	*Column 2* schedule year fraction (%)
26 or more	100.00

Schedule 34
Community housing trusts and companies: income and assets of beneficiaries and clients

s CW 42B

Schedule 34: inserted (with effect on 14 April 2014), on 24 February 2016, by section 241 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1).

1 Income threshold

(1) The threshold income for an applicant who is not a member of a group of applicants is $85,000.

(2) The threshold income for the members of a group of applicants is $130,000 in total for the group.

Schedule 34 clause 1(1): amended (with effect on 1 August 2016), on 29 September 2016, by regulation 3(2) of the Taxation (Thresholds for Community Housing Entities) Regulations 2016 (LI 2016/220).

Schedule 34 clause 1(2): amended (with effect on 1 August 2016), on 29 September 2016, by regulation 3(3) of the Taxation (Thresholds for Community Housing Entities) Regulations 2016 (LI 2016/220).

2 Threshold asset value

(1) There is no threshold asset value for an applicant who has not been a land owner before applying for assistance from the entity in a proposed purchase.

(2) The threshold asset value for an applicant who has been a land owner before applying for assistance from the entity in a proposed purchase is—

(a) $120,000, if the proposed purchase is of an estate in land in Auckland:

(b) $100,000, if the proposed purchase is of an estate in land in Hamilton City, Tauranga City, Western Bay of Plenty District, Kapiti Coast District, Porirua City, Upper Hutt City, Hutt City, Wellington City, Nelson City, Tasman District, Waimakariri District, Christchurch City, Selwyn District, or Queenstown Lakes District:

(c) $80,000, if the proposed purchase is of an estate in land in a geographical area of New Zealand not listed in paragraphs (a) and (b).

Schedule 34 clause 2(2)(a): amended (with effect on 1 August 2016), on 29 September 2016, by regulation 3(4) of the Taxation (Thresholds for Community Housing Entities) Regulations 2016 (LI 2016/220).

Schedule 34 clause 2(2)(b): amended (with effect on 1 August 2016), on 29 September 2016, by regulation 3(5) of the Taxation (Thresholds for Community Housing Entities) Regulations 2016 (LI 2016/220).

Schedule 34 clause 2(2)(c): amended (with effect on 1 August 2016), on 29 September 2016, by regulation 3(6) of the Taxation (Thresholds for Community Housing Entities) Regulations 2016 (LI 2016/220).

3 Meaning of terms

In this schedule,—

applicant means a person who—

(a) successfully applies for housing or housing assistance from an entity that is a community housing trust or company; or

(b) is 1 of a group of persons that successfully applies for housing or housing assistance from an entity that is a community housing trust or company

application date, for an applicant, means the date on which the person makes an application for housing or housing assistance from an entity that is a community housing trust or company

asset value means the total value of property owned by the applicant, at the application date, that is available to the applicant for the purchase of an estate in land and is—

(a) money in a bank account, including a fixed or term deposit:

(b) a share, stock, or bond:

(c) an investment in a bank or financial institution:

(d) money paid to, or held by, a real estate agent or solicitor as a deposit in the purchase of a home:

(e) a boat or caravan with a value of more than $5,000:

(f) a vehicle not being used as a usual method of transport:

(g) an asset of another type, with a value of more than $5,000

income means an amount, for an applicant and the 12-month period ending with the application date (the **application year**), that is—

(a) if the applicant carries on a business at any time in the application year, the amount that would be the applicant's net income for the application year if the application year were an income year; or

(b) if the applicant does not meet the requirements of paragraph (a), the amount of assessable income derived by the applicant in the application year

land owner means a person who holds an estate in land, whether alone or as a joint tenant or tenant in common, as determined under schedule 1 of the KiwiSaver Act 2006, clause 8(5) and (6).

Schedule 35
Public purpose Crown-controlled companies

ss CW 38B, YA 1

Schedule 35: inserted, on 18 March 2019, by section 292 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

City Rail Link Limited

Crown Infrastructure Partners Limited

Crown Regional Holdings Limited

Education Payroll Limited

New Zealand Green Investment Finance Limited

Ngāpuhi Investment Fund Limited

Rau Paenga Limited

Research and Education Advanced Network New Zealand Limited

Southern Response Earthquake Services Limited

Tāmaki Redevelopment Company Limited

Tāmaki Regeneration Limited

The Network for Learning Limited

Schedule 35 Crown Asset Management Limited: repealed (with effect on 20 October 2022), on 28 March 2024, by section 125(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 35 Crown Regional Holdings Limited: inserted, on 5 August 2021, by clause 3(2) of the Income Tax (Crown Regional Holdings Limited) Order 2021 (LI 2021/178).

Schedule 35 New Zealand Green Investment Finance Limited: inserted, on 31 May 2019, by clause 3 of the Income Tax (New Zealand Green Investment Finance Limited) Order 2019 (LI 2019/119).

Schedule 35 Ngāpuhi Investment Fund Limited: inserted, on 18 December 2020, by clause 3 of the Income Tax (Ngāpuhi Investment Fund Limited) Order 2020 (LI 2020/308).

Schedule 35 Ōtākaro Limited: repealed (with effect on 9 March 2023), on 28 March 2024, by section 125(3) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 35 Provincial Growth Fund Limited: repealed, on 5 August 2021, by clause 3(1) of the Income Tax (Crown Regional Holdings Limited) Order 2021 (LI 2021/178).

Schedule 35 Rau Paenga Limited: inserted (with effect on 9 March 2023), on 28 March 2024, by section 125(4) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Schedule 36
Government enterprises

s YA 1

Schedule 36 heading: replaced, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Part A
State enterprises

Schedule 36 Part A heading: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Agriquality New Zealand Limited

Airways Corporation of New Zealand Limited

Animal Control Products Limited

Asure New Zealand Limited

Electricity Corporation of New Zealand Limited

Government Property Services Limited

Housing New Zealand Build Limited

Housing New Zealand Limited

Kāinga Ora–Homes and Communities

KiwiRail Holdings Limited

Kordia Group Limited

Landcorp Farming Limited

Learning Media Limited

Meteorological Service of New Zealand Limited

New Zealand Post Limited

Quotable Value Limited

Radio New Zealand Limited

Television New Zealand Limited

Transpower New Zealand Limited

Works and Development Services Corporation (NZ)

Schedule 36 Part A Animal Control Products Limited: inserted, on 29 March 2018, by section 257 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 36 Part A Crown Forestry Management Limited: repealed, on 1 December 2015, by section 23 of the Finance Act (No 2) 1988 (1988 No 128).

Schedule 36 Part A Genesis Energy Limited: repealed, on 7 March 2014, by section 10(1) of the State-Owned Enterprises Amendment Act 2012 (2012 No 44).

Schedule 36 Part A Housing New Zealand Build Limited: inserted (with effect on 23 May 2018), on 30 March 2021, by section 140 of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8).

Schedule 36 Part A Housing New Zealand Corporation: repealed (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 36 Part A Kāinga Ora–Homes and Communities: inserted (with effect on 1 October 2019), on 23 March 2020, by section 190 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

Schedule 36 Part A KiwiRail Holdings Limited: inserted, on 31 December 2012, by clause 5 of the State-Owned Enterprises (KiwiRail Holdings Limited) Order 2012 (SR 2012/346).

Schedule 36 Part A Kordia Group Limited: inserted, on 29 March 2018, by section 257 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5).

Schedule 36 Part A Meridian Energy Limited: repealed, on 30 August 2013, by section 10(2) of the State-Owned Enterprises Amendment Act 2012 (2012 No 44).

Schedule 36 Part A Mighty River Power Limited: repealed, on 8 March 2013, by section 10(3) of the State-Owned Enterprises Amendment Act 2012 (2012 No 44).

Schedule 36 Part A Solid Energy of New Zealand Limited: repealed, on 20 December 2019, by section 10(4) of the State-Owned Enterprises Amendment Act 2012 (2012 No 44).

Schedule 36 Part A Terralink NZ Limited: repealed, on 3 June 2017, by section 4(2) of the Statutes Repeal Act 2017 (2017 No 23).

Schedule 36 Part A Timberlands West Coast Limited: repealed, on 1 December 2015, by section 26 of the Finance Act 1991 (1991 No 93).

Part B
Mixed-ownership enterprises

Schedule 36 Part B: inserted, on 30 June 2012, by section 11 of the Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45).

Air New Zealand Limited

Genesis Energy Limited

Meridian Energy Limited

Mighty River Power Limited

Schedule 36 Part B Genesis Energy Limited: inserted, on 7 March 2014, by section 11(1) of the State-Owned Enterprises Amendment Act 2012 (2012 No 44).

Schedule 36 Part B Meridian Energy Limited: inserted, on 30 August 2013, by section 11(2) of the State-Owned Enterprises Amendment Act 2012 (2012 No 44).

Schedule 36 Part B Mighty River Power Limited: inserted, on 8 March 2013, by section 11(3) of the State-Owned Enterprises Amendment Act 2012 (2012 No 44).

Schedule 37
Statutory producer boards

s YA 1

New Zealand Horticulture Export Authority

New Zealand Meat Board

New Zealand Pork Industry Board

Schedule 38
Acts exempting income from tax: income included in family scheme income

s MB 1

Schedule 38: inserted, on 1 April 2011, by section 140 of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

1 Arbitration (International Investment Disputes) Act 1979

2 Consular Privileges and Immunities Act 1971

3 Diplomatic Privileges and Immunities Act 1968

4 International Finance Agreements Act 1961

5 Pitcairn Trials Act 2002

Schedule 39
Items for purposes of definition of special excluded depreciable property

s EE 67

Schedule 39: inserted, on 1 April 2024, by section 126(1) (and see section 126(2) for application) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

Carports (hired out to householders)

Portable huts

Cool-stores and freezing chambers

Slaughterhouses on farms

Fowl houses

Plastic hothouses and PVC tunnel houses

Glasshouses

Buildings affected by acid

Milking sheds

Roofed livestock yards

Wintering barns and simple loafing barns

Milk powder buildings

Temporary buildings

Fish processing buildings

Tannery buildings affected by acid

Schedule 39
Items for purposes of definition of special excluded depreciable property

[Repealed]

s EE 67

Schedule 39: repealed, on 1 April 2020, by section 30(1) (and see section 30(2) for application) of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8).

Schedule 48
Enactments repealed

s ZA 1

Public Acts repealed

Income Tax Act 2004 (2004 No 35)

Regulations revoked

Income Tax (Withholding Payments) Regulations 1979 (SR 1979/259)

Schedule 49
Enactments amended

s ZA 2

Schedule 49: amended (with effect on 1 April 2008), on 6 October 2009, by section 590(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 49: amended (with effect on 1 April 2008), on 6 October 2009, by section 590(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Public Acts

Animal Products Act 1999 (1999 No 93)

Sections 22(1)(c) and 54(3)(a): "section OE 1 or section OE 2 of the Income Tax Act 2004" is replaced by "section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007" in each place where it appears.

Carter Observatory Act 1938 (1938 No 9)

Section 22(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Charities Act 2005 (2005 No 39)

Section 13(2)(a)(i): "section CW 34 of the Income Tax Act 2004" is replaced by "section CW 41 of the Income Tax Act 2007".

Section 13(2)(a)(ii): "section CW 35 of the Income Tax Act 2004" is replaced by "section CW 42 of the Income Tax Act 2007".

Section 13(3): "section CW 34 or section CW 35 of the Income Tax Act 2004" is replaced by "section CW 41 or CW 42 of the Income Tax Act 2007".

Section 20(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Example after section 30(2): "section KC 5 of the Income Tax Act 2004" is replaced by "subpart LD of the Income Tax Act 2007" in each place where it appears.

Section 47(a)(ii): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 73(2): "section KC 5 of the Income Tax Act 2004" is replaced by "subpart LD of the Income Tax Act 2007".

Child Support Act 1991 (1991 No 142)

Section 2, definitions of **employee** and **employer**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 2, definition of **income from employment**: "section OB 1 of the Income Tax Act 2004, and includes a payment made to a specified office holder (as defined in section OB 1 of the Income Tax Act 2004)" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **source deduction payment**: replace by the following:

Child Support Act 1991 (1991 No 142)—*continued*

> **source deduction payment** means a PAYE income payment (as defined in section RD 3 of the Income Tax Act 2007)

Section 2, definition of **withholding income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 14(1)(ea): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 29(1)(b), definitions of **tax year** and **taxable income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 30(5), definitions of **gross married rate of invalid's benefit**, **gross married rate of unemployment benefit**, and **gross single rate of invalid's benefit**: "section NC 6(1D) of the Income Tax Act 2004" is replaced by "section RD 11(3) of the Income Tax Act 2007" in each place where it appears.

Sections 40(3)(ba)(ii), 44(1), 44A(1)(b), and 45(3)(a) to (c): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 55(1)(da): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 77: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 89B, definition of **income**, paragraph (a): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 89B, definition of **income**, paragraph (b): "and the Income Tax Act 2004" is inserted after "Income Tax Act 1994".

Section 90(1)(ca): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 165(1) and (3): "section OB 1 of the Income Tax Act 2004" is replaced by "YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 165(1): "the amount of any tax deduction made therefrom under the PAYE rules of the Income Tax Act 2004" is replaced by "the amount of any tax withheld or deducted under the PAYE rules of the Income Tax Act 2007".

Section 166(2): "the amount of any tax deductions made under the PAYE rules of the Income Tax Act 2004" is replaced by "the amount of any tax withheld under the PAYE rules of the Income Tax Act 2007".

Section 166(3): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 216(5): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Companies Act 1993 (1993 No 105)

Schedule 7, clause 1(5), paragraphs (b) to (d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Companies (Bondholders Incorporation) Act 1934–35 (1934–35 No 39)

Section 37: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Consumer Guarantees Act 1993 (1993 No 91)

Section 5(1)(c)(i): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Co-operative Companies Act 1996 (1996 No 24)

Section 24(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Corporations (Investigation and Management) Act 1989 (1989 No 11)

Sections 71(7) and 71A(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Dairy Industry Restructuring Act 2001 (2001 No 51)

Sections 151(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 152, words before paragraph (a): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 152(c) and (e): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 152(e): "section OB 1" is replaced by "section YA 1".

Section 154(2): "sections OD 3(3) and OD 4(3) of the Income Tax Act 2004" is replaced by "sections YC 4 and YC 5 of the Income Tax Act 2007".

Section 154(3): "sections IF 4 and IF 6 and subpart IG of the Income Tax Act 2004" is replaced by "subpart IE of the Income Tax Act 2007 and the provisions relevant to section IA 6 of that Act".

Section 154(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 155(2) to (4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 156(1), (2), (3) and (6): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 156(3): "section CW 35(5)(b)" is replaced by "section CW 42(5)(b)".

Section 156(3)(a)(i): "section CB 4(1)(g)" is replaced by "section CB 5(1)(g)" in each place where it appears.

Section 156(3)(c): "section CW 43" is replaced by "section CW 51".

Section 157(1) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Disabled Persons Employment Promotion Repeal Act 2007 (2007 No 11)

Section 9: "and section CW 33(1)(d) of the Income Tax Act 2007" is inserted after "Income Tax Act 2004".

Earthquake Commission Act 1993 (1993 No 84)

Section 10(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Education Act 1989 (1989 No 80)

Sections 205(2)(a), 218(2)(a), 219(2)(a), 244(2)(a), 294(2)(a), 298(2)(a), and 300(2)(a): "section IF 1(1)(a) of the Income Tax Act 2004" is replaced by "section IA 5(2) of the Income Tax Act 2007" in each place where it appears.

Sections 205(2)(b), 218(2)(b), 219(2)(b), 244(2)(b), 294(2)(b), 298(2)(b), and 300(2)(b): "section IG 1 of the Income Tax Act 2004" is replaced by "section IA 6 of the Income Tax Act 2007" in each place where it appears.

Sections 205(2)(c), 218(2)(c), 219(2)(c), 244(2)(c), 294(2)(c), 298(2)(c), and 300(2)(c): "section ME 5(1)(i) of the Income Tax Act 2004, or in a taxpayer's dividend withholding payment account under section MG 5(1)(i) of that Act, or in a taxpayer's branch equivalent tax account under section MF 4(3)(d) of that Act" is replaced by "section OB 41 of the Income Tax Act 2007, or in a taxpayer's FDP account under section OC 24 of that Act, or in a taxpayer's branch equivalent tax account under section OE 15 of that Act" in each place where it appears.

Section 307A(1), definition of **tax file number**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Electricity Industry Reform Act 1998 (1998 No 88)

Section 60(d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 63(1): "Section FD 10(9) of the Income Tax Act 2004" is replaced by "Section FM 22 of the Income Tax Act 2007".

Section 66(1) and (2): "sections CB 3 and CB 4 of the Income Tax Act 2004" is replaced by "sections CB 4 and CB 5 of the Income Tax Act 2007" in each place where it appears.

Section 67(1): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Energy Companies Act 1992 (1992 No 56)

Section 54(2), words before paragraph (a): "sections IE 1, IF 1, IG 2(1) and IG 2(2)(e) of the Income Tax Act 2004" is replaced by "section IA 5 of the Income Tax Act 2007".

Section 54(2), words after paragraph (b): "deemed by the Income Tax Act 2004 to hold" is replaced by "treated by the Income Tax Act 2007 as holding".

Section 54(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Energy Companies Act 1992 (1992 No 56)—*continued*

Section 62(2) and (3): "sections IE 1, IF 1, IG 2(1) and IG 2(2)(e) of the Income Tax Act 2004" is replaced by "section IA 5 of the Income Tax Act 2007" in each place where it appears.

Section 62(2): "deemed by the Income Tax Act 2004 to hold" is replaced by "treated by the Income Tax Act 2007 as holding".

Section 62(3): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 62(5): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Energy Resources Levy Act 1976 (1976 No 71)

Section 17(3): "Income Tax Act 2004 or the Tax Administration Act 1994, the provisions of section MH 1 of the Income Tax Act 2004" is replaced by "Income Tax Act 2007 or the Tax Administration Act 1994, the provisions of section RA 7 of the Income Tax Act 2007".

Section 27: "Income Tax Act 2004, section HK 11" is replaced by "Income Tax Act 2007, section HD 15".

Estate and Gift Duties Act 1968 (1968 No 35)

Section 74A: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 74B: "defined in the Income Tax Act 2004" is replaced by "defined in the Income Tax Act 2007".

Section 74B: "Income Tax Act 2004, or would constitute such a dividend but for the application of section CD 19" is replaced by "that Act, or would constitute such a dividend but for the application of section CD 27".

Sections 74C(1): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 74D: "section CD 24B of the Income Tax Act 2004" is replaced by "section CD 34 of the Income Tax Act 2007".

Section 75(1)(b)(ii) and (c)(ii), and (2): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 75(1)(e): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 75B, heading: "**Income Tax Act 2004**" is replaced by "**Income Tax Act 2007**".

Section 75B(1)(a): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 75B(1)(c): "Income Tax Act 2004" is replaced by "that Act".

Fencing of Swimming Pools Act 1987 (1987 No 178)

Section 2, definition of **owner**, paragraph (a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Finance Act 1987 (1987 No 200)

Section 6(2): "Neither of subsection (1) nor subsection (6) of section IF 1 of the Income Tax Act 2004 applies" is replaced by "Sections IA 5 and IZ 5 of the Income Tax Act 2007 do not apply".

Section 6(3): "Income Tax Act 2004, no deduction shall be made under section IG 2(2)" is replaced by "Income Tax Act 2007, no deduction shall be made under section IC 5".

Section 6(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Finance Act 1988 (1988 No 107)

Section 7: "fringe benefit tax (within the meaning of the Income Tax Act 2004)" is replaced by "FBT (within the meaning of the Income Tax Act 2007)".

Finance Act (No 2) 1988 (1988 No 128)

Section 23: replace by the following:

23 Amendment to Income Tax Act 2007

The Income Tax Act 2007 is amended by omitting from schedule 36 the item "Crown Forestry Management Limited".

Finance Act 1991 (1991 No 93)

Section 26: replace by the following:

26 Amendment to Income Tax Act 2007

The Income Tax Act 2007 is amended by omitting from schedule 36 the item "Timberlands West Coast Limited".

Fisheries Act 1996 (1996 No 88)

Section 59(10)(c): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 59(10)(d): "section OD 7 of the Income Tax Act 2004, except that paragraph (e) of the definition of **market value circumstance** in section OB 1" is replaced by "subpart YB of the Income Tax Act 2007 (to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions), except that paragraph (e) of the definition of **market value circumstance** in section YA 1".

Goods and Services Tax Act 1985 (1985 No 141)

Section 2, definition of **hire purchase agreement**: "section OB 1 of the Income Tax Act 2004; but includes an agreement that would be a hire purchase agreement but for

Goods and Services Tax Act 1985 (1985 No 141)—*continued*

the exclusion in paragraph (g)" is replaced by "section YA 1 of the Income Tax Act 2007; but includes an agreement that would be a hire purchase agreement but for the exclusion in paragraph (f)".

Section 2, definitions of **income year**, **New Zealand**, **provisional tax**, **tax file number**, and **tax year**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 2, the definition of **resident**: "sections OE 1 and OE 2(1) of the Income Tax Act 2004" is replaced by "sections YD 1 and YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007".

Section 2A(2), (3)(a) to (c), and (7): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Sections 5(6E)(b)(ii) "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 10(3)(c), (3C), and (3D): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 10(7)(a): "sections CX 18, and ND 1S to ND 1V of the Income Tax Act 2004" is replaced by "sections CX 27, and RD 54 to RD 57 of the Income Tax Act 2007".

Section 10(15C): "section IG 1 of the Income Tax Act 2004" is replaced by "section IA 6 of the Income Tax Act 2007" in each place where it appears.

Section 11A(1)(r): "section IG 1 of the Income Tax Act 2004" is replaced by "section IA 6 of the Income Tax Act 2007".

Section 15B(2): "schedule 13, part A of the Income Tax Act 2004" is replaced by "schedule 3, part A of the Income Tax Act 2007".

Section 15D(4): "Sections MB 26 and MB 27 of the Income Tax Act 2004" is replaced by "Section RC 27 of the Income Tax Act 2007".

Section 15E(3)(b): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 19D(2): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 20A(1), definitions of **taxable income**, **tax year**, and **taxpayer**: "taxpayer have the same meaning as in section OB 1 of the Income Tax Act 2004" is replaced by "**taxpayer** have the same meanings as in section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 21I(1) and (4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 21I(5): "section CW 13 or CW 14 of the Income Tax Act 2004" is replaced by "section CW 17 or CW 18 of the Income Tax Act 2007".

Goods and Services Tax Act 1985 (1985 No 141)—*continued*

Section 23A(1): "sections ND 9, ND 10, ND 13 and ND 14 of the Income Tax Act 2004" is replaced by "sections RA 15, and RD 59 to RD 62 of the Income Tax Act 2007 and sections 46B to 46D of the Tax Administration Act 1994".

Section 23A(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 23A(1) and (2): "fringe benefit tax" is replaced by "FBT" in each place where it appears.

Section 48A(1): "section OB 1 of the Income Tax Act 1994" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 55(1): "section IG 1 of the Income Tax Act 2004" is replaced by "section IA 6 of the Income Tax Act 2007".

Section 61: "Section HK 11 of the Income Tax Act 2004" is replaced by "Section HD 15 of the Income Tax Act 2007".

Section 61A: "Section OB1 of the Income Tax Act 2004" is replaced by "Section YA 1 of the Income Tax Act 2007".

Government Superannuation Fund Act 1956 (1956 No 47)

Section 15D(2): "section HJ 1 of the Income Tax Act 2004" is replaced by "section HR 4 of the Income Tax Act 2007".

Government Superannuation Fund Amendment Act 1990 (1990 No 30)

Section 10(1)(b) and (3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 32(1)(b): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 33(1)(b) and (3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Health and Safety in Employment Act 1992 (1992 No 96)

Section 59(2)(c): "section OB 2(2) of the Income Tax Act 2004" is replaced by "section RD 3(2) to (4) of the Income Tax Act 2007".

Health Sector (Transfers) Act 1993 (1993 No 23)

Section 8(4): "sections CB 5 to CB 21 or EE 37 to EE 44 of the Income Tax Act 2004" is replaced by "sections CB 6 to CB 23 or EE 44 to EE 52 of the Income Tax Act 2007".

Section 8(5): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 8(6): "sections EE 34 to EE 36 of the Income Tax Act 2004" is replaced by "sections EE 41 to EE 43 of the Income Tax Act 2007".

Home Ownership Savings Act 1974 (1974 No 51)

Section 14A(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Home Ownership Savings Act 1974 (1974 No 51)—*continued*

Section 14D(5): "a rebate is allowable under section KG 1(1) of the Income Tax Act 2004" is replaced by "tax credit is allowed under section LZ 9 of the Income Tax Act 2007".

Section 14L(b): "subpart ID of the Income Tax Act 2004" is replaced by "sections RZ 7 to RZ 10 of the Income Tax Act 2007".

Section 14M(1), words before paragraph (a): "subpart ID of the Income Tax Act 2004" is replaced by "sections RZ 7 to RZ 10 of the Income Tax Act 2007".

Hop Industry Restructuring Act 2003 (2003 No 16)

Section 11: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 11(2)(b): "OD 5(5)" is replaced by "YC 10".

Section 11(3): "OB 1" is replaced by "YA 1".

Housing Corporation Act 1974 (1974 No 19)

Section 56(2)(a): "subparagraphs (v) and (vi) of section FE 6(5)(a) and subparagraphs (iv) and (v) of section FE 7(1)(a) of the Income Tax Act 2004" is replaced by "section FO 12(1)(b) and (d) of the Income Tax Act 2007".

Housing Restructuring and Tenancy Matters Act 1992 (1992 No 76)

Section 42(1), definition of **standard tax**: "section NC 8 of the Income Tax Act 2004" is replaced by "section 24B of the Tax Administration Act 1994".

Section 46(2)(c) and (3)(b): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007" in each place where it appears.

Schedule 2, clauses 5, 9(c), and 10(a)(ii): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007" in each place where it appears.

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)

Section 6, definition of **close company**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 6, definition of **employee**, paragraph (a): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 6, definition of **employee**, paragraph (b): "section OB 2(2) of the Income Tax Act 2004" is replaced by "section RD 3(2) to (4) of the Income Tax Act 2007".

Section 6, definition of **employer**, paragraph (a): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—*continued*

Section 6, definition of **employer**, paragraph (a)(ii): "section OB 2(2) of the Income Tax Act 2004" is replaced by "section RD 3(2) to (4) of the Income Tax Act 2007".

Section 6, definition of **employer**, paragraph (b): "paragraph (b)(ix) or (xi) to (xvi) of the definition of salary or wages in section OB 1 of the Income Tax Act 2004" is replaced by "section RD 5(1)(b)(iii), (6)(b), or (c) of the Income Tax Act 2007".

Section 6, after the definition of **partner**: insert the following:

> **PAYE income payment** has the same meaning as in section RD 3(1) of the Income Tax Act 2007

Section 6, definition of **private domestic worker**: "section NC 16 of the Income Tax Act 2004" is replaced by "section RD 4 of the Income Tax Act 2007".

Section 6, definition of **source deduction payment**: omit.

Section 6, definition of **tax year**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 9(1): "source deduction payments" is replaced by "PAYE income payments".

Sections 10(2) and (4)(c): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 11(1)(a): "withholding payment" is replaced by "schedular payment".

Section 11(1)(c): "section GD 3 of the Income Tax Act 2004" is replaced by "sections CD 11, CW 63, DB 58, GB 23, and GB 24 of the Income Tax Act 2007".

Section 11(1)(d): "section GD 5 of the Income Tax Act 2004" is replaced by "section GB 25 of the Income Tax Act 2007".

Section 11(1)(h)(i): after "Income Tax Act 2004" insert "or section DC 2 of the Income Tax Act 2007".

Section 11(1)(h)(ii): after "Income Tax Act 2004" insert "or section DC 3 of the Income Tax Act 2007".

Section 11(1)(h)(iii): "section FF 17 of the Income Tax Act 2004" is replaced by "sections FB 11 and FB 12 of the Income Tax Act 2007".

Section 11(2): "**withholding payment** have the same meanings as in section OB 1 of the Income Tax Act 2004" is replaced by "**schedular payment** have the same meanings as in section YA 1 of the Income Tax Act 2007".

Section 14(2)(a) and (3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 15(2)(a): "source deduction payments" is replaced by "PAYE income payments".

Section 15(2)(b): "source deduction payments under section OB 2(2) of the Income Tax Act 2004" is replaced by "PAYE income payments under section RD 3(2) to (4) of the Income Tax Act 2007".

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—*continued*

Section 99(b): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 169A(1)(a): "section IE 1 of the Income Tax Act 2004" is replaced by "sections IA 1 to IA 4, IA 7(9) and IA 9 of the Income Tax Act 2007".

Section 169A(1)(b): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 169A(1)(b): "section HG 16 of the Income Tax Act 2004" is replaced by "sections HA 20, HA 24, HA 26, HA 27, and IA 7(2) of the Income Tax Act 2007".

Section 193(5)(b): "section MC 1 of the Income Tax Act 2004" is replaced by "section RA 3 of the Income Tax Act 2007".

Section 193(9)(a): "section NC 2(1) of the Income Tax Act 2004" is replaced by "section RD 16 of the Income Tax Act 2007".

Section 193(9)(c): "section OB 2(2) of the Income Tax Act 2004" is replaced by "section RD 3(2) to (4) of the Income Tax Act 2007".

Section 204(1)(b): ""loss attributing qualifying company" (as defined in section OB 1 of the Income Tax Act 2004)" is replaced by "**loss-attributing qualifying company** (as defined in section YA 1 of the Income Tax Act 2007)".

Section 221(3): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 236(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 246(1), (3) and (4): "section OB 2(2) of the Income Tax Act 2004" is replaced by "section RD 3(2) to (4) of the Income Tax Act 2007" in each place where it appears.

Section 316(6): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Schedule 1, clause 30: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Schedule 4, clause 1, words before paragraph (a): "the PAYE rules of the Income Tax Act 2004" is replaced by "the PAYE rules of the Income Tax Act 2007".

Schedule 4, clause 1(a): "source deduction payment (or, as the case may require, salary or wages)" is replaced by "PAYE income payment (or, as the case may require, salary or wages under section RD 5 of the Income Tax Act 2007)".

Schedule 4, clause 1(c): "a tax deduction, which tax deduction" is replaced by "an amount of tax, which amount".

Schedule 4, clause 1(db): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Schedule 4, clause 2: "tax deduction made" is replaced by "amount of tax withheld".

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)—*continued*

Schedule 4, clause 3: "section NC 4 of the Income Tax Act 2004" is replaced by "section RD 6 of the Income Tax Act 2007".

Schedule 4, clause 4(a): "the amount of any tax deduction" is replaced by "any amount of tax".

Schedule 4, clause 4(b): "tax deductions" is replaced by "amounts of tax".

Schedule 4, clause 4(b): "a tax deduction" is replaced by "an amount of tax withheld and".

Schedule 4, clause 5: "section NC 16 of the Income Tax Act 2004" is replaced by "section RD 4 of the Income Tax Act 2007".

Schedule 4, clause 7(b): "section MC 1 of the Income Tax Act 2004" is replaced by "section RA 3 of the Income Tax Act 2007".

Schedule 4, clause 8: "section KC 2 of the Income Tax Act 2004" is replaced by "section LC 3 of the Income Tax Act 2007".

Schedule 4, clause 8: "makes a tax deduction" is replaced by "withholds an amount of tax".

Schedule 4, clause 9: "sections LD 1(2), LD 1(3), NC 2(1), NC 6, NC 7, NC 8, NC 9, NC 13, and NC 14 of the Income Tax Act 2004" is replaced by "sections LA 3, LA 6, RA 2, RD 10, RD 11, RD 16, RD 18 of the Income Tax Act 2007 and sections 24B to 24P of the Tax Administration Act 1994".

Schedule 4, clause 14: "combined tax and earner levy deduction" is replaced by "combined tax and earner-related payment".

Schedule 4, clause 22: is replaced by the following:

(22) For the purposes of this schedule, **combined tax and earner-related payment, Commissioner, employee, employer, income tax, PAYE intermediary, PAYE income payment, salary or wages**, and **shareholder-employee** have the same meanings as in the Income Tax Act 2007.

Insolvency Act 2006 (2006 No 55)

Section 182(1): "section OD 1 of the Income Tax Act 2004" is replaced by "section YC 1 of the Income Tax Act 2007".

Section 274(5)(b) to (d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Insurance Companies Deposits Act 1953 (1953 No 50)

Section 22A, definition of **New Zealand person**: "section OE 1 of the Income Tax Act 2004" is replaced by "section YD 1 of the Income Tax Act 2007".

Investment Advisers (Disclosure) Act 1996 (1996 No 104)

Section 2(3)(a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Kiwifruit Industry Restructuring Act 1999 (1999 No 95)

Section 23(1), (2), (3), (4), and (6): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 23(2)(b): "OD 5(5)" is replaced by "YC 10".

Section 23(3): "OB 1" is replaced by "YA 1".

Section 23(4): "HF 1(9)" is replaced by "HE 3".

KiwiSaver Act 2006 (2006 No 40)

Section 4, definition of **employer monthly schedule**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 4, definition of **employment**: replace by the following:

> **employment** means employment (including the activities referred to in paragraph (a) of the definition of that term in section YA 1 of the Income Tax Act 2007) for which salary or wages is payable
>
> **ESCT rules** has the same meaning as in section YA 1 of the Income Tax Act 2007

Section 4, definition of **pay period**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007)".

Section 4, definition of **PAYE period**: "has the same meaning as in section NC 15(8) of the Income Tax Act 2004" is replaced by "means, as the case may require, the **first payment period** or the **second payment period**, (as those terms are defined in the Income Tax Act 2007)".

Section 4, definition of **PAYE rules**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 4, definition of **remittance certificate**: "has the same meaning as in section OB 1 of the Income Tax Act 2004" is replaced by "means a PAYE payment form as defined in section YA 1 of the Income Tax Act 2007".

Section 4, definition of **salary or wages**: "paragraphs (a) to (c) of the definition of salary or wages in section OB 1 of the Income Tax Act 2004" is replaced by "section RD 5(1)(a) to (c) of the Income Tax Act 2007".

Section 4, definition of **salary or wages**, paragraph (a): "subparagraphs (iv), (v), (viii), (ix), or (xi) of paragraph (b) of that definition" is replaced by "sections RD 5(4), (6)(a) to (c), and RD 68".

Section 4, definition of **salary or wages**, paragraph (b): "section OB 1 of the Income Tax Act 2004" is replaced by "section RD 7 of the Income Tax Act 2007".

Section 4, definition of **SSCWT rules**: repeal.

Section 4, definition of **tax file number**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 6(2)(a): "a New Zealand resident (within the meaning of sections OE 1 and OE 2 of the Income Tax Act 2004)" is replaced by "a New Zealand resident (within

KiwiSaver Act 2006 (2006 No 40)—*continued*

the meaning of sections YD 1 or YD 2 (excluding section YD 2(2) of the Income Tax Act 2007)".

Section 6(2)(b): "carries on a business from a fixed establishment in New Zealand (within the meaning of section OB 1 of the Income Tax Act 2004)" is replaced by "carries on a business from a fixed establishment in New Zealand (within the meaning of section YA 1 of the Income Tax Act 2007)".

Section 12(1)(a) and (2)(a): "casual agricultural worker within the meaning of section OB 1 of the Income Tax Act 2004" is replaced by "casual agricultural worker within the meaning of section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 14(1)(a) and (b): replace by the following:

(a) if the person is an employee only because they are in receipt of payments of salary or wages of a type referred to in any of the following sections in the Income Tax Act 2007:

  (i) section RD 5(1)(b)(iii) (which relates to certain ACC payments):

  (ii) section RD 5(3) (which relates to payments to working partners):

  (iii) section RD 5(7) (which relates to parental leave payments paid under Part 7A of the Parental Leave and Employment Protection Act 1987):

(b) if the new employment is as an election day worker or a private domestic worker as those terms are defined in section YA 1 of the Income Tax Act 2007:

Section 17(5): "section NC 15 of the Income Tax Act 2004" is replaced by "sections RA 5, RA 20, RD 2(3), RD 4(1), and RD 22 of the Income Tax Act 2007 and sections 24J and 24P of the Tax Administration Act 1994".

Section 23(2): "section NC 15 of the Income Tax Act 2004" is replaced by "sections RA 5, RA 20, RD 2(3), RD 4(1), and RD 22 of the Income Tax Act 2007 and sections 24J and 24P of the Tax Administration Act 1994".

Section 26(1)(d): "specified superannuation contribution withholding tax payable under the SSCWT rules" is replaced by "ESCT payable under the ESCT rules".

Section 34(4): "section NC 15 of the Income Tax Act 2004" is replaced by "sections RA 5, RA 20, RD 2(3), RD 4(1), and RD 22 of the Income Tax Act 2007 and sections 24J and 24P of the Tax Administration Act 1994".

Section 63: "section OB 1 of the Income Tax Act 2004) who is acting under subpart NBA of Part N of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007) who is acting under sections RP 1 to RP 16 of that Act".

Section 65(2): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

KiwiSaver Act 2006 (2006 No 40)—*continued*

Section 66(b)(i): "a specified superannuation contribution within the meaning of section OB 1 of the Income Tax Act 2004" is replaced by "an employer's superannuation contribution within the meaning of section YA 1 of the Income Tax Act 2007".

Section 67(1)(b): "tax deductions" is replaced by "amounts of tax withheld".

Section 67(3)(a): "sections BC 1, LD 1, NC 2(1), NC 2(5), NC 6, NC 7, NC 8, NC 8A, NC 9, NC 13, and NC 14 of the Income Tax Act 2004" is replaced by "sections BC 1, LA 6, RA 2, RD 9 to RD 11, RD 16, RD 17, and RD 18 of the Income Tax Act 2007 and sections 24B to 24P of the Tax Administration Act 1994".

Section 67(4): "tax deduction made" is replaced by "amount of tax withheld".

Section 67(5): "tax deductions required to be made" is replaced by "amounts of tax required to be withheld".

Section 69(1)(b): "section NC 15 of the Income Tax Act 2004" is replaced by "section RA 15 of the Income Tax Act 2007".

Section 73(b): "employer monthly schedule delivered under section NC 15 of the Income Tax Act 2004" is replaced by "employer monthly schedule delivered under section RD 4 of the Income Tax Act 2007".

Section 78: "pay the deduction to the Commissioner under section NC 15 of the Income Tax Act 2004" is replaced by "pay the deduction to the Commissioner under section RD 4 of the Income Tax Act 2007".

Section 86, definition of **lowest tax rate**: replace by the following:

> **lowest tax rate** is the tax rate in schedule 1, part A, table 1, row 1, column 2 of the Income Tax Act 2007

Section 91: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 93(1): "a specified superannuation contribution within the meaning of section OB 1 of the Income Tax Act 2004" is replaced by "an employer's superannuation contribution within the meaning of section YA 1 of the Income Tax Act 2007".

Section 93(2): "remittance certificate" is replaced by "PAYE payment form".

Section 93(3): "section NC 15 of the Income Tax Act 2004" is replaced by "section RD 4 of the Income Tax Act 2007".

Section 93(3): "of tax deductions, as if the contribution were a tax deduction" is replaced by "of amounts of tax withheld, as if the contribution were an amount of tax".

Section 93(4): "section NC 15" is replaced by "section RD 4".

Section 96(2): "specified superannuation contribution withholding tax payable under the SSCWT rules" is replaced by "ESCT payable under the ESCT rules".

Section 98(2): "specified superannuation contribution withholding tax payable under the SSCWT rules" is replaced by "ESCT payable under the ESCT rules".

KiwiSaver Act 2006 (2006 No 40)—*continued*

Section 98(3)(a): "combined tax and earner premium deductions (within the meaning of the Income Tax Act 2004)" is replaced by "combined tax and earner-related payments (within the meaning of the Income Tax Act 2007)".

Section 99(2): "specified superannuation contribution withholding tax payable under the SSCWT rules" is replaced by "ESCT payable under the ESCT rules".

Section 144(3)(a): "definition of **settlement** in section OB 1 of the Income Tax Act 2004" is replaced by "definition of **settlement** in section YA 1 of the Income Tax Act 2007".

Section 215(4)(a): "tax deductions payable and specified superannuation contribution withholding tax payable" is replaced by "tax deductions or withholdings payable and ESCT payable".

Section 215(4)(b): "specified superannuation contribution withholding tax" is replaced by "ESCT".

Section 227(a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Legal Services Act 2000 (2000 No 42)

Schedule 1, clause 2(1)(e): "subparts MA to MF and MZ of the Income Tax Act 2007 or" is inserted before "subpart KD of the Income Tax Act 2004".

Local Government Act 1974 (1974 No 66)

Section 707ZZZS(2)(b): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 707ZZZT: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 707ZZZT(b): "sections IG 1 and IG 2" is replaced by "section IA 6".

Local Government Amendment Act 1989 (1989 No 1)

Section 29A: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Local Government Act 2002 (2002 No 84)

Schedule 3, clause 69(6): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Schedule 9, clause 6, heading: "**Income Tax Act 2004**" is replaced by "**Income Tax Act 2007**".

Schedule 9, clause 6(1) and (2): "sections CB 5 to CB 21 of the Income Tax Act 2004" is replaced by "sections CB 6 to CB 23 of the Income Tax Act 2007" in each place where it appears.

Schedule 9, clause 6(3): "sections EE 34(1) to (3) and EZ 11 of the Income Tax Act 2004" is replaced by "sections EE 41(1) to (3) and EZ 12 of the Income Tax Act 2007".

Local Government (Auckland) Amendment Act 2004 (2004 No 57)

Section 30(5): "section YA 1 of the Income Tax Act 2007 and in" is inserted before "section OB 1 of the Income Tax Act 1994".

Maori Reserved Land Amendment Act 1997 (1997 No 101)

Section 22(2): "section CW 28(1)(g) of the Income Tax Act 2004" is replaced by "section CW 34(1)(g) of the Income Tax Act 2007".

Maori Trust Boards Act 1955 (1955 No 37)

Section 24B(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 41A(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Misuse of Drugs Amendment Act 2005 (2005 No 81)

Section 31, definition of **manufacturer**: "section OD 7 of the Income Tax Act 2004" is replaced by "subpart YB of the Income Tax Act 2007 (to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions)".

Motor Vehicle Sales Act 2003 (2003 No 12)

Section 6(1), in the definition of **hire purchase agreement**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

National Provident Fund Restructuring Act 1990 (1990 No 126)

Section 25(1)(c): "section EZ 45 of the Income Tax Act 2004" is replaced by "section EZ 48 of the Income Tax Act 2007".

Section 35(2)(a): "section IF 1(1)(a) of the Income Tax Act 2004" is replaced by "section IA 5(2) of the Income Tax Act 2007".

Section 35(2)(b): "section IG 1 of the Income Tax Act 2004" is replaced by "section IA 6 of the Income Tax Act 2007".

Section 35(2)(c): "dividend withholding payment account, or branch equivalent tax account under section ME 5 or section MF 4 or section MG 5 of the Income Tax Act 2004" is replaced by "FDP account, or branch equivalent tax account under section OA 6(2), (3), or (5), as described in table O2, table O4, or table O8 of the Income Tax Act 2007".

National Provident Fund Restructuring Amendment Act 1997 (1997 No 83)

Schedule 2, clause 8(a): "section IF 1(1)(a) of the Income Tax Act 2004" is replaced by "section IA 5(2) of the Income Tax Act 2007".

Schedule 2, clause 8(b): "section IG 1 of the Income Tax Act 2004" is replaced by "section IA 6 of that Act".

Schedule 2, clause 8(c): "dividend withholding payment account, or branch equivalent tax account under section ME 5 or section MF 4 or section MG 5 of the Income

National Provident Fund Restructuring Amendment Act 1997 (1997 No 83)—*continued*

Tax Act 2004" is replaced by "FDP account, or branch equivalent tax account under section OA 6(2), (3), or (5), as described in table O2, table O4, or table O8 of that Act".

Schedule 2, clause 9(a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

New Zealand Superannuation and Retirement Income Act 2001 (2001 No 84)

Section 5(1), definition of **net cost**: "any tax deduction made or required to be made under the PAYE rules in the Income Tax Act 2004" is replaced by "any amount of tax deducted or withheld, or required to be deducted or withheld under the PAYE rules in the Income Tax Act 2007".

Section 15(1), definition of **standard tax**: "section NC 8 of the Income Tax Act 2004" is replaced by "section 24B of the Tax Administration Act 1994".

Section 43, item **net cost** in formula: "any tax deduction made or required to be made under the PAYE rules in the Income Tax Act 2004" is replaced by "any amount of tax deducted or withheld, or required to be deducted or withheld under the PAYE rules in the Income Tax Act 2007".

Section 76(1) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 76(4): "section ME 1 of the Income Tax Act 2004" is replaced by "section OB 1 of the Income Tax Act 2007".

Schedule 1: "section NC 8 of the Income Tax Act 2004" is replaced by "section 24B of the Tax Administration Act 1994".

New Zealand Tourism Board Act 1991 (1991 No 110)

Schedule 1, clause 21: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Parental Leave and Employment Protection Act 1987 (1987 No 129)

Section 71C, definition of **net income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Perpetuities Act 1964 (1964 No 47)

Section 19(1): "section DC 6 of the Income Tax Act 2004" is replaced by "section DC 7 of that Act".

Section 19(1) and (1A): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 19(1A): "section OB 1" is replaced by "section YA 1".

Petroleum Sector Reform Act 1988 (1988 No 95)

Section 3, heading and provisions: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Port Companies Act 1988 (1988 No 91)

Section 38(4)(a): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Privacy Act 1993 (1993 No 28)

Section 6, principle 12(2): "section OD 7 of the Income Tax Act 2004" is replaced by "subpart YB of the Income Tax Act 2007 (to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions)".

Section 103(1B): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007".

Public Audit Act 2001 (2001 No 10)

Section 43: "sections CW 31 and CW 32 of the Income Tax Act 2004" is replaced by "sections CW 38 and CW 39 of the Income Tax Act 2007".

Public Service Investment Society Management Act (No 2) 1979 (1979 No 9)

Section 2(2): "section OD 1 of the Income Tax Act 2004" is replaced by "section YC 1 of the Income Tax Act 2007".

Radiocommunications Act 1989 (1989 No 148)

Sections 153(2) and 161(2): "section OD 7 of the Income Tax Act 2004" is replaced by "subpart YB of the Income Tax Act 2007 (to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions)" in each place where it appears.

Rates Rebate Act 1973 (1973 No 5)

Section 2(1), definition of **income**, paragraphs (c) and (d)(vi): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 2(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Securities Act 1978 (1978 No 103)

Section 2, definition of **associated persons** or **persons associated with each other**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 2, definition of **convertible note**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **relative**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 5(1)(h): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Sentencing Act 2002 (2002 No 9)

Section 127(1), definition of **hire purchase agreement**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Smoke-free Environments Act 1990 (1990 No 108)

Section 2(1), definition of **manufacturer**: "section OD 7 of the Income Tax Act 2004" is replaced by "subpart YB of the Income Tax Act 2007 (to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions)".

Social Security Act 1964 (1964 No 136)

Section 3(1), definition of **income**, paragraph (f)(xviii): "subparts MA to MF and MZ of the Income Tax Act 2007 or" is inserted before "subpart KD of the Income Tax Act 2004".

Section 3(1), definition of **income tax**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 3(3)(c)(i): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(3)(c)(ii): "section OE 1 or section OE 2(1) of the Income Tax Act 2004" is replaced by "section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007".

Section 11A(10): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 61G(7), definition of **tax credit**: "subparts MA to MF and MZ of the Income Tax Act 2007 or" is inserted before "subpart KD of the Income Tax Act 2004".

Section 70(4): "section CW 23 of the Income Tax Act 2004" is replaced by "section CW 28 of the Income Tax Act 2007".

Section 80B, definition of **income**, paragraph (b): "tax deduction on any of those benefits under the fourth proviso to section NC 6(1) of the Income Tax Act 2004" is replaced by "tax withheld or deducted for any of those benefits under section RD 11(3) of the Income Tax Act 2007".

Section 82A(5): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 83(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 83A(4)(b)(iii): replace by the following:

> (iii) the Income Tax Act 2004, be considered to be income of the person; or
>
> (iv) the Income Tax Act 2007, be considered to be income of the person.

Social Security Act 1964 (1964 No 136)—*continued*

Section 83A(6), definition of **income-tested benefit**: after "Income Tax Act 2004" insert "or section YA 1 of the Income Tax Act 2007".

Section 83A(6), definition of **source deduction payment**: add "and includes a PAYE income payment, as that term is defined in section RD 3 of the Income Tax Act 2007 (if applicable)".

Section 83A(6), definition of **specified provision**, paragraph (d): replace by the following:

(d) section NC 6(1D) of the Income Tax Act 2004; or

(e) section RD 11(3) of the Income Tax Act 2007.

Section 86G(2): "tax deductions that would be required to be made in accordance with the PAYE rules of the Income Tax Act 2004" is replaced by "amount of tax required to be withheld or deducted in accordance with the PAYE rules of the Income Tax Act 2007".

Section 132H(2)(i): "loss-attributing qualifying companies (within the meaning of the Income Tax Act 2004)" is replaced by "loss-attributing qualifying companies (within the meaning of the Income Tax Act 2007)".

Schedule 18, clause 1, definition of **base rate**, paragraphs (b) and (d): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007" in each place where it appears.

Schedule 18, clause 1, definition of **base rate**, paragraphs (e)(ii) and (g)(ii): "subparts MA to MF and MZ of the Income Tax Act 2007 or" is inserted before "subpart KD of the Income Tax Act 2004".

Schedule 22, clause 2: "deducted pursuant to tax code "G" (as specified in section NC 8 of the Income Tax Act 2004)" is replaced by "withheld pursuant to tax code "M" (as specified in section 24B(3) of the Tax Administration Act 1994)".

Stamp and Cheque Duties Act 1971 (1971 No 51)

Section 86F, definition of **approved issuer**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 86F, definition of **interest**: "paragraphs (a) and (c) of the definition of "interest" in section OB 1 of the Income Tax Act 2004" is replaced by "paragraphs (a) and (b) of the definition of **interest** in section YA 1 of the Income Tax Act 2007".

Section 86F, definition of **money lent**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 86F, definition of **paid** and **payment**: "paragraph (c) of the definition of "pay" in section OB 1 of the Income Tax Act 2004" is replaced by "paragraph (c) of the definition of **pay** in section YA 1 of the Income Tax Act 2007".

Section 86I: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Stamp and Cheque Duties Act 1971 (1971 No 51)—*continued*

Section 86L(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

State Insurance Act 1990 (1990 No 36)

Section 13(5): "section MD 2 of the Income Tax Act 2004" is replaced by "sections RM 13 to RM 17 of the Income Tax Act 2007".

Section 13(6): "section ME 5 of the Income Tax Act 2004" is replaced by "section OA 6(2), as described in table O2 of the Income Tax Act 2007".

Section 13(7): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

State-Owned Enterprises Act 1986 (1986 No 124)

Section 10A(2)(c): "Schedule 18 of the Income Tax Act 2004" is replaced by "schedule 36 of the Income Tax Act 2007".

Section 12(2)(d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

State-Owned Enterprises Amendment Act 1996 (1996 No 82)

Section 6, heading and provision: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 6: "Schedule 18" is replaced by "schedule 36".

State-Owned Enterprises (AgriQuality Limited and Asure New Zealand Limited) Act 2007 (2007 No 21)

Section 8(1)(a): "Schedule 18 of the Income Tax Act 2004" is replaced by "Schedule 36 of the Income Tax Act 2006".

State-Owned Enterprises (Meteorological Service of New Zealand Limited and Vehicle Testing New Zealand Limited) Amendment Act 1999 (1999 No 65)

Section 3(9): "Income Tax Act 2004 is amended by omitting from Schedule 18" is replaced by "Income Tax Act 2007 is amended by omitting from schedule 36".

Student Loan Scheme Act 1992 (1992 No 141)

Section 2, definition of **employee**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **employer**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **extra emolument** by: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **gross income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **income-tested benefit**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

Section 2, definition of **net income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **non-resident**: "section OE 1 of the Income Tax Act 2004" is replaced by "section YD 1 of the Income Tax Act 2007".

Section 2, definition of **PAYE intermediary**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **primary employment earnings**: "section OB 1 of the Income Tax Act 2004" is replaced by "section 3(1) of the Tax Administration Act 1994".

Section 2, definition of **resident**: "section OE 1 of the Income Tax Act 2004" is replaced by "section YD 1 of the Income Tax Act 2007".

Section 2, definition of **salary or wages**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 2, definition of **secondary employment earnings**: "section OB 1 of the Income Tax Act 2004" is replaced by "section 3(1) of the Tax Administration Act 1994".

Section 2, definition of **tax year**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 14A(2): "section OE 4 of the Income Tax Act 2004" is replaced by "section YD 4 of the Income Tax Act 2007."

Section 15(5): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007."

Section 16, heading: "**Income Tax Act 2004**" is replaced by "**Income Tax Act 2007**".

Section 16: "section KB 2 and paragraph (b) of the definition of "applicable basic tax rate" in section OB 1 of the Income Tax Act 2004" is replaced by "section LC 10 and paragraph (b) of the definition of **basic tax rate** in section YA 1 of the Income Tax Act 2007".

Section 17(2): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 17B: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 18(2)(b): "section NC 8(1) of the Income Tax Act 2004" is replaced by "section 24B(3) of the Tax Administration Act 1994".

Section 19(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 21(2) and (3): "section NC 14 of the Income Tax Act 2004" is replaced by "section 24F of the Tax Administration Act 1994" in each place where it appears.

Section 25, heading: "**Income Tax Act 2004**" is replaced by "**Income Tax Act 2007**".

Section 25(1): "section OB 1" is replaced by "section YA 1".

Section 25(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

Section 25(1)(b): "tax deductions" is replaced by "withholding or deducting an amount of tax".

Section 25(2): "sections BC 1, LD 1(2) and (3), NC 2(1), NC 6, NC 7, NC 16, and NC 17 of the Income Tax Act 2004" is replaced by "sections BC 1, LD 1(2) and (3), RC 2(1), RC 6, RC 7, RC 16, and RC 17 of the Income Tax Act 2007".

Section 25(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 27(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 28(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 28(2)(b): "provisional taxpayer" is replaced by "provisional taxpayer or a person liable to pay provisional tax".

Section 28(3)(a): "sections MB 2(3) and MB 4(3)(a) of the Income Tax Act 2004 (which determine the amount of provisional tax payable) and section LD 7" is replaced by "sections RC 3 and RC 5(2) of the Income Tax Act 2007 and section LB 2".

Section 28(3)(b): "section MB 4(3)(b) of the Income Tax Act 2004" is replaced by "section RC 5(3) of the Income Tax Act 2007".

Section 28(3)(c): "section MB 7 of the Income Tax Act 2004" is replaced by "section RC 8 of the Income Tax Act 2007".

Section 28(3)(d): "section MB 8(3)(a)(i) and (ii) and (b)(i) of the Income Tax Act 2004 (which provide for exceptions to the requirements of section MB 8(2)" is replaced by "section RC 9(4)(a)(i) and (ii) and (b)(i) of the Income Tax Act 2007 (which provide for exceptions to the requirements of section RC 9(3)".

Section 28(3)(e): "section MB 8(4) of the Income Tax Act 2004" is replaced by "section RC 9(5) of the Income Tax Act 2007".

Section 28(3)(f): "sections MB 10, MB 15, MB 17, MB 18, MB 23, and MB 32 of the Income Tax Act 2004" is replaced by "sections RC 11, RC 16 to RC 19, RC 24, and RC 31 of the Income Tax Act 2007".

Section 30(1): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 38AH(c)(i): "source deduction payment, as defined in section OB 2(1) of the Income Tax Act 2004" is replaced by "PAYE income payment as defined in section RD 3(1) of the Income Tax Act 2007".

Section 44(3), definition of **due date**, paragraphs (a) and (b): "schedule 13 of the Income Tax Act 2004" is replaced by "schedule 3 of the Income Tax Act 2007" in each place where it appears.

Section 44A(3)(a) and (b): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 44A(4)(b): "schedule 13, part A, of the Income Tax Act 2004" is replaced by "schedule 3, part A of the Income Tax Act 2007".

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

Section 55B(4): "Section NC 14 of the Income Tax Act 2004" is replaced by "Section 24F of the Tax Administration Act 1994".

Superannuation Schemes Act 1989 (1989 No 10)

Section 23(1): "section GD 8 of the Income Tax Act 2004" is replaced by "section EY 11 of the Income Tax Act 2007".

Section 30(a): "section GD 8 of the Income Tax Act 2004" is replaced by "section EY 11 of the Income Tax Act 2007".

Takeovers Act 1993 (1993 No 107)

Section 44L, definition of **associated person**, paragraph (a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Tarawera Forest Act 1967 (1967 No 45)

Section 16, heading: "**Income Tax Act 1976**" is replaced by "**Income Tax Act 2007**".

Section 16: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Taxation Review Authorities Act 1994 (1994 No 165)

Section 3(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 17(4), definition of **widely-held company**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Te Arawa Lakes Settlement Act 2006 (2006 No 43)

Section 84(2), definitions of **market value** and **voting interest**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Trustee Companies Management Act 1975 (1975 No 25)

Section 2(2): "section OD 1 of the Income Tax Act 2004" is replaced by "section YC 1 of the Income Tax Act 2007".

Tutae-Ka-Wetoweto Forest Act 2001 (2001 No 48)

Section 10: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Unit Trusts Act 1960 (1960 No 99)

Section 2(1), definition of **unit trust**, paragraph (g): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(4): "section OD 1 of the Income Tax Act 2004" is replaced by "section YC 1 of the Income Tax Act 2007".

Section 6A(b): "section OD 1 of the Income Tax Act 2004" is replaced by "section YC 1 of the Income Tax Act 2007".

Unit Trusts Act 1960 (1960 No 99)—*continued*

Section 6C(b): "section OD 1 of the Income Tax Act 2004" is replaced by "section YC 1 of the Income Tax Act 2007".

War Pensions Act 1954 (1954 No 54)

Section 67(1), definition of **employment income**, paragraph (a)(i): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 67(1), definition of **employment income**, paragraph (a)(ii): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 67(1), definition of **employment income**, paragraph (b): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 74C(1), definition of **standard tax**: "section NC 8 of the Income Tax Act 2004" is replaced by "section 24B of the Tax Administration Act 1994".

Wool Industry Restructuring Act 2003 (2003 No 40)

Section 36(1)(b) and (c): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 36(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 36(2)(b) and (4)(b): "section OD 5(5)" is replaced by "section YC 10".

Section 36(3): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 36(4), (5) and (6): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 37: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 38(1) and (2): "section OC 3 of the Income Tax Act 2004" is replaced by "section CV 5 of the Income Tax Act 2007" in each place where it appears.

Section 39(2) and (3): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Schedule 49 **Goods and Services Tax Act 1985** section 2, definitions of **income year** (and following): item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 49 **Goods and Services Tax Act 1985** section 20A(1): item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 49 **Injury Prevention, Rehabilitation, and Compensation Act 2001** section 6, definition of **private domestic worker**: item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 49 **Injury Prevention, Rehabilitation, and Compensation Act 2001** section 11(1)(h)(iii): item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later

Wool Industry Restructuring Act 2003 (2003 No 40)—*continued*

income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 49 **Insolvency Act 2006** section 274(5)(b) to (d): item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 49 **KiwiSaver Act 2006** section 153(d): item repealed (with effect from 1 November 2007), on 19 December 2007, by section 137 of the Taxation (KiwiSaver) Act 2007 (2007 No 110).

Schedule 49 **National Provident Fund Restructuring Amendment Act 1997** schedule 2, clause 8(c): item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 49 **Te Arawa Lakes Settlement Act 2006** section 84(2): item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Private Acts

ANZ Banking Group (New Zealand) Act 1979 (1979 No 1)

Section 7(4): "section OE 4(1)(m) of the Income Tax Act 2004" is replaced by "section YD 4(11)(a) of the Income Tax Act 2007."

Countrywide Banking Corporation Limited Act 1994 (1994 No 1)

Section 9(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Museum of Transport and Technology Act 2000 (2000 No 1)

Section 19(4): "sections EE 41 to EE 44 of the Income Tax Act 2004" is replaced by "sections EE 48 to EE 52 of the Income Tax Act 2007".

National Bank of New Zealand Limited Act 1994 (1994 No 3)

Section 9(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Public Service Investment Society Limited Act 1998 (1998 No 3)

Section 13(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Southland Flood Relief Committee Empowering Act 1992 (1992 No 1)

Section 8: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Sydenham Money Club Act 2001 (2001 No 2)

Section 18(2) and (3): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Te Runanga O Ngai Tahu Act 1996 (1996 No 1)

Section 30(1)(c): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 31(3)(c): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Tower Corporation Act 1990 (1990 No 2)

Section 26(2)(a): "section IF 1(1)(a) of the Income Tax Act 2004" is replaced by "section IA 5(2) of the Income Tax Act 2007".

Section 26(2)(b): "section IG 1 of the Income Tax Act 2004" is replaced by "section IA 6 of the Income Tax Act 2007".

In section 26(2)(c), replace "FDP account under table O4" by "FDP account under section OA 6(3) as described in table O4", and replace "branch equivalent tax account under table O8" by "branch equivalent tax account under section OA 6(5) as described in table O8".

Section 26(5): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Local Acts

Auckland War Memorial Museum Act 1996 (1996 No 4)

Section 21(4): "sections EE 37 to EE 44 of the Income Tax Act 2004" is replaced by "sections EE 44 to EE 52 of the Income Tax Act 2007".

Section 21(5): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Hawke's Bay Crematorium Act 1944 (1944 No 7)

Section 5(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Hawke's Bay Regional Council (Surplus Funds Distribution) Empowering Act 1999 (1999 No 4)

Section 5(2): "section ME 8 of the Income Tax Act 2004" is replaced by "sections OB 60 and OB 61 of the Income Tax Act 2007".

Selwyn Plantation Board Empowering Act 1992 (1992 No 4)

Section 17, heading: "**Income Tax Act 2004**" is replaced by "**Income Tax Act 2007**".

Section 17(1): "sections CB 5 to CB 21 of the Income Tax Act 2004" is replaced by "sections CB 6 to CB 23 of the Income Tax Act 2007".

Section 17(2), (4), and (5): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Westpac New Zealand Act 2006 (2006 No 3)

Section 4, definition of **Inland Revenue Acts**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 18(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 18(1)(c) and (d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 18(1)(e): "EW 43, and GD 11 of the Income Tax Act 2004" is replaced by "EW 42, and GB 21 of the Income Tax Act 2007".

Westpac New Zealand Act 2006 (2006 No 3)—*continued*

Section 18(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 18(3): "section DB 23 of the Income Tax Act 2004" is replaced by "section DB 31 of the Income Tax Act 2007".

Section 19(1), (2), (3), (6)(c), (7), (8), (9), and (10): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 19(1)(a)(ii): "section DB 41" is replaced by "section DB 50".

Section 19(4): "DB 41 of the Income Tax Act 2004" is replaced by "section DB 50 of the Income Tax Act 2007".

Section 19(7)(b): "sections EE 37 to EE 44" is replaced by "sections EE 44 to EE 49, and EE 51 and EE 52".

Section 19(12): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Schedule 49 **Hawke's Bay Regional Council (Surplus Funds Distribution) Empowering Act 1999** section 5(2): item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Regulations

Animal Products (Regulated Control Scheme—Bivalve Molluscan Shellfish) Regulations 2006 (SR 2006/38)

Regulation 38(1)(b): "section OE 1 or section OE 2 of the Income Tax Act 2004" is replaced by "section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007".

Animal Products (Regulated Control Scheme—Limited Processing Fishing Vessels) Regulations 2001 (SR 2001/334)

Regulation 34(1)(c): "section OE 1 or section OE 2 of the Income Tax Act 2004" is replaced by "section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007".

Cooperative Dairy Companies Income Tax Regulations 1955 (SR 1955/55)

Regulation 2, definition of **available subscribed capital per share**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Regulation 2, definition of **gross income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Cooperative Milk Marketing Companies Income Tax Regulations 1960 (SR 1960/1)

Regulation 2, definition of **available subscribed capital per share**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Regulation 2, definition of **gross income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Cooperative Pig Marketing Companies Income Tax Regulations 1964 (SR 1964/37)

Regulation 2, definition of **available subscribed capital per share**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Regulation 2, definition of **gross income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Financial Reporting Order 1994 (SR 1994/134)

Clause 4, item headed *Depreciation*, paragraph (a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Clause 4, item headed *Specified leases*: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Clause 4, item headed *Specified leases*, paragraph (a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Fishing Industry Board (Dissolution) Regulations 2002 (SR 2002/211)

Regulation 5B(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Forestry Encouragement Grants Regulations 1983 (SR 1983/37)

Regulation 2, definition of **Maori authority**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Schedule 1, clause 3: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Health Entitlement Cards Regulations 1993 (SR 1993/169)

Regulation 2, definition of **family credit income**, paragraph (a): "section KD 1 of the Income Tax Act 2004" is replaced by "subpart MB of the Income Tax Act 2007".

Regulation 2, in the definition of **family credit income**, paragraph (b): ""subpart KD credit" and any "family tax credit" (as those terms are defined in section OB 1 of the Income Tax Act 2004" is replaced by "**family assistance credit** and any **family tax credit** (as that term is defined in section YA 1 of the Income Tax Act 2007".

Regulation 2, definition of **net income**: "net income as defined in section OB 1 of the Income Tax Act 2004" is replaced by "**net income** as defined in section YA 1 of the Income Tax Act 2007".

Regulation 2, definition of **net income**, paragraph (d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Health Entitlement Cards Regulations 1993 (SR 1993/169)—*continued*

Regulation 2, definition of **net income**, paragraph (e)(i): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Regulation 2, definition of **net income**, paragraph (e)(ii): "section OE 1 or section OE 2 of the Income Tax Act 2004" is replaced by "section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007".

Regulation 2, definition of **Part KD credit** is replaced by:

> **family assistance credit** means a credit of tax identified in Part M of the Income Tax Act 2007, excluding any family tax credit

Regulation 2, definition of **tax year**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Regulation 8: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Regulation 8: "subpart KD" is replaced by "subparts MA to MF and MZ" in each place where it appears.

Regulation 8: "subpart KD credit" is replaced by "**family assistance credit**" in each place where it appears.

Income Tax Act (Exempt Unit Trusts) Order 1990 (SR 1990/254)

Clause 2: "section HE 1 of the Income Tax Act 2004" is replaced by "section HD 13 of the Income Tax Act 2007".

Income Tax (Adverse Event Income Equalisation Scheme Rate of Interest) Regulations 1995 (SR 1995/57)

Regulation 2: "section EH 41 of the Income Tax Act 2004" is replaced by "section EH 40 of the Income Tax Act 2007".

Income Tax (Calculation of Interest on Fringe Benefit Tax) Regulations 1993 (SR 1993/144)

Regulation 2, heading and provisions: "fringe benefit tax" is replaced by "FBT" in each place where it appears.

Regulation 2(a): "section ND 13 of the Income Tax Act 2004" is replaced by "section RD 61 of the Income Tax Act 2007".

Regulation 2(b): "section ND 14 of the Income Tax Act 2004" is replaced by "section RD 60 of the Income Tax Act 2007".

Regulation 4: "fringe benefit tax" is replaced by "FBT".

Regulation 5(1) and (2): "section ND 13 of the Income Tax Act 2004" is replaced by "section RD 61 of the Income Tax Act 2007" in each place where it appears.

Regulation 5(1)(a) and (2)(a): "fringe benefit tax" is replaced by "FBT" in each place where it appears.

Income Tax (Calculation of Interest on Fringe Benefit Tax) Regulations 1993 (SR 1993/144)—*continued*

Regulation 6(1), item b: "fringe benefit tax" is replaced by "FBT".

Regulation 6: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Regulation 6: "ND 13" is replaced by "RD 61".

Regulation 6: "ND 14" is replaced by "RD 60" in each place where it appears.

Regulation 7: "fringe benefit tax" is replaced by "FBT".

Income Tax (Cook Islands Development Projects) Order 1986 (SR 1986/27)

In clause 3: "section CW 47 of the Income Tax Act 2004" is replaced by "section CW 59 of the Income Tax Act 2007".

Income Tax (Depreciation Determinations) Regulations 1993 (SR 1993/232)

Regulation 2: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Income Tax (Refund of Excess Tax) Order 2003 (SR 2003/74)

Clause 3, heading: "**section MD 1(1A) of the Income Tax Act 2004**" is replaced by "**section RM 5 of the Income Tax Act 2007**".

Clause 3: "section MD 1(1A) of the Income Tax Act 2004" is replaced by "section RM 5 of the Income Tax Act 2007".

Income Tax (Social Assistance Suspensory Loans) Order 1995 (SR 1995/79)

In clause 2: "sections EW 47 and EZ 35 of the Income Tax Act 2004" is replaced by "sections EW 45 and EZ 38 of the Income Tax Act 2007".

Injury Prevention, Rehabilitation, and Compensation (Earners' Levy) Regulations 2006 (SR 2006/16)

[Repealed]

Injury Prevention, Rehabilitation, and Compensation (Earners' Levy) Regulations 2007 (SR 2007/71)

Regulation 3, definition of **tax year**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Injury Prevention, Rehabilitation, and Compensation (Self-Employed Work Account Levies) Regulations 2006 (SR 2006/62)

[Repealed]

Injury Prevention, Rehabilitation, and Compensation (Work Account Levies) Regulations 2007 (SR 2007/70)

Regulation 3, definition of **tax year**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Parental Leave and Employment Protection Regulations 2002 (SR 2002/98)

Regulation 8(1)(d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Securities Act (Telecom Corporation of New Zealand Limited) Exemption Notice 2001 (SR 2001/286)

Clause 4(1), definition of **control**: "section OD 1(1) of the Income Tax Act 2004" is replaced by "section YC 1(1) of the Income Tax Act 2007".

Social Security (Temporary Additional Support) Regulations 2005 (SR 2005/334)

Regulation 13, **example 1**, item 1 and **example 2**, item 1: "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007".

Schedule 1, clause 3(b): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007".

Schedule 1, clause 3(b)(i): "section KD 6 or section KD 7 of that Act" is replaced by "section 80KI to 80KU of the Tax Administration Act 1994".

Schedule 3, part 1, clause 1(b): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007"

Securities Regulations 1983 (SR 1983/121)

Regulation 2(1), definition of **associated persons** or **persons associated with each other**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Student Allowances Regulations 1998 (SR 1998/277)

Regulation 2(1), definition of **foreign-sourced amount**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Regulation 2(1), definition of **personal income**, paragraph (d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Regulation 2(1), definition of **taxable income**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Regulation 2(1), definition of **tax year**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Superannuation Schemes (Fees) Regulations 1992 (SR 1992/284)

Schedule, part 2, clause 1: "section GD 8 of the Income Tax Act 2004" is replaced by "section EY 11 of the Income Tax Act 2007".

Tax Administration (Binding Rulings) Regulations 1999 (SR 1999/236)

Regulation 3(1A)(a): "section FB 2 of the Income Tax Act 2004" is replaced by "section YD 5 of the Income Tax Act 2007".

Regulation 3(1A)(b): "section GD 13" is replaced by "sections GC 6 to GC 14".

Taxation (Abated Interim Payments of Part KD Credit) Regulations 2002 (SR 2002/52)

Regulation 1: "Subpart KD" is replaced by "subparts MA to MF and MZ".

Regulation 3, heading and subclause (1): "section KD 6(1)(b) of the Income Tax Act 2004" is replaced by "section 80KN(1)(b) of the Tax Administration Act 1994".

Taxation (Australian Wine Equalisation Tax Rebate) Regulations 2006 (SR 2006/105)

Regulation 4, definition of **Australian financial year**: "section CV 4(3) of the Income Tax Act 2004" is replaced by "section CV 8(3) of the Income Tax Act 2007".

Regulation 4, definition of **Australian wine producer rebate**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Taxation Review Authorities Regulations 1998 (SR 1998/460)

Schedule, form 1: "the Income Tax Act 1994, the Income Tax Act 2004" is replaced by "the Income Tax Act 2004, the Income Tax Act 2007".

Taxation (Use of Money Interest Rates) Regulations 1998 (SR 1998/105)

Regulation 1(2)(a): after "2004", insert "or the Income Tax Act 2007".

Taxation (Use of Money Interest Rates Setting Process) Regulations 1997 (SR 1997/7)

Regulation 1(2)(a): after "2004", insert "or the Income Tax Act 2007".

Telecommunications (Information Disclosure) Regulations 1999 (SR 1999/383)

Regulation 2, definition of **subvention payment**: "section IG 1 of the Income Tax Act 2004" is replaced by "sections IA 6 and IC 1 to IC 6 of the Income Tax Act 2007".

Schedule 49 **Injury Prevention, Rehabilitation, and Compensation (Earners' Levy) Regulations 2006**: item repealed, on 1 April 2008, by section 560 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 49 **Injury Prevention, Rehabilitation, and Compensation (Earners' Levy) Regulations 2007**: item inserted, on 1 April 2008, by section 560 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 49 **Injury Prevention, Rehabilitation, and Compensation (Self-Employed Work Account Levies) Regulations 2006**: item repealed, on 1 April 2008, by section 560 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 49 **Injury Prevention, Rehabilitation, and Compensation (Work Account Levies) Regulations 2007**: item inserted, on 1 April 2008, by section 560 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 49 **Taxation (Abated Interim Payments of Part KD Credit) Regulations 2002** regulation 1: item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 50
Amendments to Tax Administration Act 1994

s ZA 2

Tax Administration Act 1994 (1994 No 166)

Section 2

Section 2(4): "the Income Tax Act 2007", is inserted before "the Income Tax Act 2004".

Section 3

Section 3(1), definition of **accounting period**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **activities undertaken as an airport operator**: "**activities as an airport operator** in section OC 1(6) of the Income Tax Act 2004" is replaced by "**airport operator activities** in section HR 7 of the Income Tax Act 2007".

Section 3(1), definition of **assessment**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 3(1), definition of **authorised savings institution**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **base amount**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **basis of exemption**: "has the meaning given by section NF 9(2) of the Income Tax Act 2004" is replaced by "is the basis of exemption referred to in section 32E(2)".

Section 3(1), definition of **certificate of exemption**: repeal.

Section 3(1), definition of **combined tax and earner premium deduction** or **combined tax and earner levy deduction**: replace by the following:

> **combined tax and earner-related payment**—
>
> (a) unless paragraph (b) applies, has the same meaning as in section YA 1 of the Income Tax Act 2007:
>
> (b) is defined in section 167(4) of this Act for the purposes of that section

Section 3(1), definition of **commercial production**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **consideration**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **contract payment**: "regulation 2(1) of the Income Tax (Withholding Payments) Regulations 1979" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3—*continued*

Section 3(1), definition of **co-operative company**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **disposition**: "paragraph (d) of the definition of **dispose** in section OB 1 of the Income Tax Act 2004" is replaced by "paragraph (e) of the definition of **dispose** in section YA 1 of the Income Tax Act 2007".

Section 3(1), after the definition of **disqualifying penalty**: insert the following:

> **dividend treated as interest**, in sections 25 and 51 of this Act, has the same meaning as in section YA 1 of the Income Tax Act 2007

Section 3(1), definition of **employer**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **exploratory well**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **exploratory well expenditure**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **family certificate of entitlement**: "certificate" is replaced by "notice" in each place where it appears.

Section 3(1), definition of **family certificate of entitlement**: "section KD 5 of the Income Tax Act 2004 in respect of the estimated entitlement of that person to a credit of tax allowable under section KD 2 or, as the case may be, sections KD 2 and KD 3 of that Act" is replaced by "section 80KD for the estimated entitlement of the person to a tax credit under the family scheme in subparts MA to MF and MZ of the Income Tax Act 2007".

Section 3(1), definition of **first PAYE period**: replace by the following:

> **first payment period**, in section 47 and 173 of this Act, has the same meaning as in section YA 1 of the Income Tax Act 2007

Section 3(1), definition of **fringe benefit**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 3(1), definition of **gift-exempt body**, paragraph (a): "any of the paragraphs of section KC 5(1) of the Income Tax Act 2004" is replaced by "schedule 32 of the Income Tax Act 2007".

Section 3(1), definition of **gift-exempt body**, paragraph (b): "a certificate of exemption in accordance with section NF 9 of that Act as a result of an application made in which application the basis for exemption claimed is that set out in subsection (1)(i) or subsection (1)(j) of that section" is replaced by "an RWT exemption certificate under section 32E as a result of an application made claiming the basis for exemption set out in section 32E(2)(k) or (l)".

Section 3(1), definition of **gift-exempt body**, paragraph (b): "such a certificate of exemption" is replaced by "the certificate".

Section 3—*continued*

Section 3(1), definition of **government agency**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 3(1), definition of **GST ratio**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **instalment date**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **interest instalment date**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **life insurer**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), after the definition of **life insurer**: insert the following:

> **Maori authority distribution penalty tax** means tax payable under section 140CB

Section 3(1), after the definition of **Minister**: insert the following:

> **new provisional taxpayer** means a person who has an initial provisional tax liability as described in section YA 1 of the Income Tax Act 2007

Section 3(1), definition of **PAYE period**: "has the same meaning as in section NC 15(8) of the Income Tax Act 2004" is replaced by "means **first payment period** or **second payment period**, as applicable".

Section 3(1), definition of **payment**: "paragraph (g) of the definition of **pay** in section OB 1 of the Income Tax Act 2004" is replaced by "paragraph (a) of the definition of **pay** in section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **permit area**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **petroleum mining operations**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **policyholder net loss**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **prescribed**: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 3(1), after the definition of **prescribed**: insert the following:

> **primary employment earnings**, for an employee and for a pay period, means a PAYE income payment that is not a schedular payment or an extra pay, when the payment meets 1 of the following requirements:
>
> (a) the payment is derived by the employee in the pay period from 1 employer:

Section 3—*continued*

(b) the payment is the largest payment derived by the employee in the pay period, if the employee derives payments in the period from 2 or more employers:

(c) the payment is derived in the pay period and is of the same amount as another payment that the employee chooses, if the employee derives payments in the period from 2 or more employers and 2 or more of the payments are of the same amount

Section 3(1), definition of **property**: "paragraph (d) of the definition of that term in section OB 1 of the Income Tax Act 2004" is replaced by "paragraph (b) of the definition of that term in section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **provisional taxpayer**: replace by the following:

provisional taxpayer means a person who is liable to pay provisional tax under section RC 3 of the Income Tax Act 2007

Section 3(1), definition of **qualifying person**: "section 84(6) for the purposes of that section" is replaced by "sections 83(7), 84(6), and 85G(6) for the purposes of those sections".

Section 3(1), definition of **qualifying resident foreign trustee**, paragraph (b)(i): "section OE 1 of the Income Tax Act 2004" is replaced by "section YD 1 of the Income Tax Act 2007".

Section 3(1), definition of **ratio instalment date**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), before the definition of **record**: insert the following:

reconciliation statement means a reconciliation statement under section 49

Section 3(1), definition of **relinquishment**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **resident foreign trustee**, paragraph (b): "section OE 1 or section OE 2 of the Income Tax Act 2004" is replaced by "section YD 1, YD 2, or YD 3 (excluding section YD 2(2)) of the Income Tax Act 2007".

Section 3(1), definition of **residual income tax**, paragraph (b): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), after the definition of **return period**: insert the following:

RWT exemption certificate has the same meaning as in section YA 1 of the Income Tax Act 2007

Section 3(1), definition of **second PAYE period**: replace by the following:

second payment period, in sections 47 and 173(1)(b) of this Act, has the same meaning as in section YA 1 of the Income Tax Act 2007

Section 3—*continued*

secondary employment earnings, for an employee and for a pay period, means a PAYE income payment that—

(a) is derived by the employee in the pay period from an employer; and

(b) is not—

(i) a payment of primary employment earnings; or

(ii) a schedular payment; or

(iii) an extra pay

Section 3(1), definition of **settlement**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(1), definition of **settlor**: "has the same meaning as in paragraphs (a) and (b) of the definition of that term in section OB 1 of the Income Tax Act 2004" is replaced by "is defined in section HC 27 of the Income Tax Act 2007".

Section 3(1), definition of **special account**: repeal.

Section 3(1), after the definition of **shortfall penalty**: insert the following:

special tax code certificate means a special tax code certificate under section 24F

Section 3(1), definition of **specified dividends**: repeal.

Section 3(1), definition of **tax**, paragraphs (a)(iii)(A) and (d)(iii)(A): "a dividend withholding payment" is replaced by "FDP" in each place where it appears.

Section 3(1), definition of **tax**, paragraphs (a)(xi) and (ca)(iii): "rebate" is replaced by "tax credit" in each place where it appears.

Section 3(1), definition of **tax**, paragraph (a)(xiii): "section NBB 6 of the Income Tax Act 2004" is replaced by "section RP 4 of the Income Tax Act 2007".

Section 3(1), definition of **tax**, paragraph (ab): "section CV 4 of the Income Tax Act 2004" is replaced by "section CV 8 of the Income Tax Act 2007".

Section 3(1), definition of **tax**, after paragraph (ca): insert the following:

(cb) for the purposes of sections 156 to 165, includes a combined tax and earner-related payment:

Section 3(1), after the definition of **tax agent**: insert the following:

tax code certificate means a tax code certificate under section 24I(2)

tax code notification means a tax code notification under section 24I(1)

Section 3(1), definition of **tax deduction**: repeal.

Section 3(1), definition of **tax position**, paragraph (h): replace by the following:

(h) the availability of a tax loss component or loss balance, or the use of a tax loss component or loss balance:

Section 3(1), definition of **tax position**, paragraph (j): replace by the following:

Section 3—*continued*

(j) the balance of a tax account or memorandum account of any type or description, or a debit or credit to such an account:

Section 3(1), definition of **tax position**, paragraph (n): "rebate" is replaced by "tax credit".

Section 3(1), definition of **tax position**, paragraph (o): "section NBB 6 of the Income Tax Act 2004" is replaced by "section RP 4 of the Income Tax Act 2007".

Section 3(1), definition of **withdrawal tax**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 3(2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 4A

Section 4A(1)(b)(ii): replace by the following:

(ii) paying, deducting, or withholding, or not paying, not deducting, or not withholding, an amount of tax; or

Section 4A(2)(a) to (bb): replace by the following:

(a) a company is deemed to withhold FDP when a foreign dividend is paid to the company:

(b) an amount of tax is deemed to be withheld when payment is made of the net amount of a PAYE income payment:

(bb) a contribution deduction under the KiwiSaver Act 2006 is deemed to be made when payment is made of the net amount of a PAYE income payment:

Section 4A(2)(c) and (d): "of a deduction" is replaced by "withheld or deducted" in each place where it appears.

Section 4A(3), words before paragraph (a): replace by the following:

(3) References in this Act to tax liabilities for withholding or deducting an amount of tax, or making or accounting for amounts deducted or amounts withheld, under the PAYE rules, to the extent necessary, are also to be construed as including references to liabilities for withholding, deducting, making, or accounting for,—

Section 4A(4), words before paragraph (a): "Where a taxpayer required to provide a return under any of sections NC 15, NF 4, NG 11, and NH 3 of the Income Tax Act 2004" is replaced by "When a taxpayer has an obligation under any of sections RA 5, RA 6, RA 10, RA 15 to RA 19, RD 2, RD 4, RD 22, RE 20, RE 21, RF 13, RG 3, or RG 6 of the Income Tax Act 2007".

Section 4B

Section 4B(1): "section CV 4 of the Income Tax Act 2004" is replaced by "section CV 8 of the Income Tax Act 2007".

Section 14C

Section 14C(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 17

Section 17(1C)(a)(ii): "section OD 7, interpreted as if **relative** had the meaning set out in paragraph (b) of the definition in section OB 1, or OD 8(3) of the Income Tax Act 2004" is replaced by "subpart YB of the Income Tax Act 2007 (to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions), interpreted as if **relative** had the meaning set out in paragraph (b) of the definition in section YA 1, or the rules for the 1988 version provisions of that Act".

Section 22

Section 22(1)(c)(iii) and (iv): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 22(1)(c)(v): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 22(2)(c): "SSCWT rules apply and who makes any specified superannuation contribution" is replaced by "ESCT rules apply and who makes an employer's superannuation contribution".

Section 22(2)(f): replace by the following:

> (f) is a company that is an ICA company, a FDPA company, a BETA company, a BETA person, a PCA company, or a PCA person:

Section 22(2)(j): "foreign withholding payment dividend" is replaced by "foreign dividend".

Section 22(2)(k) and (kb): replace by the following:

> (k) every credit and debit to the person's memorandum accounts (other than a CTR account and an ASC account), and the amount of a credit attached to a dividend or distribution paid by the person:

Section 22(2)(l): "specified superannuation contribution" is replaced by "employer's superannuation contribution" in each place where it appears.

Section 22(2), words after the paragraphs: "(for paragraphs (k) and (kb)) imputation year" is replaced by "(for paragraph (k)) the tax or income year (as applicable)".

Section 22(3) and (6)(b): "deducted" is replaced by "withheld or deducted" in each place where it appears.

Section 22(7)(c): replace by the following:

> (c) accounts (whether contained in a manual, mechanical, or electronic format) to be maintained under the imputation rules, the FDP rules, or section OA 3 for accounts under subparts OE and OJ, and sections OP 97 to OP 108 of the Income Tax Act 2007, and any statement to be retained under section 31 or 71 of this Act:

Section 22A

Section 22A, heading, and subsections (1) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 22B

Section 22B(1): "section EW 46 or EZ 36" is replaced by "section EW 44 or EZ 39 of the Income Tax Act 2007".

Section 24

Section 24(1): replace by the following:

> (1) An employer who makes a PAYE income payment to an employee must keep a proper record relating to the employee, showing the amount of the PAYE income payment before tax and the amount of the tax withheld from it, and must enter those amounts in the record at the time of making the PAYE income payment.

Section 24(2): "source deduction payments, tax deduction certificates, tax code declarations" is replaced by "PAYE income payments, withholding certificates, tax code notifications".

Section 24(2): "Income Tax Act 2004 to deliver to the Commissioner or to any other person the signed tax deduction certificates, tax code declarations" is replaced by "Income Tax Act 2007 to deliver to the Commissioner or to any other person the signed withholding certificates, tax code notifications".

Section 24(2), proviso: "tax code declarations," is replaced by "tax code notifications,".

New sections 24B to 24P

After section 24: insert the following:

PAYE tax codes

24B PAYE tax codes

(1) This section applies for the purposes of the PAYE rules to provide an employee with a tax code for a PAYE income payment. Subsection (2) overrides this subsection.

(2) Subsection (1) does not apply to the following amounts:

- (a) an extra pay:
- (b) a schedular payment:
- (c) a payment of an income-tested benefit.

(3) An employee must notify their employer that their tax code is 1 of the following:

New sections 24B to 24P—*continued*

(a) "M" for primary employment earnings when the employee is not entitled to a tax credit under section LC 4 of the Income Tax Act 2007:

(b) "ML" for primary employment earnings when the employee is entitled to a tax credit under section LC 4 of the Income Tax Act 2007:

(c) "S" for secondary employment earnings for an employee whose annual income is not more than $38,000:

(d) "SH" for secondary employment earnings for an employee whose annual income is more than $38,000 but is not more than $60,000:

(e) "ST" for secondary employment earnings for an employee whose annual income is more than $60,000:

(f) "CAE" for salary or wages for employment as a casual agricultural employee:

(g) "EDW" for salary or wages for employment as an election day worker:

(h) "no notification" when the employee has not provided their employer with a tax code notification or a tax code certificate.

(4) If another Act requires an employer to withhold the amount of tax for a PAYE income payment to an employee and pay the amount to the Commissioner, the tax code may be combined with another code applying under that Act.

Compare: 2004 No 35 s NC 8(1), (1AA)

24C Tax code for payment that includes income-tested benefit

If an employee receives a PAYE income payment of an income-tested benefit and a PAYE income payment that does not consist of an income-tested benefit, the tax code "S" applies to the payment that does not consist of an income-tested benefit.

Compare: 2004 No 35 s NC 8(1) proviso

24D Tax code for parental leave payment

The tax code applying to an employee's parental leave payment under Part 7A of the Parental Leave and Employment Protection Act 1987 is their tax code before the parental leave from their employment started unless the employee provides a further tax code notification.

Compare: 2004 No 35 s NC 8(9A)

24E Tax code for employment as private domestic worker

An employee who wishes to have a tax code for their employment as a private domestic worker may provide their tax code notification to the Commissioner.

Compare: 2004 No 35 s NC 8(12)

New sections 24B to 24P—*continued*

24F Special tax code certificates

(1) The Commissioner may provide an employee with a special tax code certificate, whether because the employee has 2 or more employments, or is entitled to have a net loss carried forward, or wishes to have a reduction applying to the amount of tax withheld under section 24H(1), or for another reason.

(2) The special tax code may—

(a) set out a tax code to apply to a payment of salary or wages to an employee by 1 or more of their employers for a period referred to in the certificate:

(b) require that no amount of tax is withheld from, or a particular rate of tax applies to, a proportion of a PAYE income payment of the employee, as if it were the whole payment.

(3) The Commissioner must calculate, for the PAYE income payments and period referred to in the certificate, and set out in the certificate, the amount of tax for the payments or the rate of tax applying to them, having regard to the amount of tax for the payments that would be required under sections RD 9 to RD 11 of the Income Tax Act 2007.

(4) When an employee provides a special tax code certificate to their employer, the provisions of the certificate override anything in the Income Tax Act 2004 and this Act other than the employee's duties under sections RA 8, RA 10, and RD 4(2) of the Income Tax Act 2007.

(5) An employee's entitlement under subparts MA to MF and MZ of the Income Tax Act 2007 is not taken into account in setting a tax code for a special tax code certificate.

(6) The Commissioner may cancel a special tax code certificate at any time, and on notification of the cancellation, the employee must return the certificate to the Commissioner within a period of 7 days.

Compare: 2004 No 35 s NC 14

24G Use of incorrect tax codes

(1) This section applies when the Commissioner considers that an employer or PAYE intermediary has used an incorrect tax code in relation to a PAYE income payment to an employee.

(2) The Commissioner may notify the employer or PAYE intermediary of the incorrect code and provide the tax code that should apply to the PAYE income payment.

(3) The employer or PAYE intermediary must use the tax code provided by the Commissioner in relation to a PAYE income payment made to the employee after the date of notification. But the tax code does not apply if the employee

New sections 24B to 24P—*continued*

notifies their employer that their circumstances have changed and, as a result, a different tax code should apply.

Compare: 2004 No 35 s NC 12A(1)–(3)

24H When entitlement to use tax code ends

(1) This section applies when an employee is no longer entitled to use a certain tax code.

(2) The tax code does not apply to a PAYE income payment made to the employee after the date on which the entitlement ends, unless the payment is salary or wages for a current pay period.

(3) The employee must notify their employer that their entitlement has ended within the period of 4 days after the date on which they became aware that they are no longer entitled to use the tax code. If the employee provides the notification to the Commissioner, they must notify the Commissioner similarly.

(4) For the purposes of subsection (3), the employee must give the reason why the tax code no longer applies and the date on which entitlement ended.

(5) If the employee provides their employer with a tax code notification or tax code certificate within the period of 7 days after the date on which they become aware that they are no longer entitled to use a tax code, the tax code in the notification or certificate applies from the date on which the entitlement to use the earlier code ends.

(6) When an employee's entitlement to use a certain tax code ends, their employer is not liable for withholding a reduced amount of tax for a payment if they have not received notice that the entitlement has ended.

(7) An employee is not entitled to use the tax code "ML" in a tax year if the employee knows or expects, or should have known or expected, that they will not be entitled to a tax credit under section LC 4 of the Income Tax Act 2007.

Compare: 2004 No 35 ss NC 8(7), (8), NC 9

24I PAYE tax code notification and certificate

(1) An employee who wishes to have the amount of tax for a PAYE income payment reduced may notify their employer of the applicable tax code. This subsection applies separately for each employment situation.

(2) If an employee finds it difficult or impractical to notify their employer as described in subsection (1), they may notify the Commissioner who must then provide a tax code certificate to the employer setting out the applicable tax code. The employee may give the certificate to their employer.

(3) The tax code notified or set out in a tax code certificate applies to a PAYE income payment made to an employee by their employer from—

New sections 24B to 24P—*continued*

(a) the first day of a pay period to which the payment relates up to the date on which the employee is no longer entitled to use the particular tax code if—

(i) the employer has no earlier tax code for the employee; or

(ii) the notification or certificate changes an earlier tax code for the employee and is provided before the date on which the employer calculates their payroll for the period:

(b) the first day of the pay period following that to which the payment relates if the notification or certificate changes an earlier tax code for the employee and is provided after the date on which the employer calculates their payroll for the period.

(4) A tax code notification must provide for an employee's statement of their entitlement under the Immigration Act 1987 to work for their employer.

(5) A tax code notification or tax code certificate delivered to an employer before the start of the tax year but expressed to relate to the tax year, is treated as if it is delivered on 1 April in the tax year.

Compare: 2004 No 35 ss NC 8(2)–(4), (11), NC 8A

PAYE certificates, notification, and applications

24J Proof of payment

(1) An employer or PAYE intermediary who is required to withhold and pay to the Commissioner an amount of tax for a PAYE income payment must provide a PAYE payment form to the Commissioner by the applicable due date set out in section RA 15 of the Income Tax Act 2007.

(2) If the PAYE payment form is not provided electronically, it must be signed by the employer or PAYE intermediary, as applicable.

(3) The Commissioner may release an employer or a class of employers, or a PAYE intermediary or a class of PAYE intermediaries, from the requirement to provide a PAYE payment form if the information is contained in an employer monthly schedule.

Compare: 2004 No 35 s NC 15(1), (2), (2B)

24K Certain information required in returns

(1) This section applies for the purposes of sections RE 23 and RE 24 of the Income Tax Act 2007 when—

(a) an amount of tax for resident passive income paid in a tax year by a company is treated as an FDP credit:

(b) an amount of tax for a taxable Maori authority distribution is treated as a Maori authority credit attached to the distribution.

New sections 24B to 24P—*continued*

(2) The company paying the dividend and withholding the amount of tax under section RA 6(1) of that Act must provide to the Commissioner information in relation to the amount of tax in—

(a) its annual FDPA return under section 71; or

(b) if paragraph (a) does not apply, its annual ICA return under section 69.

(3) For the purposes of subsection (2) and the payment of the dividend, the company must provide to the Commissioner information in relation to the dividend in—

(a) its dividend statement under section 67 if it is an ICA company; or

(b) if paragraph (a) does not apply, a form approved by the Commissioner, containing the information set out in section 67(a) to (c) and (f) and filed no later than 31 May after the end of the tax year.

(4) The Maori authority making the distribution and withholding the amount of tax under section RA 6(1) of the Income Tax Act 2007 must provide to the Commissioner information in relation to the amount of tax in its annual Maori authority credit account return.

(5) For the purposes of subsection (4) and the making of the distribution, the Maori authority must provide to the Commissioner information in relation to the distribution in the distribution statement prepared under section 68B.

Compare: 2004 No 35 ss NF 8(2)–(4), NF 8A

24L Schedular notification

(1) This section applies to a person who is entitled to receive a schedular payment described in section RD 8 of the Income Tax Act 2007.

(2) Before the person receives the schedular payment, they must notify the person making the payment of the applicable schedular tax code.

(3) The notification referred to in subsection (2) must be in a form authorised by the Commissioner.

Compare: 2004 No 35 s NC 7(1)

24M Exemption certificates for schedular payments

(1) The Commissioner may provide a person who is entitled to receive a schedular payment with an exemption certificate setting out the payments for a period for which no amount of tax is to be withheld.

(2) Subsection (1) does not apply to a payment to a non-resident entertainer.

(3) The Commissioner may cancel an exemption certificate at any time.

(4) If the Commissioner cancels an exemption certificate, the person who was provided the certificate must return it within 7 days of the date of cancellation.

New sections 24B to 24P—*continued*

(5) An exemption certificate must not be altered or be used to cause a person making a schedular payment not to withhold an amount of tax for the payment.

Compare: SR 1979/259 regulation 5, Income Tax (Withholding Payments) Regulations

24N Special tax rate certificates for schedular payments

(1) The Commissioner may provide a person who is entitled to receive a schedular payment with a special tax rate certificate setting out the amount of tax for the payment, or the rate applying to the payment or a part of each payment as if it were the whole payment.

(2) Subsection (1) does not apply to a payment to a non-resident entertainer.

(3) The Commissioner may cancel a special tax rate certificate at any time. The Commissioner must give notice of the cancellation.

(4) If the Commissioner cancels a special tax rate certificate, the person who was provided the certificate must return it within 7 days of the date of notification of the cancellation.

(5) A special tax rate certificate must not be altered or be used to cause a person making a schedular payment not to withhold an amount of tax for the payment.

Compare: SR 1979/259 regulation 6A, Income Tax (Withholding Payments) Regulations

24O Certain information required from agricultural, horticultural, or viticultural employers

(1) This section applies when an agricultural, horticultural, or viticultural employer makes a schedular payment for work done or services rendered in a class set out in schedule 4, part C, clause 1(b) of the Income Tax Act 2007.

(2) If the employer is required to provide an employer monthly schedule to the Commissioner for a particular period, and no amount of tax for the payment is required to be made because an exemption certificate or special tax rate certificate has been provided under section 24M or 24N, as applicable, the employer must include in the schedule the information set out in subsection (4).

(3) If the employer is not required to provide an employer monthly schedule for a month, the employer must provide the information set out in subsection (4) in relation to the payment by the 20th day of the month following that in which the payment is made.

(4) The information referred to in subsections (2) and (3) is—

- (a) the name and tax file number of the employer; and
- (b) the name of the person who received the payment; and
- (c) the tax file number of the person who received the payment if the employer has been supplied the number; and
- (d) the gross amount of the payment; and

New sections 24B to 24P—*continued*

(e) the date of the payment; and

(f) the number of an exemption certificate or special tax rate certificate provided to the person who received the payment if the employer has been supplied the number.

Compare: SR 1979/259 regulation 12A, Income Tax (Withholding Payments) Regulations

24P Variation of requirements

The Commissioner may vary the requirements set out in sections 24B, 24H, and 24I for a person or a class of persons.

Compare: 2004 No 35 ss NC 7(3), NC 8(10), NC 15(3)

Section 25

Section 25, heading and subsection (1): replace by the following:

25 RWT withholding certificates

(1) Subsection (1B) applies when a person withholds RWT for resident passive income paid to or derived by any other person that is—

(a) interest; or

(b) a dividend treated as interest; or

(c) a dividend to which section RE 9(2) of the Income Tax Act 2007 applies.

(1B) The person must prepare an RWT withholding certificate that contains the information set out in subsection (6).

Section 25(2), (6)(a), (7), and (9): "resident withholding income" is replaced by "resident passive income" in each place where it appears.

Section 25(2)(a) and (b): "that resident withholding tax deduction certificate" is replaced by "the RWT withholding certificate" in each place where it appears.

Section 25(2), (3), and (10): "a resident withholding tax deduction certificate" is replaced by "an RWT withholding certificate" in each place where it appears.

Section 25(8): "Every resident withholding tax deduction certificate shall" is replaced by "An RWT withholding certificate must".

Section 25(9): "resident withholding tax deduction certificate" is replaced by "RWT withholding certificate".

Section 25(2), (2)(a) and (b), and (9): "(in the case of a deduction of resident withholding tax made in accordance with section NF 3 of the Income Tax Act 2004)" is replaced by "(as applicable)" in each place where it appears.

Section 25(3): "any deduction of resident withholding tax made during that year if the financial arrangement in relation to which the deduction of resident withholding tax was made" is replaced by "RWT withheld during that year for resident passive income that relates to a financial arrangement, if the financial arrangement".

Section 25—*continued*

Section 25(3): "tax deduction certificate" is replaced by "withholding certificate".

Section 25(4)(a): "make any resident withholding tax deductions" is replaced by "withhold RWT".

Section 25(4) and (5): "a valid certificate of exemption" is replaced by "an RWT exemption certificate" in each place where it appears.

Section 25(4) and (5): "any resident withholding tax deduction certificates" is replaced by "an RWT withholding certificate" in each place where it appears.

Section 25(5): "make resident withholding tax deductions" is replaced by "withhold RWT".

Section 25(6) and (6A): replace by the following:

(6) An RWT withholding certificate must include the following:

(a) a statement as to whether the resident passive income is interest, a dividend treated as interest, or a dividend to which section RE 9(2) of the Income Tax Act 2007 applies:

(b) the date on which the RWT was withheld, or if there is more than 1 instance, the year in which the amounts were withheld:

(c) the amount of resident passive income and the amount of RWT withheld:

(d) the basic tax rate that applied to the resident passive income.

(6B) The Commissioner may prescribe a formula for determining the average basic tax rate that is to be applied to resident passive income.

Section 25(7): "a resident withholding tax certificate with respect to any interest from which the person has in any tax year made a deduction of resident withholding tax" is replaced by "an RWT withholding certificate relating to any interest from which the person has in a tax year withheld RWT".

Section 25(7)(b): replace by the following:

(b) the RWT withheld was from resident passive income that is interest, and the amount was required to be withheld by the person under section RE 7 or RE 8 of the Income Tax Act 2007, and the total amount of the resident passive income, being interest, paid by the person in that tax year to the recipient of the interest is no more than $50,—

Section 25(11): replace by the following:

(11) In this section, a dividend that is resident passive income paid by an RWT proxy as described in section RE 3(1)(c) of the Income Tax Act 2007 is treated as being interest.

Section 26

Section 26, heading: "**purposes of resident withholding tax**" is replaced by "**RWT purposes**".

Section 26—*continued*

Section 26(1): "to make payments of resident withholding tax in relation to resident withholding income paid to or derived (in the case of a deduction of resident withholding tax made in accordance with section NF 3 of the Income Tax Act 2004)" is replaced by "to pay RWT for resident passive income paid to or derived (as applicable)".

Section 26(1): "each such amount of resident withholding income" is replaced by "each amount of resident passive income".

Section 26(1)(a) to (d): replace by the following:

(a) the amount of the resident passive income before withholding RWT:

(b) the amount of RWT withheld:

(c) the date on which the RWT was required to be withheld:

(d) the full name and last known address of the recipient of the payment or the person deriving the resident passive income, as applicable:

Section 26(2): "in accordance with the Income Tax Act 2004 to pay resident withholding tax in relation to any amount paid to or derived (in the case of a deduction of resident withholding tax made in accordance with section NF 3 of that Act)" is replaced by "under the Income Tax Act 2007 to pay RWT for an amount of resident passive income paid to or derived (as applicable)".

Section 26(2): "a valid certificate of exemption issued under section NF 9(1)(i) and (j)" is replaced by "an RWT exemption certificate given under section RE 27".

Section 26(2)(a): "a resident withholding tax payment" is replaced by "the payment of RWT".

Section 26(3) and (3)(a): "specified dividends" is replaced by "dividends treated as interest" in each place where it appears.

Section 27

Section 27(1): "resident withholding income in respect of which a resident withholding tax payment is required to be made" is replaced by "resident passive income from which RWT must be withheld".

Section 28

Section 28: replace by the following:

28 Recipient of resident passive income to provide tax file number when RWT not withheld

A person who receives from a payment of resident passive income, that is interest, must provide their tax file number to the payer within 10 working days of receiving a request by notice from the payer, if no requirement to withhold RWT arises because—

Section 28—*continued*

(a) the payment was not made by the payer in the course of, or furtherance of, a taxable activity:

(b) section RE 10 of the Income Tax Act 2007 applies.

Section 29

Section 29(1): "(not being a specified dividend) from which resident withholding tax has been deducted, or a dividend with an imputation credit or a dividend withholding payment credit attached or a conduit tax relief credit attached" is replaced by "(not being a dividend treated as interest) from which RWT has been withheld, or a dividend with an imputation credit, an FDP credit, or a CTR credit attached".

Section 29(1)(d) and (e): replace by the following:

(d) the amount of RWT withheld, if any:

(e) the amount of NRWT withheld, if any:

Section 29(1)(i): "a dividend withholding payment credit" is replaced by "an FDP credit".

Section 29(1)(ia): "conduit tax relief credit" is replaced by "CTR credit".

Section 29(1B): "Australian imputation credit account company" is replaced by "Australian ICA company".

Section 29(1C)(b): "date of the emigration time, if the company is treated under section FCB 2 of the Income Tax Act 2004" is replaced by "time of emigration, if the company is treated under section FL 2 of the Income Tax Act 2007".

Section 30

Section 30, heading and paragraphs (a), (b), and (c): "dividend withholding payment credit" is replaced by "FDP credit" in each place where it appears.

Section 30, words before paragraph (a): "a dividend withholding payment account company" is replaced by "an FDPA company".

Section 30: "a dividend withholding payment credit" is replaced by "an FDP credit".

Section 30, words before paragraph (a): "section MG 6 of the Income Tax Act 2004" is replaced by "section OC 27 of the Income Tax Act 2007".

Section 30A

Section 30A, heading and subsection: "conduit tax relief credit" is replaced by "CTR credit" in each place where it appears.

Section 30A, words before paragraph (a): "conduit tax relief company" is replaced by "CTR company".

Section 30A, words before paragraph (a): "section MI 7 of the Income Tax Act 2004" is replaced by "section OD 20 of the Income Tax Act 2007".

Section 30A—*continued*

Section 30A(b) and (c)(ii): "conduit tax relief additional dividend" is replaced by "CTR additional dividend" in each place where it appears.

Section 30A(b): "section LG 1 of the Income Tax Act 2004" is replaced by "section LQ 5 of the Income Tax Act 2007".

Section 30B

Section 30B(e): "deduction of resident withholding tax" is replaced by "RWT is withheld".

Section 30B(f): "section ME 6B of the Income Tax Act 2004" is replaced by "section OB 64 of the Income Tax Act 2007".

Section 30B(g): "deduction of resident withholding tax" is replaced by "amount of RWT withheld".

Section 30B(g): "section NF 8B of the Income Tax Act 2004" is replaced by "section RE 25 of the Income Tax Act 2007".

Section 30C

Section 30C(2)(b) and (c): "dividend withholding payment credit" is replaced by "FDP credit" in each place where it appears.

Section 31

Section 31(1)(e): "section NF 8B of the Income Tax Act 2004" is replaced by "section RE 24 of the Income Tax Act 2007".

Section 32A

Section 32A(1) and (4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 32A(1): "specified superannuation contributions" is replaced by "employer's superannuation contributions".

Section 32B

Section 32B, heading and subsections (1)(m) and (4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 32B(1)(a), (c), (k), and (l): "specified superannuation contributions" is replaced by "employer's superannuation contributions" in each place where it appears.

Section 32B(1)(b): replace by the following:

> (b) the amount of employer's superannuation contributions for which ESCT has been withheld at the rate specified in schedule 1, part D, clause 1 of the Income Tax Act 2007:

Section 32B(1)(c): "section NE 2A of the Income Tax Act 2004" is replaced by "section RD 68 of the Income Tax Act 2007".

Section 32C

Section 32C(1)(a) and (d), and (4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears. Section 32C(1)(b): "employer contributions to superannuation savings" is replaced by "employer-sourced superannuation savings".

Section 32D

Section 32D, heading and subsection (1): "qualifying unit" is replaced by "public unit" in each place where it appears.

New sections 32E to 32N

After section 32D: insert the following:

Resident passive income

32E Applications for RWT exemption certificates

(1) A person listed in subsection (2) may apply to the Commissioner for an RWT exemption certificate.

(2) The persons are—

- (a) a registered bank:
- (b) a building society:
- (c) the Public Trust or a company that would be a member of the same wholly-owned group of companies as the Public Trust, if it were a company for the purposes of this Act:
- (d) the Maori Trustee:
- (e) a statutory trustee company:
- (eb) a portfolio investment entity:
- (f) a person whose main business is—
  - (i) borrowing money or accepting deposits, or receiving credit or selling a credit instrument; and
  - (ii) lending money or granting credit, or buying or discounting a credit instrument:
- (g) a person that is—
  - (i) a nominee company subject to practice rules made by the Council of the New Zealand Law Society under section 96 of the Lawyers and Conveyancers Act 2006 and operated by a barrister and solicitor or an incorporated law firm; or
  - (ii) a broker's nominee company to which the Securities Act (Contributory Mortgage) Regulations 1988 apply:

New sections 32E to 32N—*continued*

(h) a practitioner within the meaning of the Lawyers and Conveyancers Act 2006 or incorporated firm within the meaning of that Act in relation to the operation of their trust account which is an account maintained under section 112 of that Act:

(i) a person—

(i) who has met their obligation to file a return of income under the Inland Revenue Acts within the time allowed; and

(ii) whose annual gross income for the tax year in which they last filed a return of income is more than $2,000,000:

(j) a person in an accounting year who reasonably believes their annual gross income for the tax year that corresponds to the next accounting year will be more than $2,000,000:

(k) a person who derives in a tax year an amount that is exempt income under sections CW 38(2), CW 39(2), CW 40 to CW 52, and CW 63 of the Income Tax Act 2007 in relation to their activities in the capacity in which they derive the exempt income:

(l) a person to whom section DV 8 of the Income Tax Act 2007 applies and who would, but for that section, have net income of an amount less than the amount set out in the section for their most recently ended accounting year.

(3) The person must apply in writing to the Commissioner, and the application must—

(a) state the basis of exemption under subsection (2); and

(b) include a declaration by the person or an officer authorised by them that they come within the basis of exemption.

(4) The person must provide further information in relation to the application as the Commissioner requires.

Compare: 2004 No 35 s NF 9(1)–(3)

32F Calculation of annual gross income when threshold met

For the purposes of section 32E(2)(i), when the person is part of a group of companies, the person's annual gross income is determined by—

(a) including the total annual gross income in the tax year of other group companies; and

(b) excluding an amount of assessable income derived by the company or another company in the same group from a transaction or series of related or connected transactions with another company in the group.

Compare: 2004 No 35 s NF 9(8), (10)

New sections 32E to 32N—*continued*

32G Evidence of annual gross income and consequences of failure to meet threshold

(1) This section applies when a person's application for an RWT exemption certificate is based on their meeting the requirements in section 32E(2)(j).

(2) The person must provide evidence to satisfy the Commissioner of their annual gross income for the accounting year. They must provide the evidence within the 3-month period after the end of the accounting year.

(3) For the purposes of subsection (2), the Commissioner may require further evidence, and also for the purposes of section 32L.

(4) If the person's annual gross income for the tax year referred to in section 32E(2)(j) is less than $2,000,000, they are liable for late payment penalties in relation to an amount received or derived by them that would have been withheld under the RWT rules, had they not held an RWT exemption certificate. Section 139B applies to the person as if—

(a) they had failed to withhold an amount of tax; and

(b) the default occurred on each day on which they received or derived a payment from which RWT would otherwise have been withheld.

(5) In the calculation of estimated annual gross income of a company that anticipates that it will be part of a group of companies for the tax year referred to in section 32E(2)(j), the estimated annual gross income of all other group companies is included.

(6) Despite subsection (5), in the calculation of the annual gross income of a company for the purposes of this section, an amount of income derived by them or another company in the same group of companies from a transaction or series of related or connected transactions with another company in the group is excluded.

(7) Despite subsections (2) and (4), the Commissioner may provide an RWT exemption certificate to, or allow it to be retained by, a person who does not meet the requirements of section 32E(2)(j) if the Commissioner considers that the failure is solely a consequence of extraordinary circumstances that are—

(a) beyond the person's reasonable control; and

(b) unlikely to be repeated in later accounting years.

(8) For the purposes of subsection (6), the Commissioner may remit some or all of a late payment penalty if the Commissioner considers that the failure is solely a consequence of extraordinary circumstances that the person could not reasonably be expected to have foreseen.

Compare: 2004 No 35 s NF 9(6), (7), (9)–(11)

New sections 32E to 32N—*continued*

32H Providing RWT exemption certificate when person meets requirements

(1) This section applies when the Commissioner has received an application for an RWT exemption certificate from a person who meets the requirements of section 32E.

(2) The Commissioner must provide the certificate to the person, setting out the person's tax file number. The certificate is valid from the starting date set out in the certificate.

(3) The Commissioner may determine that a person's application should have an end date, and this date must be set out in the certificate.

(4) The Commissioner may provide a replacement certificate if an original certificate is lost or destroyed.

Compare: 2004 No 35 s NF 9(4), (5)

32I Providing RWT exemption certificate to person who does not meet requirements

(1) Despite section 32H, the Commissioner may provide an RWT exemption certificate for a period to a person who does not meet the requirements in section 32E(2) if the person—

(a) will, or is likely to, have for the period, total deductions under the Income Tax Act 2007 that are not less than the total amount of assessable income of the person for the period; or

(b) would have, or would likely have, in a part of a tax year that falls in the period, total tax credits under section LB 3 of the Income Tax Act 2007 for resident passive income that are more than the income tax liability of the person for the tax year by an amount not less than $500.

(2) Despite subsection (1), the Commissioner may not provide an RWT exemption certificate to a person unless they have applied in writing as described in section 32E(3), and include in the application a set of budgeted accounts with details, for the period, of the person's projected—

(a) total amount of assessable income:

(b) total deductions:

(c) tax credits for resident passive income:

(d) income tax liability.

(3) For the purposes of subsection (2), the Commissioner may require the person to provide further information.

(4) A certificate provided under this section is cancelled under section 32L at the expiry date set out in the certificate.

New sections 32E to 32N—*continued*

(5) If a person provided with a certificate under this section notifies another person that they hold the certificate, the notification must include a copy of the certificate.

Compare: 2004 No 35 s NF 9(12)–(14)

32J RWT exemption certificates for unincorporated bodies

(1) This section applies when the Commissioner provides an RWT exemption certificate to an unincorporated body under section RE 30 of the Income Tax Act 2007.

(2) The certificate must name the body as the holder. If the body is a trustee, the certificate must name the trust as the holder.

(3) No member of the body can be provided with an RWT exemption certificate in relation to the taxable activity carried on by the body.

(4) For the purposes of the RWT rules, a notice to the body as holder is treated as served on the body and on each member of the body.

Compare: 2004 No 35 s NF 10(1)(a), (d), (3)

32K Failing to meet basis of exemption

(1) This section applies when a holder of an RWT exemption certificate no longer meets the requirements on which their exemption is based.

(2) If the holder becomes aware that they no longer meet the requirements, they must notify the Commissioner within a period of 5 days after the day on which they became aware, and they must deliver the certificate to the Commissioner.

(3) The Commissioner may ask the holder to provide the full name and last known address of all persons to whom they have shown the certificate for the purposes of obtaining an exemption from withholding the amount of tax from a payment of resident passive income. The person must respond to the Commissioner's request within 5 days.

Compare: 2004 No 35 s NF 11(1)

32L Cancellation of RWT exemption certificates

(1) The Commissioner may cancel a person's RWT exemption certificate at any time, and notify any person of the fact of the cancellation, when—

(a) the Commissioner reasonably believes the person no longer meets the requirements on which their exemption is based; or

(b) the person did not meet the requirements on which their exemption was based and obtained the certificate through misleading information; or

(c) the person should not have been provided with the certificate; or

(d) the person's exemption was based on a ground set out in section 32E(2)(i) or (j), and the evidence provided under section 32G—

New sections 32E to 32N—*continued*

(i) shows the person did not meet the threshold; or

(ii) is unsatisfactory; or

(iii) is materially incorrect or misleading; or

(e) the person is liable for income tax that remains unpaid by the due date for payment.

(2) If the Commissioner cancels a certificate under subsection (1), the Commissioner must notify the person who must deliver the certificate to the Commissioner within a period of 5 days after the date of notification. The person must also comply with a request under section 32K(3) if asked by the Commissioner.

(3) Despite subsection (1), if the Commissioner considers that a person referred to in subsection (1)(a) to (d) is a person to whom section 32G applies and who has a further basis of exemption apart from that set out in the certificate, the Commissioner must not cancel the certificate except to provide a substitute certificate that has immediate effect.

(4) A person who receives a notice under subsection (2) must, within a period of 5 days after the date of receipt, notify all persons to whom they have shown the certificate for the purposes of obtaining an exemption under the RWT rules and from whom they expect to receive further payments of resident passive income of the cancellation.

(5) The Commissioner must publish in the *Gazette*—

(a) on or before 30 June in each tax year—

(i) a list of all certificates cancelled in the previous tax year, other than a certificate held by a person before cancellation that was later reissued to the person; and

(ii) a list of all certificates provided during the previous tax year to a person who had previously held a certificate, other than a certificate provided to a person who previously held a certificate that was cancelled; and

(b) in April, July, October, and January (the **month of publication**)—

(i) a list of all certificates cancelled during the 3-month period immediately before the month of publication, other than a certificate held by a person before cancellation that was later reissued to the person in the 3-month period; and

(ii) a list of all certificates provided during the 3-month period immediately before the month of publication to a person who had previously held a certificate, other than a certificate provided to a person who previously in the 3-month period held a certificate that was cancelled.

New sections 32E to 32N—*continued*

(6) The Commissioner may publish a list referred to in subsection (5) by electronic means at any time after the publication referred to in that subsection.

(7) A person who is required to deliver an RWT exemption certificate to the Commissioner must deliver all original certificates provided to them by the Commissioner.

(8) An RWT exemption certificate ceases to be valid on the 5th working day after the date of publication in the *Gazette* referred to in subsection (5). For a person who is notified of a cancellation by the Commissioner or by the previous holder of a certificate, a certificate ceases to be valid after a period of 5 working days from the date of notification.

Compare: 2004 No 35 s NF 11(2)–(9)

Non-resident passive income

32M Persons with approved issuer status

(1) A person who borrows, or has borrowed, or will borrow money, may apply to the Commissioner to have approved issuer status for the purposes of the NRWT rules.

(2) On making an application under subsection (1), the person is an approved issuer from the date of the application unless the Commissioner—

(a) considers that they have been responsible for serious default or neglect in complying with their obligations under the Inland Revenue Acts in the 2-year period leading up to the date of application; and

(b) notifies the person within 20 working days after the date of receiving the application that the application is declined.

(3) The Commissioner may revoke a person's approved issuer status at a particular time if—

(a) the Commissioner considers that the person has been responsible for serious default or neglect in complying with their obligations under the Inland Revenue Acts in the 2-year period leading up to that time; or

(b) the person asks for revocation of the status.

(4) The Commissioner must notify the person of a revocation under subsection (3).

(5) Despite subsection (3), the person continues to have approved issuer status for the purposes of the NRWT rules and Part 6B of the Stamp and Cheque Duties Act 1971 in relation to a payment of interest made after the date of revocation for money lent to the person under a registered security while the person was an approved issuer and before the date of the revocation.

Compare: 2004 No 35 ss NG 5–NG 7

New sections 32E to 32N—*continued*

Foreign dividends

32N Information requirements when payments for foreign dividends reduced

(1) This section applies when a company pays FDP for a foreign dividend, and the amount is reduced under section RG 5(2) of the Income Tax Act 2007 by an amount of foreign withholding tax paid in relation to the dividend.

(2) Before the reduction is made, the company must provide the Commissioner with all the information necessary to determine the amount of the foreign withholding tax.

(3) The company must provide the information within the time allowed by the Commissioner in a case or class of cases, having regard to the period set out in section 78B.

(4) If the company does not provide the information required under this section, the Commissioner may recover an amount equal to the amount of the foreign withholding tax as if it were income tax payable by the company.

Compare: 2004 No 35 ss NH 2(4), NH 3(6)

Section 33

Section 33(1B): "section CW 34 or CW 35 of the Income Tax Act 2004" is replaced by "section CW 41 or CW 42 of the Income Tax Act 2007".

Section 33: add the following:

(4) The nominated company for a consolidated group is treated as a taxpayer for the purposes of this section. A company that is a member of a consolidated group in a tax year must not provide a separate return for a tax year, but this restriction applies only to a tax year, or a part of a tax year, in which the company is part of the group.

Section 33A

Section 33A(1)(b)(iv): replace by the following:

(iv) interest or a dividend that is resident passive income to which section RE 3(1)(c) of the Income Tax Act 2007 applies (other than interest for which an RWT withholding certificate did not have to be prepared under section 25(7)), from which RWT has been withheld at a rate other than that specified in—

(A) schedule 1, part D, table 1, row 3 of the Income Tax Act 2007 if that person's annual gross income is more than $38,000 but not more than $60,000; or

(B) schedule 1, part D, table 1, row 4 or 5 of the Income Tax Act 2007 if that person's annual gross income is more than $60,000; and

Section 33A—*continued*

Section 33A(1)(b)(v)(A): "schedule 19, clause 8(b) of the Income Tax Act 2004" is replaced by "schedule 2, part B, table 1, row 2 of the Income Tax Act 2007".

Section 33A(1)(b)(v)(B): "schedule 19, clause 8(c) of the Income Tax Act 2004" is replaced by "schedule 2, part B, table 1, row 3 of the Income Tax Act 2007".

Section 33A(1)(b)(vi)(A): "schedule 19, clause 5A of the Income Tax Act 2004" is replaced by "schedule 2, part A, clause 5 of the Income Tax Act 2007".

Section 33A(1)(b)(vi)(B): "schedule 19, clause 5B of the Income Tax Act 2004" is replaced by "schedule 2, part A, clause 6 of the Income Tax Act 2007".

Section 33A(1)(b)(x)(B): replace by the following:

> (B) was not resident passive income to which section RE 3(1)(c) of the Income Tax Act 2007 applies; and

Section 33A(1)(c): replace by the following:

> (c) does not receive income from employment from which an amount of tax is withheld or deducted and the amount is determined in whole or in part by a special tax code certificate issued under section 24F; and

Section 33A(1)(d) and (e): "family certificate of entitlement" is replaced by "family notice of entitlement" in each place where it appears.

Section 33A(1)(f): "department for the time being responsible for the administration of the Social Security Act 1964 a subpart KD credit under section KD 2 of the Income Tax Act 2004 for which the amount of family credit abatement under that section is greater than nil" is replaced by "administering department a family assistance credit for which the amount of family credit abatement under section MD 13 of the Income Tax Act 2007 is greater than zero".

Section 33A(2)(cb) to (m): replace by the following:

> (d) received total income of more than $200 that included—
>
> (i) a schedular payment, not being an amount or proportion of a schedular payment for which the Commissioner has made a determination under section RD 8(3) of the Income Tax Act 2007:
>
> (ii) beneficiary income; or
>
> (e) has a tax loss or tax loss component, other than a tax loss component under section LE 2 of the Income Tax Act 2007; or
>
> (f) has a loss balance; or
>
> (g) has carried forward to the income year a tax credit under section LE 3 of the Income Tax Act 2007; or
>
> (h) held an RWT exemption certificate under section 32E at any time in the tax year; or

Section 36

Section 36(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 36A

Section 36A, heading and subsection (2): "remittance certificate" is replaced by "PAYE payment form" in each place where it appears.

Section 36BB

Section 36BB, heading: "under subpart MBA of the Income Tax Act 2004" is replaced by "for tax pooling intermediaries".

Section 36BB: "subpart MBA of the Income Tax Act 2004" is replaced by "sections RP 17 to RP 21 of the Income Tax Act 2007, and sections 15N to 15S".

Section 36BC

Section 36BC, heading and subsection: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 39

Section 39: add the following:

(5) For the tax year corresponding to the income year or years in which the change of balance date occurs, the basic tax rate for the purposes of the Income Tax Act 2007 and this Act is the rate that would apply if the person's taxable income for the tax year were calculated using the formula—

$$365 \div (\text{income year days} \times \text{taxable income}).$$

(6) In the formula,—

(a) **income year days** is the total days in the income year or years that correspond to the tax year:

(b) **taxable income** is the person's taxable income for the tax year.

Section 39B

Section 39B(2)(b): "sections MB 19 to MB 23, as relevant, and schedule 13, part B of the Income Tax Act 2004" is replaced by "sections RC 20 to RC 25, as relevant, and schedule 3, part B of the Income Tax Act 2007".

Section 39B(4)(b): "sections MB 20 to MB 23, as relevant, and schedule 13, part B of the Income Tax Act 2004" is replaced by "sections RC 21 to RC 25, as relevant, and schedule 3, part B of the Income Tax Act 2007".

Section 41

Section 41, heading, and subsections (3)(b) and (4)(a): "subpart KD credit" is replaced by "family assistance credit" in each place where it appears.

Section 41—*continued*

Section 41(1) and (3)(a): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007" in each place where it appears.

Section 41(3)(a): "family certificate of entitlement" is replaced by "family notice of entitlement".

After section 41(5): insert the following:

(6) A person who is eligible for a tax credit under subparts MA to MF and MZ of the Income Tax Act 2007 in an income year, or would be eligible if their spouse, civil union partner, or de facto partner were not a transitional resident, and who would otherwise be a transitional resident in an income year may apply not to be a transitional resident under section HR 8(4) of that Act.

(7) A notice of election under section HR 8(4) must be—

(a) in a form acceptable to the Commissioner; and

(b) be received by the Commissioner on or before the latest of the following:

(i) the date by which section 37 would require the person to provide a return of income for the 2006–07 tax year, if required:

(ii) the date by which section 37 would require the person to provide a return of income for the tax year corresponding to the first income year affected by the election, if required:

(iii) the date allowed by the Commissioner on application.

(8) An application under subsection (7)(b)(iii) for an extension of time to make an election is treated as if it were an application under section 37 in relation to a return of income for the later of the tax years referred to in subsection (7)(b)(i) and (ii).

Section 41A

Section 41A: replace by the following:

41A Returns by persons with tax credits for housekeeping payments and charitable or other public benefit gifts

(1) A person who has a tax credit under section LC 7 or subpart LD of the Income Tax Act 2007 may apply to the Commissioner for 1 or more refunds.

(2) The total amount refunded, including a refund made on an application under subsection (7), must be no more than the annual amount of the tax credits.

(3) The sum of the housekeeping payments under section LC 7 of that Act and charitable or other public benefit gifts under subpart LD of that Act made by a person must be no more than their taxable income in the tax year in which the payment or gift, or both, is made.

Section 41A—*continued*

(4) If subsection (3) applies, the Commissioner must reduce, in equal portions, the total amount of housekeeping payments and charitable or other public benefit gifts so that the total is no more than the person's taxable income in the tax year in which the payment or gift, or both, is made.

(5) An application under subsection (1) must be made in the manner required by the Commissioner, be signed by the person, and be accompanied by any information the Commissioner requires, including—

(a) the amount of a housekeeping payment under section LC 7 of that Act; and

(b) the amount of a charitable or other public benefit gift to which subpart LD of that Act applies.

(6) A taxpayer with a standard balance date or an early balance date may apply for a refund for a tax year after 1 April that follows the end of the taxpayer's income year. A taxpayer with a late balance date may apply for a refund for a tax year on or after the first day of the taxpayer's next accounting year.

(7) Despite subsection (6), the Commissioner may, in special circumstances, accept an application for a refund before the end of the tax year to which the application relates.

(8) For the purpose of subsection (7), special circumstances include—

(a) the person leaving New Zealand, permanently or for a significant length of time:

(b) a trustee of a deceased person's estate wishing to wind up the estate.

(9) Despite subsection (1), the Commissioner must not refund the amount of a tax credit unless the requirements of subsections (2) and (3) are met.

(10) When the Commissioner has considered an application, the Commissioner must notify the person of the amount of the tax credit under section LC 7 or subpart LD of that Act and of the amount of refund allowed.

(11) A tax credit may not be refunded to an absentee, a company, a public authority, a Maori authority, an unincorporated body, or a trustee liable for income tax under sections HC 16, HC 32, or HZ 2 of that Act.

(12) A refund under subsection (1) must be paid as if it were tax paid in excess.

(13) A refund under subsection (1), to the extent to which it is more than the correct amount of refund, is recoverable as an excess tax credit under section 142D.

(14) Part 7 does not apply to a refund or an excess refund made under this section.

(15) Part 9 applies to applications made under this section.

Section 43A

Section 43A(2)(d)(iii) and (6)(b)(i): "dividend withholding payment" is replaced by "FDP" in each place where it appears.

Section 43A—*continued*

Section 43A(4) and (5): "imputation year" is replaced by "tax year" in each place where it appears.

Section 43A(6)(b)(i): "net loss available" is replaced by "loss balance".

Section 43A(6)(b)(iii): "net loss" is replaced by "tax loss or loss balance".

Section 43A(7): "imputation return" is replaced by "annual ICA return".

Section 44A

Section 44A, heading, and subsections (1)(a) to (d) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 44B

Section 44B(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 44C

Section 44C(1): replace by the following:

(1) The question whether trees are ornamental or incidental arises under the following provisions of the Income Tax Act 2007:

(a) section CB 25:

(b) section EB 24:

(c) sections FB 6 and FB 7:

(d) sections GC 1 and GC 2.

Section 44C(3): "section OB 1 of the Income Tax Act 2004 and under schedule 7, part A, item 8 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007 and under schedule 20, part A, item 8 of that Act".

New section 44D

After section 44C: insert the following:

44D Natural product dealer certificate

(1) For the purposes of schedule 4, part H of the Income Tax Act 2007, the Commissioner may issue a natural product dealer certificate to a person who applies in writing.

(2) The certificate may be issued for any period of time, and is revoked when a notice ordering revocation is received by the Commissioner, if the person revokes the certificate, or by the person, if the Commissioner revokes the certificate.

Section 46

Section 46(5)(f): "paid under subpart KD of the Income Tax Act 2004" is replaced by "paid under subparts MA to MF and MZ of the Income Tax Act 2007".

Section 46—*continued*

Section 46(7): "section OB 2(2) of the Income Tax Act 2004, be a source deduction payment" is replaced by "section RD 3(2) to (4) of the Income Tax Act 2007, be a PAYE income payment".

Section 46A

Section 46A(5), definition of **child tax credit**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 46A(5), definition of **weekly compensation**: "paragraph (b)(ix) or (x) of the definition of **salary or wages** in section OB 1 of the Income Tax Act 2004" is replaced by "section RD 5(6)(b) and (7) of the Income Tax Act 2007".

New sections 46B to 46E

After section 46A: insert the following:

Fringe benefits

46B FBT returns for quarters

(1) This section applies to an employer who pays their FBT liability under the single rate option or the alternate rate option. The employer chooses the relevant option by providing a return stipulating the selected rate.

(2) For each quarter of a tax year, the employer must provide a return that—

(a) sets out the details of the fringe benefits received by each of their employees in the quarter; and

(b) includes a calculation of the amount of FBT payable on the taxable value of the fringe benefits in the quarter.

(3) The returns must be provided, and the employer is liable to pay the amount of FBT, by the following dates:

(a) for a return for each of the first 3 quarters of a tax year, 20 days after the end of the quarter:

(b) for a return for the final quarter of a tax year, 31 May after the end of the quarter, unless subsection (4)(a) applies.

(4) If an employer chooses to pay FBT under sections RD 50 and RD 53 of the Income Tax Act 2007, and the result of the calculation is—

(a) a negative number, the employer is entitled to a refund of the overpayment:

(b) a positive number, the employer must pay the difference.

(5) If no fringe benefit has been provided during a quarter, the employer must still provide a return under subsection (3). However, the Commissioner may relieve an employer of this obligation.

New sections 46B to 46E—*continued*

(6) If an employer stops employing staff in a tax year as described in section RD 63 of that Act, they must provide a return within 2 months after the end of the quarter in which the employment ceased. For this purpose, subsections (3) and (4), and paragraph (d) of the definition of **date interest starts** apply to the employer.

Compare: 2004 No 35 ss ND 2(3), ND 9(2), (3), ND 10(2)–(5), ND 11, ND 12

46C FBT returns for years

(1) This section applies to an employer who pays their FBT liability under the close company option or the small business option. The employer chooses the relevant option by notifying the Commissioner.

(2) The employer must provide a return that—

(a) sets out the details of the fringe benefits received by each of their employees in the tax year or income year, as applicable; and

(b) includes a calculation of the amount of FBT payable on the taxable value of the fringe benefits in the tax year or income year, as applicable.

(3) For an employer who chooses to pay under the close company option, the return must be provided no later than the employer's terminal tax date for the relevant income year. The employer is liable to pay the amount calculated by the terminal tax date.

(4) For an employer who chooses to pay under the small business option, the return must be provided no later than 31 May after the end of the relevant tax year. The employer is liable to pay the amount calculated by 31 May.

Compare: 2004 No 35 ss ND 13(5), (6), ND 14(5), (6)

46D FBT returns: changes in payment periods

(1) This section applies when an employer chooses to pay income tax on an income year basis under the close company option, and the first day of the relevant income year is not the same day as the first day of a quarter.

(2) The employer must provide a return and pay FBT under section 46B, treating the period between the first day of the quarter in which the income year starts and the first day of the income year as if it were a quarter.

Compare: 2004 No 35 s ND 15(7), (8)

46E FBT returns: information for calculations

(1) This section applies for the purposes of sections RD 58(2), RD 60(4), and RD 61(4) of the Income Tax Act 2007 when an employer asks the Commissioner to replace the FBT liability determined under a set rate with a calculated amount.

(2) The employer must provide the information within 2 months after notifying the Commissioner that an assessment for the final quarter or year has been made.

Compare: 2004 No 35 s ND 1(6)

Section 47

Section 47: replace by the following:

47 ESCT statements provided by employers

(1) This section applies when an employer or PAYE intermediary withholds in a period an amount of ESCT from an employer's superannuation contribution.

(2) The employer or PAYE intermediary must deliver to the Commissioner a PAYE payment form showing the amount of employer's superannuation contribution, the amount of ESCT relating to the contribution, and any other particulars required by the Commissioner as follows:

(a) when the employer or PAYE intermediary has withheld the ESCT during the first payment period, no later than the 20th of the month during which the ESCT was withheld:

(b) when the employer or PAYE intermediary has withheld the ESCT during the second payment period, no later than the 5th of the month following the month in which the ESCT was withheld:

(c) despite paragraphs (a) and (b), if the employer or PAYE intermediary is required to pay an amount of tax to the Commissioner under section RD 4(1)(a) of the Income Tax Act 2007, no later than the 20th of the following month in which the amount was withheld.

Section 48

Section 48(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 49

Section 49, heading and subsection (1): replace by the following:

49 NRWT withholding certificates and annual reconciliations

(1) Subsection (1B) applies when a person in a year—

(a) withholds, or is required by the NRWT rules to withhold, NRWT for non-resident passive income paid to or derived by any other person; or

(b) pays to, or is required to pay to, the Commissioner under section RF 10 of the Income Tax Act 2007 NRWT for non-resident passive income that is a dividend.

(1B) The person must prepare and provide to the Commissioner, no later than 31 May in the following year, in the form approved by the Commissioner,—

(a) an NRWT withholding certificate for all NRWT withheld or paid in relation to each recipient during the year; and

(b) an annual reconciliation statement for all NRWT withheld or paid during the year.

Section 49—*continued*

Section 49(2): "non-resident withholding tax deduction certificate" is replaced by "NRWT withholding certificate".

Section 49(2)(a): "making the deduction or payment" is replaced by "withholding or paying the NRWT".

Section 49(2)(d) to (g): replace by the following:

(d) the year in which the NRWT to which the certificate relates was withheld:

(e) the type of non-resident passive income to which the certificate relates:

(f) the amount of NRWT withheld and the amount of non-resident passive income to which it relates:

(g) the amount of NRWT paid:

Section 49(4)(a): "make any deductions on account of non-resident withholding tax" is replaced by "withhold NRWT".

Section 49(4), words after the paragraphs, and subsection (4B)(a): "non-resident withholding tax deduction certificates" is replaced by "NRWT withholding certificates" in each place where it appears.

Section 49(4B): "section FCB 2 of the Income Tax Act 2004" is replaced by "section FL 2(1) of the Income Tax Act 2007".

Section 49(4B) and (4C)(c): "date of the emigration time" is replaced by "time of emigration" in each place where it appears.

Section 49(4C): "tax deduction certificates" is replaced by "withholding certificates".

Section 50

Section 50, heading and subsection: "resident withholding tax" is replaced by "RWT" in each place where it appears.

Section 51

Section 51, heading and subsection (1): replace by the following:

51 RWT withholding reconciliation statements

(1) Subsection (1B) applies when a person withholds (or is required by the RWT rules to withhold, but fails to do so) RWT for resident passive income paid to or derived by another person that is—

(a) interest; or

(b) a dividend treated as interest; or

(c) a dividend to which section RE 9(2) of the Income Tax Act 2007 applies.

(1B) The person must provide to the Commissioner, in the form prescribed by the Commissioner, the information that the Commissioner may require in relation to the RWT.

Section 51—*continued*

Section 51(2), words before paragraph (a): "a deduction of resident withholding tax" is replaced by "RWT withheld".

Section 51(2)(d) to (g): replace by the following:

(d) whether the resident passive income is interest, a dividend treated as interest, or a dividend to which section RE 9(2) of the Income Tax Act 2007 applies; and

(e) the date on which the RWT was withheld, or if more than 1 amount is withheld, the year in which the amounts were withheld; and

(f) the amount of resident passive income and the amount of RWT withheld; and

(g) the tax rate for RWT that applied to the resident passive income; and

Section 51(2A): "If the person has paid interest or specified dividends to another person (the **recipient**) and has not deducted resident withholding tax because the recipient holds a valid certificate of exemption" is replaced by "If the person has paid interest, a dividend treated as interest, or a dividend to which section RE 9(2) of the Income Tax Act 2007 applies to another person (the **recipient**) and has not withheld RWT because the person holds an RWT exemption certificate".

Section 51(2A)(b) and (c): replace by the following:

(b) the total interest, dividends treated as interest, or dividends to which section RE 9(2) of the Income Tax Act 2007 applies that are paid to the recipient; and

(c) the recipient's tax file number, unless the recipient is, at the time of payment, a person to whom any of section 32E(2)(a) to (c) applies; and

Section 51(4)(a) and (5): "a valid certificate of exemption" is replaced by "an RWT exemption certificate" in each place where it appears.

Section 51(4)(a): "deduct resident withholding tax" is replaced by "withhold RWT".

Section 51(5): "make resident withholding tax deductions" is replaced by "withhold RWT".

Section 51(5B): "section FCB 2 of the Income Tax Act 2004" is replaced by "section FL 2(1) of the Income Tax Act 2007".

Section 51(5B): "emigration time" is replaced by "time of emigration".

Section 51(5C)(c): "date of the emigration time" is replaced by "time of emigration".

Section 51(7): "is resident withholding income under section NF 2(1A)(b) of the Income Tax Act 2004" is replaced by "to which section RE 3(c) of the Income Tax Act 2007 applies".

Section 52

Section 52, heading, words before paragraph (a), and paragraphs (a) to (c): replace by the following:

Section 52—*continued*

52 Disclosure of interest payments when no requirement to withhold RWT

A person who in a year pays an amount of resident passive income that is interest,—

(a) for which RWT is required to be withheld because—

(i) the payment was not made by the person in the course of or furtherance of a taxable activity; or

(ii) section RE 10 of the Income Tax Act 2007 applies; and

(b) that is allowed as a deduction for the purposes of the Income Tax Act 2007; and

(c) that is paid to a person other than a person who holds an RWT exemption certificate,—

Section 52(e): "resident withholding income" is replaced by "resident passive income".

Section 53

Section 53(1)(a) and (c): "a certificate of exemption" is replaced by "an RWT exemption certificate" in each place where it appears.

Section 53(1)(b)(iv): "a valid certificate of exemption" is replaced by "an RWT exemption certificate".

Section 53(1)(c): "resident withholding tax" is replaced by "RWT".

Section 53(1)(d): "no deduction of resident withholding tax has been made under section NF 2(8) of the Income Tax Act 2004" is replaced by "RWT has not been withheld under section RE 6 of the Income Tax Act 2007".

Section 54

Section 54, heading: "**resident withholding income**" is replaced by "**resident passive income**".

Section 54(1): "to make a deduction of resident withholding tax in respect of any amount of resident withholding income paid to or derived (in the case of a deduction of resident withholding tax made in accordance with section NF 3 of the Income Tax Act 2004)" is replaced by "to withhold RWT for an amount of resident passive income paid to or derived (as applicable)".

Section 54(1)(b): replace by the following:

(b) the total resident passive income of the recipient in the tax year for which RWT was required to be withheld by the payer:

Section 56

Section 56(a) and (b): "special account" is replaced by "special home ownership account operated by a person under Part 2 of the Home Ownership Savings Act 1974" in each place where it appears.

Section 59

Section 59(2): "section HH 1(1) of the Income Tax Act 2004" is replaced by "sections HC 27(4) and YB 21 of the Income Tax Act 2007".

Section 59(4) and (5): "HH 7 of the Income Tax Act 2004" is replaced by "93B" in each place where it appears.

Section 61

Section 61(1)(b) and proviso: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 64

Section 64: "a determination in respect of a notional distribution under section ME 35(1)(b) of the Income Tax Act 2004" is replaced by "an election in relation to a notional distribution under section OB 79 of the Income Tax Act 2007".

Section 64(b): "section CD 24(2) of the Income Tax Act 2004" is replaced by "section CD 33(2) of the Income Tax Act 2007".

Section 65

Section 65: "section CX 36 or DT 13 of the Income Tax Act 2004" is replaced by "section CX 42 or DT 13 of the Income Tax Act 2007".

Section 66

Section 66, heading: "**policyholder credit account persons**" is replaced by "**PCA persons**".

Section 66(1), (4), and (5): "policyholder credit account person" is replaced by "PCA person" in each place where it appears.

Section 66(1), (4), and (5): "policyholder credit account return" is replaced by "PCA return" in each place where it appears.

Section 66(2)(b): "section ME 23 of the Income Tax Act 2004" is replaced by "sections OJ 12 to OJ 18 of the Income Tax Act 2007".

Section 67

Section 67, heading and subsection (1): "imputation credit account company" is replaced by "ICA company" in each place where it appears.

Section 67(1)(c): "section CD 6 or CD 7 of the Income Tax Act 2004" is replaced by "section CD 7 or CD 8 of the Income Tax Act 2007".

Section 67—*continued*

Section 67(1)(eb): "Australian imputation credit account company" is replaced by "Australian ICA company".

Section 67(2): "imputation year corresponding with that income year" is replaced by "tax year".

Section 68

Section 68, heading: "**dividend withholding payment credit**" is replaced by "**FDP credit**".

Section 68, words before paragraph (a): "a dividend withholding payment account company" is replaced by "an FDPA company".

Section 68, words before paragraph (a): "a dividend withholding payment credit" is replaced by "an FDP credit".

Section 68(a): "dividend withholding payment credits" is replaced by "FDP credits".

Section 68(b): "dividend withholding payment ratio" is replaced by "FDP ratio".

Section 68(c): "combined imputation and dividend withholding payment ratio" is replaced by "combined imputation and FDP ratio".

Section 68A

Section 68A: replace by the following:

68A Statement when CTR credit attached to dividend

If a CTR company attaches a CTR credit to a dividend, the company must include the following information in the company dividend statement required by section 67:

(a) the CTR additional dividend paid under section LQ 5 of the Income Tax Act 2007:

(b) the FDP ratio, calculated as if the credit were an FDP credit:

(c) the combined imputation and FDP ratio, calculated as if the credit were an FDP credit, if an imputation credit has been attached to the dividend.

Section 68B

Section 68B(1)(d): "base ratio" is replaced by "Maori authority credit ratio".

Section 69

Section 69: replace by the following:

69 Annual ICA return

(1) An imputation credit account (ICA) company must provide to the Commissioner an annual ICA return in the prescribed form for a tax year, showing—

Section 69—*continued*

(a) the opening balance and closing balance of the imputation credit account for the tax year:

(b) the amount and source of all credits and debits that have arisen during the tax year as described in sections OA 5(2) and OA 6(2) of the Income Tax Act 2007:

(c) the amount of any further income tax payable for the tax year under sections OB 65 to OB 67 of that Act:

(d) the amount of any imputation penalty tax payable for the tax year:

(e) when the company is a branch equivalent tax account (BETA) company,—

(i) the opening balance and closing balance of the company's branch equivalent tax account for the tax year:

(ii) the amount and source of all credits and debits to the company's branch equivalent tax account for the tax year that have arisen as described in sections OA 5(5)(a) and OA 6(5)(a) of that Act:

(f) when the company is a conduit tax relief (CTR) company for the tax year,—

(i) the opening and closing balances of the company's CTR account for the tax year:

(ii) the amount and source of all credits and debits that have arisen in the company's CTR account as described in sections OA 5(4) and OA 6(4) of that Act:

(g) when the company is a policyholder credit account (PCA) company,—

(i) the opening balance and closing balance of the company's policyholder credit account for the tax year:

(ii) the amount and source of all credits and debits to the company's policyholder credit account for the tax year that have arisen as described in sections OA 5(7)(a) and OA 6(7)(a) of that Act:

(h) when the company is a public unit trust or a group investment fund that derives category A income—

(i) the opening and closing balances of the trust's or fund's ASC account for the tax year:

(ii) the amount and source of all credits and debits that have arisen in the trust's or fund's ASC account as described in sections OA 5(6) and OA 6(6) of that Act:

(i) further information as may be prescribed or required by the Commissioner.

Section 69—*continued*

(2) The annual ICA return required for the tax year by subsection (1) must be provided to the Commissioner no later than—

(a) the last day of the July that follows the end of the tax year, if the ICA company is an Australian ICA company that is not required to file a return of income for the tax year:

(b) if paragraph (a) does not apply, the last day on which the ICA company is permitted under section 37 to file a return of income for the tax year.

Section 69B

Section 69B(1): "the imputation year that corresponds with" is omitted.

Section 69B(2)(a) to (d): "imputation year" is replaced by "tax year" in each place where it appears.

Section 69B(2)(b): "sections MK 4 and MK 5 of the Income Tax Act 2004" is replaced by "sections OK 2 to OK 18 of the Income Tax Act 2007".

Section 69B(2)(c): "section MK 8 of the Income Tax Act 2004" is replaced by "sections OK 21 and OK 22 of that Act".

Section 70

Section 70, heading and subsections (1), (3), and (4): "imputation return" is replaced by "annual ICA return" in each place where it appears.

Section 70(1), (2), (2B), and (3): "imputation credit account company" is replaced by "ICA company" in each place where it appears.

Section 70(2B) and (4): "an imputation year" is replaced by "a tax year" in each place where it appears.

Section 70(2), (2B), and (3): "imputation year" is replaced by "tax year" in each place where it appears.

Section 70(2B): "section ME 5(2)(eb) or ME 12(2)(da) of the Income Tax Act 2004" is replaced by "section OB 34, OB 35, OP 32, or OP 33 of the Income Tax Act 2007".

Section 70(2B)(b): "section MD 2 of the Income Tax Act 2004" is replaced by "sections RM 13 to RM 17, RM 32, and RZ 6 of the Income Tax Act 2007".

Section 70B

Section 70B(2), (3) and (4): "an imputation year" is replaced by "a tax year" in each place where it appears.

Section 70B(2) and (3): "the imputation year" is replaced by "the tax year".

Section 71

Section 71: replace by the following:

Section 71—*continued*

71 Annual FDPA return

A foreign dividend payment (FDPA) company must, not later than the time allowed under section 37 for providing a return of income for an income year, provide to the Commissioner an annual FDPA return in the prescribed form for the tax year corresponding to the income year, showing—

(a) the opening and closing balances of the FDP account for the tax year:

(b) the amount and source of all credits and debits that have arisen during the tax year as described in sections OA 5(3) and OA 6(3) of the Income Tax Act 2007:

(c) the amount of FDP payable for the tax year under sections OC 30 to OC 32 of that Act:

(d) the amount of FDP penalty tax payable for the tax year:

(e) whether the company has chosen under section OC 4(1) of that Act to stop being an FDPA company:

(f) the amount and source of every foreign dividend paid to the company during the year, and the amount of FDP paid for the foreign dividend:

(g) further information as may be prescribed or required by the Commissioner.

Foreign dividends

71B Return requirements for refunds: foreign dividends

(1) This section applies for the purposes of section RM 21(3) of the Income Tax Act 2007 when a loss balance is used to reduce a company's net income for an income year in which a foreign dividend is paid.

(2) The company described in section RM 21(1) of that Act must—

(a) file a return of income under section 33 for the income year in which the tax loss arose; and

(b) file a return of income under section 33 for the current income year; and

(c) apply to the Commissioner for the refund of the FDP.

(3) The company described as group company B in section RM 21(2) of that Act must—

(a) file a return of income under section 33 for the income year in which the tax loss arose; and

(b) notify the Commissioner that payment of some or all of the FDP is satisfied by reducing the tax loss.

Compare: 2004 No 35 s NH 4(5)(b), (c)

Section 72

Section 72, heading: "**Dividend withholding payment account**" is replaced by "**Annual FDPA**".

Section 72(1) and (2): "a dividend withholding payment account return" is replaced by "an FDPA return" in each place where it appears.

Section 72(1) and (2): "a dividend withholding payment account company" is replaced by "an FDPA company" in each place where it appears.

Section 72(2): "imputation year" is replaced by "tax year" in each place where it appears.

Section 72(3): "an imputation year" is replaced by "a tax year".

Section 73

Section 73, heading: "**Dividend withholding payment account**" is replaced by "**Annual FDPA**".

Section 73(b): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 74

Section 74, heading and subsection (2): "imputation return" is replaced by "ICA return" in each place where it appears.

Section 74(1)(b): "imputation credit account company" is replaced by "ICA company".

Section 74(1)(c): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 74(2): "an imputation year if the group has no liability to make a payment under section ME 14(3) of the Income Tax Act 2004 for the imputation year" is replaced by "a tax year if the group has no liability to make a payment under section OP 6 of the Income Tax Act 2007 for the tax year".

Section 77

Section 77, heading and subsection: "imputation return" is replaced by "ICA return" in each place where it appears.

Section 77: "section MF 1(1) of the Income Tax Act 2004 after the end of the imputation year" is replaced by "section OE 3 of the Income Tax Act 2007 after the end of the tax year".

Section 77, words after the paragraphs: "imputation year" are replaced by "tax year".

Section 78

Section 78, heading: "**branch equivalent tax account persons**" is replaced by "**BETA persons**".

Section 78(1), (4), and (5): "branch equivalent tax account" is replaced by "BETA" in each place where it appears.

Section 78—*continued*

Section 78(2)(b): "in accordance with section MF 13 of the Income Tax Act 2004" is replaced by "as described in sections OA 5(5) and OA 6(5) of the Income Tax Act 2007".

New sections 78B to 78F

After section 78: insert the following:

78B Applications for tax credits

(1) A taxpayer who has a tax credit under section LJ 2 or LK 1 of the Income Tax Act 2007 must apply for the credit within 4 years after the end of the tax year in which the taxpayer would have the credit in the absence of this section. The Commissioner may extend this 4-year period by another period of up to 2 years.

(2) The taxpayer must provide with the application under subsection (1) information that is necessary to determine the amount of the credit.

Compare: 2004 No 35 s LC 13(1)

78C Disclosure when changes occur

A taxpayer must provide to the Commissioner, as soon as possible, all relevant information if—

(a) an amount referred to in section LJ 6 of the Income Tax Act 2007 is changed; and

(b) the change occurs after the taxpayer has made an application under section 78B.

Compare: 2004 No 35 s LC 13(2)

78D Evidential requirements for tax credits

A taxpayer who has a tax credit under section LB 3 or subparts LE, LF, or LO of the Income Tax Act 2007, must provide the Commissioner with sufficient evidence of the credit, including, as applicable—

(a) for an imputation credit, a shareholder dividend statement:

(b) for an FDP credit, a shareholder dividend statement for the FDP credit:

(c) for a credit for RWT, an RWT withholding certificate for the amount of RWT:

(d) for a Maori authority credit, a Maori authority distribution statement for the credit:

(e) any other information that the Commissioner may require.

Compare: 2004 No 35 ss LB 2(4), LD 3(4), LD 3A(5), LD 8(3), LD 9(4)

New sections 78B to 78F—*continued*

78E Information for underlying foreign credits

(1) For the purposes of section LL 2 of the Income Tax Act 2007, a taxpayer must have available to provide, if asked,—

(a) a copy of a receipt issued by the relevant revenue authority evidencing payment of the relevant tax; or

(b) a copy of a foreign return of income that is of substantially the same nature as a return of income under the Inland Revenue Acts, when the return of income has been provided to the relevant revenue authority and shows the relevant tax as payable; or

(c) a copy of a demand, statement of account, or a similar document issued by the relevant revenue authority, seeking payment of the relevant tax.

(2) Subsection (1) does not apply if the Commissioner is satisfied on the basis of evidence such as an auditor's certificate that the relevant tax is paid or payable.

Compare: 2004 No 35 s LF 6(4)

78F Time for providing information in relation to underlying foreign credits

A taxpayer who has a tax credit for an amount of underlying foreign tax must provide to the Commissioner information that is necessary to verify a calculation of their credit under subpart LL of the Income Tax Act 2007 within—

(a) 4 years after the end of the accounting year in which the person may first use the credit under section LA 2 of the Income Tax Act 2007; and

(b) a further time that the Commissioner may allow, having regard to the time allowed for applications under section 78B.

Compare: 2004 No 35 s LF 6(6)

Section 79

Section 79: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 80

Section 80: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 80C

Section 80C(1A): "resident withholding income that had insufficient resident withholding tax deducted" is replaced by "resident passive income from which insufficient RWT was withheld".

Section 80D

Section 80D(1)(c)(iii): "section NC 16 of the Income Tax Act 2004 to furnish the Commissioner with an employer monthly schedule relating to a source deduction payment" is replaced by "section RD 4(2) of the Income Tax Act 2007 to provide

Section 80D—*continued*

to the Commissioner an employer monthly schedule relating to a PAYE income payment".

Section 80E

Section 80E(2)(c): "source deductions or withholding deductions" is replaced by "tax withheld for PAYE income payments and other income".

Section 80E(2)(ea): "certificate of entitlement has been issued under section KD 5 of the Income Tax Act 2004" is replaced by "notice of entitlement has been given under section 80KD".

Section 80F

Section 80F(5): "RWT deduction certificate" is replaced by "RWT withholding certificate".

Section 80H

Section 80H(3)(c) and (d): "section MD 1(1A) of the Income Tax Act 2004" is replaced by "section RM 5 of the Income Tax Act 2007" in each place where it appears.

New Part 3B

After section 80I: insert the following:

Part 3B
Credits of Tax

Applying for payment by instalment

80KA Applications for payment of tax credit by instalment

(1) This section applies to applications made under section MF 1 of the Income Tax Act 2007.

(2) An application by a person who wants to be paid their tax credit (other than a parental tax credit) by instalment must be made before the selected period starts.

(3) A person who wants to be paid their parental tax credit by instalment must apply no later than 3 months after the date of the dependent child's birth.

(4) If a person referred to in subsection (3) applies more than 3 months after the date of the dependent child's birth, the person may receive the parental tax credit only after taking into account their end of year assessment under subpart LA of the Income Tax Act 2007 for the tax year in which the birth occurs.

(5) If the 3-month period described in subsection (3) spans 2 tax years and the whole of the selected period falls in the first tax year, the selected period is

New Part 3B—*continued*

treated as falling in the second tax year if all instalments are paid to the person in the second tax year.

Compare: 2004 No 35 s KD 5(1B)–(1C)

80KB Contents of application

(1) An application referred to in section 80KA must—

(a) be in a form prescribed by the Commissioner; and

(b) be signed by the person and any other person who, at the time at which the application is made, expects to be, in the selected period, their spouse, civil union partner, or de facto partner; and

(c) give, for each person who signed the application (the **signatory**), a complete statement of—

(i) the family scheme income that is expected to be attributable to the tax year; and

(ii) the family scheme income that is expected to be attributable to the selected period; and

(d) choose whether the instalments should be paid weekly or fortnightly; and

(e) contain any other information required by the Commissioner; and

(f) be accompanied by the information described in subsection (2).

(2) The application under subsection (1) must be accompanied by,—

(a) for a signatory who expects to derive income from employment, evidence of the amount of income from employment derived by them in the period of 1 month immediately before the date on which the application is made:

(b) for a signatory who expects to derive income from a business,—

(i) a copy of the financial statements of the business for the tax year or corresponding income year immediately before the tax year that contains the selected period; or

(ii) if the financial statements referred to in subparagraph (i) have not been completed, a copy of the financial statements for the business for the tax year or corresponding income year that is before the year immediately before the tax year that contains the selected period; or

(iii) a set of budgeted accounts of the business for the tax year or corresponding income year that contains the selected period; or

(iv) other evidence in relation to the business for the tax year or corresponding income year that contains the selected period:

New Part 3B—*continued*

(c) unless paragraph (d) applies, the tax file number of each child for whom an entitlement to a tax credit arises:

(d) in the case of a child that has died or is given up for adoption, a birth certificate or other evidence verifying the birth or existence of the child for whom an entitlement to a tax credit arises.

(3) Subsection (2)(a) does not apply if the Commissioner considers that the Commissioner has enough evidence of a signatory's income from employment.

(4) Subsection (2)(d) does not apply to an application made by a person who is an adoptive parent, as that term is defined in the Adoption Act 1955.

Compare: 2004 No 35 s KD 5(2)–(2AB)

80KC When tax file number of child does not accompany application

(1) Subsection (2) applies when—

(a) an application referred to in section 80KA is not accompanied by the tax file number of each child for whom an entitlement to a tax credit arises; and

(b) the Commissioner has enough other evidence of the person's entitlement.

(2) The Commissioner must—

(a) provide the person with a notice of entitlement; and

(b) pay to the person instalments of a tax credit under section MA 1 or, as applicable, sections MB 1 and ME 1 of the Income Tax Act 2007 for a period of 56 days.

(3) Subsection (4) applies when the person or their spouse, civil union partner, or de facto partner does not provide the tax file number of a child for whom an entitlement to a tax credit arises within the 56-day period.

(4) The Commissioner must stop paying the tax credit for the child until the tax file number is provided.

Compare: 2004 No 35 s KD 5(3), (3A)

80KD What Commissioner must do on receipt of application

(1) This section applies when the Commissioner receives an application that complies with section 80KB.

(2) The Commissioner must do the following:

(a) determine under sections MD 1, or MD 1 and ME 1 of the Income Tax Act 2007, as applicable, the estimated amount of tax credit to which the person would be entitled for the selected period; and

(b) calculate under section MF 3 of that Act the amount that, if the Commissioner gave a person a notice of entitlement for the whole selected

New Part 3B—*continued*

period, would be the interim instalment of the tax credit that would be set out in the notice; and

(c) for all or some of the selected period, give the person a notice (the **notice of entitlement**) setting out—

(i) the amount of the instalment of the tax credit to which the person is entitled; and

(ii) the amount after abatement contributed by the family support to the instalment; and

(iii) the amount of credit after abatement contributed by the in-work payment to the instalment; and

(iv) the amount after abatement contributed by the child tax credit to the instalment; and

(v) the amount after abatement contributed by the parental tax credit to the instalment; and

(vi) the amount contributed by the family tax credit to the instalment.

(3) The Commissioner must keep a copy of every notice of entitlement that is given under this section.

Compare: 2004 No 35 s KD 5(4), (5)(a)

Notices of entitlement

80KE Notices of entitlement

A notice of entitlement issued under section 80KD—

(a) is not transferable; and

(b) is subject to the terms and conditions set out in it by the Commissioner.

Compare: 2004 No 35 s KD 5(11)

80KF Effect of giving notice of entitlement

(1) If a notice of entitlement has been given to a person, the Commissioner must pay the person instalments of tax credit under section 80KN.

(2) A person continues to be entitled to a tax credit under section MC 2 or, as applicable, sections MA 1 and ME 1 of the Income Tax Act 2007 for relationship periods after the relationship period for which an application was made, until the Commissioner cancels the notice under section 80KH.

Compare: 2004 No 35 s KD 5(2A), (5)(b), (7)

80KG Notifying Commissioner of events affecting notice of entitlement

(1) Subsection (2) applies when—

(a) a person has been given a notice of entitlement; and

New Part 3B—*continued*

(b) 1 or more of the events described in subsection (3) occur within the period starting on the date of the notice of entitlement and ending on the last day of the selected period.

(2) The person must notify the Commissioner immediately if an event of the kind described in subsection (3) occurs that may result in the person losing their entitlement.

(3) The events include—

(a) the person or their spouse, civil union partner, or de facto partner stops being the principal caregiver of a child, and the person expects that they will not resume the role of principal caregiver for a period of more than 56 consecutive days; or

(b) the person starts or stops being a spouse, civil union partner, or de facto partner; or

(c) any other event of a kind set out in the notice of entitlement for the purposes of this subsection.

(4) Subsection (5) applies when—

(a) a notice of entitlement has been issued to a person; and

(b) 1 or more of the events described in subsection (6) occur.

(5) The person may notify the Commissioner if an event of the kind described in subsection (6) occurs that may change a person's entitlement.

(6) The events include—

(a) the person or their spouse, civil union partner, or de facto partner becomes the principal caregiver of any child; or

(b) something happens that the person thinks may affect their entitlement to the tax credit specified in the notice of entitlement; or

(c) the notice of entitlement is lost or destroyed.

Compare: 2004 No 35 s KD 5(9)

80KH Cancellation of notice of entitlement

(1) This section applies when the Commissioner—

(a) is notified under section 80KG; or

(b) considers that a notice of entitlement given to a person no longer applies; or

(c) is advised by the chief executive of the administering department, under sections 84 or 85G, that the person is also receiving a tax credit from the chief executive or will receive a tax credit from the chief executive.

(2) The Commissioner may, on notifying the person,—

(a) cancel the notice of entitlement; or

New Part 3B—*continued*

(b) provide a replacement notice of entitlement for the same relationship period or a different relationship period, or provide a supplement to the notice of entitlement, as appropriate, having regard to information in the Commissioner's possession.

Compare: 2004 No 35 s KD 5(10), (12)

Payments to holders of notices of entitlement

80KI Payment of tax credit by instalment by Commissioner

(1) This section applies when the Commissioner has given a notice of entitlement to a person.

(2) In the period described in subsection (3), the Commissioner must pay to the person the instalments of the tax credit set out in the notice of entitlement.

(3) The period—

(a) starts on the day stated in the notice of entitlement; and

(b) ends with the earlier of—

(i) the day on which the notice of entitlement is cancelled by the Commissioner; or

(ii) the end date stated in the notice of entitlement.

(4) The Commissioner may choose the days on which the instalments are paid.

Compare: 2004 No 35 s KD 7(1)

80KJ Delay in providing notice of entitlement

(1) This section applies when the Commissioner thinks that the time taken to provide a notice of entitlement has been unduly delayed.

(2) The Commissioner may pay the instalments of the tax credit that the Commissioner thinks should be paid, having regard to the circumstances of the case.

Compare: 2004 No 35 s KD 7(3)

80KK Payment by instalment of family support (without abatement)

(1) This section applies when the Commissioner considers, on the basis of information provided under section 85G by the chief executive, that a person is entitled to family support.

(2) In the period described in subsection (3), the Commissioner must pay to the person the family support by instalment and without abatement.

(3) The period—

(a) starts on the day following the day that the chief executive says is the last day that the person is entitled to—

New Part 3B—*continued*

(i) an income-tested benefit, an orphan's benefit, or an unsupported child's benefit paid or payable under the Social Security Act 1964; or

(ii) a family assistance credit paid under section 80KN; and

(b) ends on the earlier of—

(i) the day before the first day stated in a notice of entitlement that is provided later:

(ii) a period of not more than 56 days, starting on the first day referred to in paragraph (a).

(4) Subsection (5) applies when the chief executive pays the family support for part of the 56-day period referred to in subsection (3)(b)(ii).

(5) The period referred to in subsection (3)(b)(ii) is reduced by the period for which the chief executive paid the family support.

Compare: 2004 No 35 s KD 7(2B), (2C)

80KL Payment of instalments into accounts

(1) Unless the Commissioner in a particular case otherwise determines, it is a condition of the receipt of tax credits paid by instalments by the Commissioner that—

(a) the person, or the person and their spouse, civil union partner, or de facto partner,—

(i) gives the Commissioner the details of an existing bank account held by the person (whether alone or jointly with their spouse, civil union partner, or de facto partner); or

(ii) opens a bank account (if they do not have one), and gives the Commissioner details of that account; and

(b) the existing account or, as applicable, the opened account is an account held as described in subsection (2).

(2) The account must be held with—

(a) a registered bank within the meaning of that term in section 2 of the Reserve Bank of New Zealand Act 1989; or

(b) a building society, in respect of any deposits with the building society; or

(c) the Public Service Investment Society Limited; or

(d) a credit union within the meaning of that term in section 2 of the Friendly Societies and Credit Unions Act 1982.

(3) The Commissioner must pay every instalment of tax credit into the account.

Compare: 2004 No 35 s KD 7(4)

New Part 3B—*continued*

80KM Summary of instalments paid

(1) This section applies when the Commissioner pays to a person instalments of the tax credit shown in the notice of entitlement given to the person.

(2) The Commissioner must give the person—

(a) a summary showing the total of all the tax credits paid by instalments under the person's notice of entitlement for the tax year; and

(b) any other information prescribed by the Commissioner.

(3) The Commissioner must provide the summary—

(a) for a non-filing taxpayer, on or before 20 May next following the last day of the tax year in which the payment is made; and

(b) for a filing taxpayer, on the same date that the Commissioner issues the person with an income statement for the tax year in which the payment is made.

Compare: 2004 No 35 s KD 7(2), (2A)

Payments of tax credit by chief executive

80KN Payment of tax credit by chief executive

(1) This section applies when—

(a) in a tax year, the chief executive of the administering department pays to a person an income-tested benefit; and

(b) the chief executive is satisfied that—

(i) the person is entitled to receive a family assistance credit for which the amount of the family credit abatement is zero; or

(ii) the chief executive is authorised by an Order in Council made under section 225A to pay the person a family assistance credit for which the family credit abatement is more than zero.

(2) When paying the income-tested benefit, the chief executive must pay to the person the family assistance credit that the chief executive considers that the person is entitled to at the time of the payment.

Compare: 2004 No 35 s KD 6(1)

80KO Determining family assistance credit

In determining the amount of family assistance credit that is payable under section 80KN, the chief executive must—

(a) use the method set out in section MF 3 of the Income Tax Act 2007, if required to calculate the amount of the family credit abatement; and

New Part 3B—*continued*

(b) take into account the rate of family support and the family credit abatement given by sections MD 3 and MD 13 of that Act.

Compare: 2004 No 35 s KD 6(1A)

80KP When entitlement to income-tested benefit ends

(1) This section applies for the purposes of section 80KN when—

(a) a person's entitlement to an income-tested benefit ends; and

(b) they apply to the chief executive to have the payment of their family support continued.

(2) The chief executive must continue to pay the family support to the person for a period determined by the chief executive in consultation with the Commissioner. The amount is determined as if the person were still being paid an income-tested benefit during this period.

Compare: 2004 No 35 s KD 6(1B)

80KQ No authority to pay family assistance credit

(1) This section applies when the chief executive is not satisfied that they are authorised to pay the family assistance credit to the person under the section.

(2) The chief executive may ask the Commissioner to accept from the person their application for a notice of entitlement.

Compare: 2004 No 35 s KD 6(1C)

80KR Request by chief executive to stop payment of family assistance credit

(1) This section applies when—

(a) the chief executive has made a request under section 80KQ(2); but

(b) the chief executive is satisfied that they are authorised to pay the person the family assistance credit.

(2) The chief executive may ask the Commissioner to stop paying the person under their notice of entitlement.

Compare: 2004 No 35 s KD 6(1D)

80KS Request by person to stop or re-start payment of tax credit

(1) Subsection (2) applies, despite section 80KN or 80KP, when a person notifies the chief executive not to pay them the tax credit.

(2) The chief executive must, as soon as practicable, stop paying the person the tax credit.

(3) Subsection (4) applies when a person cancels their notification under subsection (1).

New Part 3B—*continued*

(4) The chief executive must, as soon as practicable, start paying the person the tax credit again.

Compare: 2004 No 35 s KD 6(2), (3)

80KT Details of payments of tax credits

(1) This section applies when the chief executive pays under section 80KN a tax credit to a person.

(2) The chief executive must, for each month in which a payment is made, give the Commissioner details of the payment in an employer monthly schedule.

(3) The chief executive must, not later than 20 April next following the last day of the tax year in which the payment is made, give the person—

(a) a summary—

(i) signed by the chief executive; and

(ii) in a form authorised by the Commissioner; and

(iii) showing the total of all of the tax credits paid; and

(b) any other information required by the Commissioner.

(4) The chief executive must, not later than 31 May in the tax year in which the summary is provided under subsection (3), give the Commissioner—

(a) a copy of every summary given by the chief executive under subsection (3)(a); and

(b) any other information required by the Commissioner.

Compare: 2004 No 35 s KD 6(4)

When Commissioner takes over payment of tax credit from chief executive

80KU Payment of tax credit taken over by Commissioner

(1) This section applies when—

(a) in a tax year, the chief executive stops paying a person an amount of tax credit with an income-tested benefit; and

(b) the person applies to the Commissioner for payment of family assistance credit, family tax credit, or family support; and

(c) the Commissioner determines that the person is entitled to the tax credit under section MD 1 of the Income Tax Act 2007 for the period described in subsection (3).

(2) For the period described in subsection (3), the Commissioner may pay to the person the arrears of the tax credits, other than the in-work payment and the parental tax credit.

(3) The period—

(a) starts on the later of—

New Part 3B—*continued*

(i) the first day of the tax year; and

(ii) the day following that on which the chief executive stops paying the amount to the person; and

(b) ends on the day before the first day stated in a notice of entitlement that is later given to the person.

Compare: 2004 No 35 s KD 7(3A), (3B), (3C)

80KV Statement of family scheme income

(1) This section applies to a person to whom the Commissioner has given a notice of entitlement for a tax year.

(2) The person must, in the time within which they are required to file their return of income for the tax year, give the Commissioner a statement setting out—

(a) a complete statement of their family scheme income signed by the person; and

(b) a complete statement of the family scheme income for the tax year of their spouse, civil union partner, or de facto partner signed by that person.

Compare: 2004 No 35 s KD 4(5)

80KW Effect of extra instalment on entitlement to tax credit

(1) This section applies to a person who—

(a) is entitled to a family assistance credit or family tax credit for the whole or part of a tax year; and

(b) receives in the tax year—

(i) a payment under section 80KI of an instalment of the credit for each period of a week or a fortnight in the tax year; or

(ii) payments under section 80KN of instalments of the credit in the tax year and no payment under section 80KI in the tax year; and

(c) as a consequence of the year not being divided into an exact number of fortnights or weeks,—

(i) receives in the tax year 27 instalments corresponding to a period of a fortnight; or

(ii) may have received in the tax year 53 instalments corresponding to a period of a week.

(2) Subsection (3) applies—

(a) for the purposes of section MF 6 of the Income Tax Act 2007; and

(b) when a person has received payments under section 80KI for the whole of a tax year.

New Part 3B—*continued*

(3) The person is entitled to a tax credit for the tax year of an amount calculated using the formula—

tax credit + ((final instalment − parental tax credit) × 13 ÷ 14).

(4) In the formula in subsection (3),—

(a) **tax credit** is the amount of the tax credit for the tax year calculated for the person under—

(i) section MD 1 of the Income Tax Act 2007, if the person is entitled to a family assistance credit:

(ii) section ME 1 of that Act, if the person is entitled to the family tax credit:

(b) **final instalment** is the amount of the final instalment received by the person in the tax year:

(c) **parental tax credit** is the amount of any parental tax credit that is included in the final instalment received by the person in the tax year.

(5) Subsection (6) applies—

(a) for the purposes of section MF 6 of the Income Tax Act 2007; and

(b) when a person has received payments under section 80KN for the whole of a tax year.

(6) The person is entitled to a tax credit for the tax year equal to an amount calculated using the formula—

tax credit + (total amount of instalments ÷ 53).

(7) In the formula in subsection (6),—

(a) **tax credit** is the amount of the tax credit for the tax year calculated for the person under—

(i) section MD 1 of the Income Tax Act 2007, if the person is entitled to a family assistance credit:

(ii) section ME 1 of that Act, if the person is entitled to the family tax credit:

(b) **total amount of instalments** is the total amount of the instalments received by the person in the tax year.

Compare: 2004 No 35 s KD 7A

Section 81

Section 81(4)(lb): "section MBA 5 of the Income Tax Act 2004" is replaced by "section RP 18 of the Income Tax Act 2007".

Section 81(4)(lb): "associated" is replaced by "connected" in each place where it appears.

Section 83

Section 83(2): "subpart KD credit" is replaced by "family assistance credit".

Section 83(7), after the definition of **entitlement card**: add the following:

> **qualifying person** means a person qualifying for an entitlement under section MC 2 of the Income Tax Act 2007.

Section 84

Section 84(1)(a) and (4): "subpart KD credit" is replaced by "family assistance credit" in each place where it appears.

Section 84(6), before the definition of **qualifying person**: insert the following:

> **family assistance credit** means an interim instalment of a family assistance credit

Section 84(6), definition of **qualifying person**: replace by the following:

> **qualifying person** means a person who meets the requirements of sections MC 3 to MC 6(a) of the Income Tax Act 2007, and includes a person entitled to a tax credit under section MD 10 or ME 1 of that Act

Section 84(6), definition of **subpart KD credit**: repeal.

Section 85F

Section 85F(3), definitions of **company** and **large budget screen production grant**: "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007" in each place where it appears.

Section 85G

Section 85G(1)(a), (4)(a) and (b): "subpart KD credit" is replaced by "family assistance credit" in each place where it appears.

Section 85G(1)(a): "a specified benefit, or as the case may be, cease to be entitled to": omit.

Section 85G(1)(a): "section KD 6(1) of the Income Tax Act 2004" is replaced by "section 80KN".

Section 85G(1)(b): "section KD 2 or sections KD 2 and KD 3" is replaced by "sections MD 1, or MD 1 and ME 1".

Section 85G(1)(c): "section KD 5(10)" is replaced by "section 80KH".

Section 85G(4): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007".

Section 85G(6), before the definition of **qualifying person**: insert the following:

> **family assistance credit** means an interim instalment of a family assistance credit

Section 85G(6), definition of **qualifying person**: replace by the following:

Section 85G—*continued*

> **qualifying person** means a person who meets the requirements in sections MC 3 to MC 6(a) of the Income Tax Act 2007, and includes a person entitled to a tax credit under section MD 10 or ME 1 of that Act

Section 85G(6), definitions of **specified benefit** and **subpart KD credit**: repeal.

Section 85I

Section 85I(3): "section KD 2AB(1) of the Income Tax Act 2004" is replaced by "section MD 11 of the Income Tax Act 2007".

Section 89C

Section 89C(i): replace by the following:

> (i) the assessment is made following the failure by a taxpayer to withhold or deduct an amount required to be withheld or deducted by a tax law or to account for an amount withheld or deducted in the manner required by a tax law; or

Section 89C(m): "rebate of income tax under subpart KD of the Income Tax Act 2004" is replaced by "tax credit identified in subparts MA to MF and MZ of the Income Tax Act 2007".

Section 89N

Section 89N(1)(c)(iii) and (v): "section OD 8(3) of the Income Tax Act 2004" is replaced by "the 1988 version provisions in subpart YB of the Income Tax Act 2007" in each place where it appears.

Section 90

Section 90(1)(a): "section EZ 32(2) (except the proviso) of the Income Tax Act 2004" is replaced by "section EZ 35(2) (except the proviso) of the Income Tax Act 2007".

Section 90(1)(b): "section EZ 32(3) of the Income Tax Act 2004" is replaced by "section EZ 35(3) of that Act".

Section 90(1)(c): "section EZ 32(6) (except the proviso) of the Income Tax Act 2004" is replaced by "section EZ 35(6) (except the proviso) of that Act".

Section 90(1)(c): "section EZ 32(2)" is replaced by "section EZ 35(2)".

Section 90(1)(d): "section EZ 32 of the Income Tax Act 2004" is replaced by "section EZ 35 of that Act".

Section 90(1)(e): "section EZ 32(7) of the Income Tax Act 2004" is replaced by "section EZ 35(7) of that Act".

Section 90(1)(f): "section EZ 32(8) of the Income Tax Act 2004" is replaced by "section EZ 35(8) of that Act".

Section 90(1)(j): "section FD 10(4) of the Income Tax Act 2004" is replaced by "sections FM 18 to FM 20 of that Act".

Section 90—*continued*

Section 90(1)(j): "section EZ 35" is replaced by "section EZ 38".

Section 90(1), proviso: "section EZ 32(2) or (6) of the Income Tax Act 2004" is replaced by "section EZ 35(2) or (6) of that Act".

Section 90AA

Section 90AA(1) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 90AC

Section 90AC, words before paragraph (a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 90AC(1)(a) to (g), (i) and (k): "Income Tax Act 2004" is replaced by "that Act" in each place where it appears.

Section 90AC(1)(j): "section FD 10(4) of the Income Tax Act 2004" is replaced by "sections FM 18 to FM 20 of that Act".

Section 90AC(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

New sections 90AF and 90AG

After section 90AE: insert the following:

90AF Imputation arrangement to obtain tax advantage

(1) If an arrangement to obtain a tax advantage arises as described in section GB 35 of the Income Tax Act 2007, the Commissioner may make any of the following determinations:

- (a) a determination whether the arrangement results in an account advantage, a tax credit advantage, or both:
- (b) a determination whether a streaming arrangement as described in section GB 35(3) of that Act is subject to section GB 36(1) or (2) of that Act:
- (c) a determination of the amount of the imputation credit or FDP credit that is subject to the arrangement:
- (d) a determination of the tax year in which the arrangement commenced, being the year in which the first reasonably identifiable step in the arrangement took place.

(2) The Commissioner must give notice of any determination under subsection (1) to the company whose account is affected by the arrangement, as soon as is convenient.

(3) The notice may be included in—

- (a) a notice of assessment under section 111(1); or
- (b) a determination under section 104B.

New sections 90AF and 90AG—*continued*

(4) Failure to comply with subsection (2) does not invalidate the determination.

90AG Maori authority arrangements to obtain tax advantage

(1) If an arrangement to obtain a tax advantage arises as described in section GB 42 of the Income Tax Act 2007, the Commissioner may make any of the following determinations:

(a) a determination whether the arrangement results in an account advantage, a tax credit advantage, or both:

(b) a determination whether a streaming arrangement as described in section GB 42(3) of that Act is subject to section GB 43(1) or (2) of that Act:

(c) a determination of the amount of the Maori authority credit that is subject to the arrangement:

(d) a determination of the tax year in which the arrangement commenced, being the year in which the first reasonably identifiable step in the arrangement took place.

(2) The Commissioner must give notice of any determination under subsection (1) to the Maori authority whose account is affected by the arrangement, as soon as is convenient.

(3) The notice may be included in—

(a) a notice of assessment under section 111(1); or

(b) a determination under section 104B.

(4) Failure to comply with subsection (2) does not invalidate the determination.

Section 90A

Section 90A(1) and (2): "subpart FG of the Income Tax Act 2004" is replaced by "subpart FE of the Income Tax Act 2007" in each place where it appears.

Section 91

Section 91(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 91AA

Section 91AA(2)(a): "section CW 49 of the Income Tax Act 2004" is replaced by "section CW 61 of the Income Tax Act 2007".

Section 91AAB

Section 91AAB(1): "sections DO 4B to DO 4E of the Income Tax Act 2004" is replaced by "sections DO 5 to DO 9 of the Income Tax Act 2007".

Section 91AAB(1)(b): "schedule 11, column 1 of the Income Tax Act 2004" is replaced by "schedule 12, column 1 of that Act".

Section 91AAC

Section 91AAC heading and subsection (1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 91AAD

Section 91AAD(1), (5) and (6): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 91AAE

Section 91AAE(1) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 91AAF

Section 91AAF(1) and (4)(b): "section EE 25B, EE 25C, EE 25E, or EZ 21B of the Income Tax Act 2004" is replaced by "section EE 27, EE 28, EE 30, or EZ 23 of the Income Tax Act 2007" in each place where it appears.

Section 91AAF(5): "section EE 25B, EE 25C, or EE 25E of the Income Tax Act 2004" is replaced by "section EE 27, EE 28, or EE 30 of the Income Tax Act 2007".

Section 91AAG

Section 91AAG(3)(a): "section EE 25B" is replaced by "section EE 27 of the Income Tax Act 2007".

Section 91AAG(3)(b): "section EE 25C" is replaced by "section EE 28 of that Act".

Section 91AAG(3)(c): "section EE 25E" is replaced by "section EE 30 of that Act".

Section 91AAG(4)(b): "schedule 11 or schedule 11B of the Income Tax Act 2004" is replaced by "schedule 11 or 12 of the Income Tax Act 2007".

Section 91AAH

Section 91AAH(2)(a): "schedule 11 of the Income Tax Act 2004" is replaced by "schedule 12 of the Income Tax Act 2007".

Section 91AAN

Section 91AAN(1): "section DB 37 of the Income Tax Act 2004" is replaced by "section DB 46 of the Income Tax Act 2007".

Section 91AAN(2): "schedule 6B, part A of the Income Tax Act 2004" is replaced by "schedule 19, part A of the Income Tax Act 2007".

Section 91AAN(2): "section DB 37(4)(c) of that Act" is replaced by "section DB 46(4)(c) of that Act".

Section 91AAN(2)(a): "column 1 of schedule 11 of the Income Tax Act 2004" is replaced by "schedule 12, column 1 of that Act".

Section 91AAN(2)(b): "column 2 of schedule 11 of the Income Tax Act 2004" is replaced by "schedule 12, column 2 of that Act".

Section 91AAN—*continued*

Section 91AAN(3)(b): "schedule 6B of the Income Tax Act 2004" is replaced by "schedule 19 of the Income Tax Act 2007".

Section 91C

Section 91C(1)(eb): "except to the extent to which the matter in question is or could be" is replaced by "on an application to which section ZA 4(1)(a)(i) of the Income Tax Act 2007 applies, except to the extent to which the matter in question is or could be".

Section 91C(1)(eb): insert the following:

(ec) the Income Tax Act 2007, except to the extent to which the matter in question is or could be the subject of a determination of the Commissioner under—

(i) sections 90 or 90AC in relation to a financial arrangement; or

(ii) section 90A in relation to the extent to which a financial arrangement provides funds to a party under the arrangement; or

(iii) section 91 in relation to petroleum mining; or

(iv) section 91AAD or 91AAE in relation to livestock; or

(v) any of sections 91AAF to 91AAM in relation to depreciation; or

(vi) section EA 3(8) of the Income Tax Act 2007 in relation to accrual expenditure; or

Section 91C(1)(f)(ii): "regulation 5(1A) of the Income Tax (Withholding Payments) Regulations 1979 (which relates to exemption certificates for non-resident contractors) or any successor to that regulation" is replaced by "section RD 24 of the Income Tax Act 2007".

Section 91E

Section 91E(4A): "section FB 2 or GD 13 of the Income Tax Act 2004" is replaced by "sections GC 6 to GC 14 or YD 5 of the Income Tax Act 2007".

Section 92

Section 92(5)(a): "rebate of income tax allowed under subpart KD of the Income Tax Act 2004" is replaced by "tax credit identified in subparts MA to MF and MZ of the Income Tax Act 2007".

Section 92(5)(b): "rebate" is replaced by "tax credit".

Section 92: add the following:

(7) The nominated company for a consolidated group is treated as a taxpayer for the purposes of this section. A company that is part of a consolidated group in a tax year must not make a separate assessment for a tax year, but this restriction applies only to a tax year, or part of a tax year, in which the company is part of the group.

New sections 92AA and 92AB

Section 92AA: replace by the following:

92AA Assessment for tax credits under Part M of Income Tax Act 2007

The Commissioner must make an income tax assessment for a tax year for a taxpayer who has a tax credit identified in Part M of the Income Tax Act 2007 for the year.

92AB Assessments of liabilities of shareholders of qualifying companies

(1) The Commissioner may assess the liability of a shareholder who has agreed under section HA 8 of the Income Tax Act 2007 to be personally liable for their share of the income tax payable by a qualifying company.

(2) A person assessed under subsection (1) is liable as agent for the company.

(3) The Commissioner may reduce a person's agreed liability if, in the relevant income year,—

(a) they first acquire shares in the company; or

(b) they dispose of all their shares in the company.

(4) To reduce a person's liability under subsection (3),—

(a) the Commissioner must be satisfied that the reduction is appropriate; and

(b) the person must provide adequate accounts and other relevant information to show that the company's income tax liability attributable to the part of the income year in which they were a shareholder is proportionately smaller than the liability attributable to the full income year.

(5) An assessment of the company or the person does not prevent an assessment of the other.

Compare: 2004 No 35 s HG 8(1), (2)

Section 93

Section 93, heading, subsections (1), and (2)(a) and (b): "fringe benefit tax" is replaced by "FBT" in each place where it appears.

Section 93(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

New sections 93B and 93C

After section 93: insert the following:

93B Trustee income: Commissioner's power to assess

(1) This section applies when a person—

(a) fails to disclose details of a trust under section 59; or

(b) fails to provide information that the Commissioner has asked for under section 17 in relation to a trust; or

New sections 93B and 93C—*continued*

(c) is unable to obtain sufficient information to calculate the amount of trustee income in an income year.

(2) The Commissioner may determine in a fair and reasonable manner the amount of trustee income for the income year.

Compare: 2004 No 35 s HH 7

93C Foreign tax credits: Commissioner's power to amend assessments

(1) This section applies when a person is entitled to a tax credit under section LK 1 of the Income Tax Act 2007 and—

(a) the amount of the credit cannot be determined before the time by which the person must file a return of income for an income year; and

(b) the person asks the Commissioner for an amended assessment within 4 years after the end of the income year.

(2) The Commissioner must amend the assessment for the income year to reflect the amount of the credit.

Compare: 2004 No 35 s LC 4(1C)

Section 94

Section 94(1): "section HG 12 of the Income Tax Act 2004" is replaced by "section HA 42 of the Income Tax Act 2007".

Section 94(3): replace by the following:

(3) An assessment made under subsection (1) is subject to challenge in the same manner as an assessment of income tax imposed under section BB 1 of the Income Tax Act 2007, and Part 8A of this Act applies accordingly.

Section 95

Section 95(1): "section IZ 2 of the Income Tax Act 2004" is replaced by "section RZ 9 of the Income Tax Act 2007".

Section 95(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 97

Section 97(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 97B

Section 97B(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 98

Section 98, heading, subsections (1), and (2)(a) and (b): "specified superannuation contribution withholding tax" is replaced by "ESCT" in each place where it appears.

Section 98(1): "section NE 2 of the Income Tax Act 2004, make an assessment of the amount of the specified superannuation contribution" is replaced by "section RD 67

Section 98—*continued*

of the Income Tax Act 2007, make an assessment of the amount of the employer's superannuation contribution".

Section 98(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 99

Section 99, heading: "**resident withholding tax deductions**" is replaced by "**RWT**".

Section 99(2)(a): "resident withholding income" is replaced by "resident passive income".

Section 99(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 100

Section 100, heading, subsections (1), and (3)(a) and (b): "non-resident withholding tax" is replaced by "NRWT" in each place where it appears.

Section 100(1): "section NG 2 of the Income Tax Act 2004" is replaced by "section RF 3 of the Income Tax Act 2007".

Section 100(1): "non-resident withholding income" is replaced by "non-resident passive income".

Section 100(2): "subpart NG of the Income Tax Act 2004" is replaced by "subpart RF of the Income Tax Act 2007".

Section 100(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 101

Section 101(1) and (3): "section ME 9 of the Income Tax Act 2004" is replaced by "sections OB 65 to OB 67 of the Income Tax Act 2007" in each place where it appears.

Section 101B

Section 101B heading and subsections (1), (2), and (3): "additional income tax" is replaced by "imputation additional tax" in each place where it appears.

Section 101B(1) and (3): "section ME 9C of the Income Tax Act 2004" is replaced by "section OB 72 of the Income Tax Act 2007" in each place where it appears.

Section 102

Section 102, heading and subsections (1), and (2)(a) and (b): "dividend withholding payment" is replaced by "FDP" in each place where it appears.

Section 102(1): "section NH 1 of the Income Tax Act 2004" is replaced by "section RG 3 of the Income Tax Act 2007".

Section 102(1)(a): "foreign withholding payment dividend" is replaced by "foreign dividend".

Section 102(3): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 103

Section 103, heading and subsections (1), and (3)(a) and (b): "further dividend withholding payment" is replaced by "further FDP" in each place where it appears.

Section 103(1): "section MG 9 of the Income Tax Act 2004" is replaced by "sections OC 30 to OC 32 of the Income Tax Act 2007".

Section 103A

Section 103A, heading and subsections (1), (2), and (4)(b): "dividend withholding payment" is replaced by "FDP" in each place where it appears.

Section 103A(1): "section MI 10 of the Income Tax Act 2004" is replaced by "section OD 23 of the Income Tax Act 2007".

Section 103A(4)(a): "deduct a dividend withholding payment" is replaced by "pay FDP".

Section 104

Section 104, heading and subsections (1), (2), and (3)(a) and (b): "dividend withholding payment" is replaced by "FDP" in each place where it appears.

Section 104(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

New section 104B

After section 104: insert the following:

104B Determination of credits and debits in memorandum accounts

(1) In this section,—

credit date means the credit date recorded when a memorandum credit arises in a memorandum account

debit date means the debit date recorded when a memorandum debit arises in a memorandum account

memorandum account person means a company, person, consolidated imputation group, or consolidated group (including the nominated company for a consolidated group) that maintains a memorandum account.

(2) The Commissioner may determine that a memorandum account is corrected by—

(a) adjusting the amount of a credit or debit recorded in the account; or

(b) changing a credit date or a debit date recorded in the account.

(3) Notice of the determination must be given to the memorandum account person affected by the determination as soon as is convenient after the determination has been made.

(4) Notice of the determination may be included in a notice of assessment.

New section 104B—*continued*

(5) Failure to give the notice of determination does not invalidate the determination.

(6) Particulars of the determination are treated as correctly reflecting what should have been recorded in the memorandum account.

(7) The memorandum account person must record those changes that are necessary or appropriate to ensure that all memorandum accounts of the person correctly reflect the determination.

(8) Subsections (6) and (7) do not apply to the extent to which it is established in proceedings under a challenge that the determination is not correct.

Compare: 2004 No 35 ss ME 20, ME 40, MF 6, MG 12, MI 12, MJ 8, MK 9

Section 108

Section 108, after subsection (3): insert the following:

(3B) The Commissioner may amend an assessment or a determination to give effect to section LA 6(3) of the Income Tax Act 2007 despite the time bar.

Section 113B

Section 113B(1)(c): "section CD 30(2) of the Income Tax Act 2004" is replaced by "CD 41(2) of the Income Tax Act 2007".

Section 113B(2): "dividend withholding payment credit" is replaced by "FDP credit".

Section 113C

Section 113C(1)(a): "section CD 13 of the Income Tax Act 2004" is replaced by "section CD 21 of the Income Tax Act 2007".

Section 113C(1)(d)(i): "section CD 28(13) of the Income Tax Act 2004" is replaced by "section CD 39(13) of that Act".

Section 113C(1)(d)(ii): "section CD 39(11) of the Income Tax Act 2004" is replaced by "section CD 50(11) of that Act".

Section 113C(2): "sections CD 28(13) and CD 39(11) of the Income Tax Act 2004" is replaced by "sections CD 39(13) and CD 50(11) of the Income Tax Act 2007".

Section 119

Section 119(1)(d): "section MB 6 of the Income Tax Act 2004" is replaced by "section RC 7 of the Income Tax Act 2007".

Section 119(1)(e): "sections MB 6(5) and MB 17(5) of the Income Tax Act 2004" is replaced by "sections RC 7 and RC 18(5) of that Act".

Section 119(2)(b): "sections HK 26(2), HK 26(3), LC 1, LC 4, and LC 5 of the Income Tax Act 2004" is replaced by "sections HD 29(3), LJ 1, LK 1, and LK 6 of the Income Tax Act 2007".

Section 120A

Section 120A(3): "deducts resident withholding tax or non-resident withholding tax" is replaced by "withholds RWT or NRWT".

Section 120C

Section 120C(1), definition of **date interest starts**, paragraphs (b) and (d): "fringe benefit tax" is replaced by "FBT" in each place where it appears.

Section 120C(1), definition of **date interest starts**, paragraph (b)(v)(A): "section MB 17(2) or MB 17(3), as applicable" is replaced by "section RC 18(3) of the Income Tax Act 2007".

Section 120C(1), definition of **date interest starts**, paragraph (e): "subpart MBA of the Income Tax Act 2004" is replaced by "sections RP 17 to RP 21 of the Income Tax Act 2007".

Section 120C(1), definition of **date interest starts**, paragraph (e): "section MBA 5(3)" is replaced by "section RP 18(5) of that Act".

Section 120C(1), definition of **date interest starts**, paragraph (f)(i): "section MB 5" is replaced by "section RC 6".

Section 120C(1), definition of **date interest starts**, paragraph (f)(ii): "section MC 1" is replaced by "section RA 13".

Section 120C(1), definition of **tax paid**, paragraphs (b) and (c): "subpart MBA of the Income Tax Act 2004" is replaced by "sections RP 17 to RP 21 of the Income Tax Act 2007" in each place where it appears.

Section 120C(1), definition of **tax payable**: "a deduction of tax that must be made" is replaced by "an amount of tax that must be withheld or deducted".

Section 120D

Section 120D(4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 120EA

Section 120EA: "section EY 42(1) of the Income Tax Act 2004" is replaced by "section EY 43(1) of the Income Tax Act 2007".

Section 120KB

Section 120KB(2): "section MB 8 of the Income Tax Act 2004" is replaced by "section RC 9 of the Income Tax Act 2007".

Section 120KB(3): "section MB 7 of the Income Tax Act 2004" is replaced by "section RC 8 of the Income Tax Act 2007".

Section 120KB(4): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 120KB(4)(a): "section KD 4(2)(c) of the Income Tax Act 2004" is replaced by "section MF 6(2) of that Act".

Section 120KB—*continued*

Section 120KB(4)(b): "section KD 4(2)(d) of the Income Tax Act 2004" is replaced by "section LA 4(1) of that Act".

Section 120KC

Section 120KC(1)(a): "section MB 8(8)(a) of the Income Tax Act 2004" is replaced by "section RC 9(9)(a) of the Income Tax Act 2007".

Section 120KC(1)(b): "section MB 8(8)(b)" is replaced by "section RC 9(9)(b) of that Act".

Section 120KC(1)(c): "section MB 8(8)(c)" is replaced by "section RC 9(9)(c) of that Act".

Section 120KC(2): "schedule 13, part A of the Income Tax Act 2004" is replaced by "schedule 3, part A of the Income Tax Act 2007".

Section 120KD

Section 120KD(1) and (2): "schedule 13, part B of the Income Tax Act 2004" is replaced by "schedule 3, part B of the Income Tax Act 2007" in each place where it appears.

Section 120KD(1): "sections MB 20 to MB 23 of the Income Tax Act 2004" is replaced by "sections RC 21 to RC 24 of the Income Tax Act 2007".

Section 120KE

Section 120KE(1)(c): "section MB 6 of the Income Tax Act 2004" is replaced by "section RC 7 of the Income Tax Act 2007".

Section 120KE(1)(d): "section MB 7 of the Income Tax Act 2004" is replaced by "section RC 8 of that Act".

Section 120KE(1)(e): "a valid certificate of exemption under section NF 9(12) of the Income Tax Act 2004" is replaced by "an RWT exemption certificate under section 32I".

Section 120KE(2): "section MB 8(2) or (4) or MB 20" is replaced by "section RC 9(3) or (5), or RC 21 of the Income Tax Act 2007".

Section 120KE(5): "section MB 17 of the Income Tax Act 2004" is replaced by "section RC 18 of the Income Tax Act 2007".

Section 120KE(8): "schedule 13, part A of the Income Tax Act 2004" is replaced by "schedule 3, part A of the Income Tax Act 2007".

Section 120M

Section 120M(a): "section MD 2 of the Income Tax Act 2004" is replaced by "sections RM 13 to RM 17, RM 32, and RZ 6 of the Income Tax Act 2007".

Section 120M(b): "section MB 37 of the Income Tax Act 2004" is replaced by "section RC 35 of the Income Tax Act 2007".

Section 120O

Section 120O(a): "sections NC 15(1)(b) or NC 15(1)(i) of the Income Tax Act 2004" is replaced by "sections RA 5 and RD 4 of the Income Tax Act 2007".

Section 120O(b): "sections NC 15(1)(c) or NC 15(1)(i) of the Income Tax Act 2004" is replaced by "sections RA 5 and RD 23(3) of that Act".

Section 120O(c): "section NF 4 of the Income Tax Act 2004" is replaced by "sections RA 6, RE 20, and RE 21 of that Act".

Section 120O(d): "section NG 11 of the Income Tax Act 2004" is replaced by "sections RA 6 and RF 13 of that Act".

Section 120O(e): "section NH 3 of the Income Tax Act 2004" is replaced by "sections RA 6 and RG 3 of that Act".

Section 120OB

Section 120OB(1)(a): "section NBA 4(1) of the Income Tax Act 2004" is replaced by "sections RP 9 to RP 11 of the Income Tax Act 2007".

Section 120OB(1)(b): "section NBA 4(1B)(b) of the Income Tax Act 2004" is replaced by "section RP 8(b) of that Act".

Section 120OB(2), definition of **tax paid**, paragraph (a): "in respect of a deduction of tax that must be made" is replaced by "for an amount of tax that must be withheld or deducted".

Section 120OB(2), definition of **tax payable**: "a deduction of tax that at the time is due to be made" is replaced by "an amount of tax that at the time is due to be withheld or deducted".

Section 120OD

Section 120OD(1): "subpart MBA of the Income Tax Act 2004" is replaced by "sections RP 17 to RP 21 of the Income Tax Act 2007".

New section 120OE

After section 120OD: insert the following:

120OE Interest paid on deposits in tax pooling accounts

(1) Interest paid by the Commissioner on an amount deposited in a tax pooling intermediary's tax pooling account accrues to the benefit of the intermediary from the date of the deposit.

(2) The interest referred to in subsection (1) is payable to the intermediary on the date the amount is credited to another account with the Commissioner, or on the date the amount is refunded to the intermediary.

(3) A deposit in a tax pooling account is treated as tax paid by the intermediary for the purposes of calculating use of money interest, but for no other purpose.

New section 120OE—*continued*

(4) Subsection (5) applies when a payment is made either by a tax pooling intermediary to their client, or by a client to their tax pooling intermediary, and the payment represents a difference between funds held in a tax pooling account for a period of time and an amount paid for the entitlement to the funds.

(5) The payment is treated as—

(a) a payment of interest to the person who derives the payment for the purposes of section CC 4 of the Income Tax Act 2007, the RWT rules, and the NRWT rules:

(b) expenditure incurred in deriving the income of the person making the payment.

Compare: 2004 No 35 ss MBA 5(5), (6), MBA 9

Section 120PA

Section 120PA, heading: "**foreign investor tax credit**" is replaced by "**tax credit for supplementary dividend**".

Section 120PA: "a foreign investor tax credit" is replaced by "a tax credit for a supplementary dividend".

Section 120PA: "section LE 2(4)(b) of the Income Tax Act 2004" is replaced by "section LP 3(3) of the Income Tax Act 2007".

Section 120Q

Section 120Q: "schedule 13, part A of the Income Tax Act 2004" is replaced by "schedule 3, part A of the Income Tax Act 2007".

Section 120R

Section 120R, heading: "**dividend withholding payments**" is replaced by "**FDP**".

Section 120R(1), words before paragraph (a): "a dividend withholding payment" is replaced by "FDP".

Section 120R(1)(a): "elects by notice, under subsection (2) or subsection (3) of section NH 3 of the Income Tax Act 2004 to reduce an amount of net loss" is replaced by "chooses by notice, under section RG 6 of the Income Tax Act 2007 to reduce an amount of tax loss".

Section 120U

Section 120U, heading: "**in respect of tax deduction obligation**" is replaced by "**for obligation to withhold or deduct amount of tax**".

Section 120U(a): "deduct" is replaced by "withhold or deduct an amount of".

Section 120U(b): "a deduction of tax" is replaced by "have an amount of tax withheld or deducted".

Section 120U—*continued*

Section 120U, the words after the paragraphs: "the deduction of tax" is replaced by "withholding or deducting the amount of tax".

Section 120U, the words after the paragraphs: "deducted" is replaced by "withheld or deducted".

Section 120V

Section 120V, heading: "**excess deductions of resident withholding tax**" is replaced by "**overpaid RWT**".

Section 120V: "excess resident withholding tax under section NF 7 of the Income Tax Act 2004" is replaced by "overpaid RWT under section RM 8 of the Income Tax Act 2007".

Section 125

Section 125, words before paragraph (a), and paragraphs (b), (c), (f) and (h): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 125(i): "section GD 8 of the Income Tax Act 2004" is replaced by "section EY 11 of the Income Tax Act 2007".

Section 125(i): "subsection (4)" is replaced by "subsections (3) to (9)".

Section 125(j)(iii): "sections CD 9, CD 11, HK 7, HK 11, HK 18, HK 24, HK 26, LC 1 to LC 3, LC 7, LC 13 to LC 15, MD 1, and OB 2 of the Income Tax Act 2004" is replaced by "sections CD 15, CD 19, HD 2, HD 3(2), HD 5(4), HD 15, HD 24, HD 26 to HD 29, LA 6 to LA 8, LJ 1 to LJ 7, RD 3, RM 2 to RM 4, RM 6, RM 8, and RM 10 of the Income Tax Act 2007".

Section 125(j)(iv): "78B, 78C, 166B, 225B" are inserted in their numerical order.

Section 130

Section 130(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 133

Section 133, heading: "**deduction**" is replaced by "**withholding**".

Section 133: "in respect of a tax deduction on the basis of a determination made under section NC 1 of the Income Tax Act 2004" is replaced by "in relation to an amount of tax withheld on the basis of a determination under section RD 3(5) of the Income Tax Act 2007".

Section 138E

Section 138E(1)(d): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 138E(1)(e)(iii): "sections CD 9, CD 11, HK 7, HK 11, HK 18, HK 24, HK 26, LC 1 to LC 3, LC 7, LC 13 to LC 15, MD 1, and OB 2 of the Income Tax Act 2004" is replaced by "sections CD 15, CD 19, HD 2, HD 3(2), HD 5(4), HD 15, HD

Section 138E—*continued*

24, HD 26 to HD 29, LA 6 to LA 8, LJ 1 to LJ 7, RD 3, RM 2 to RM 4, RM 6, RM 8, and RM 10 of the Income Tax Act 2007".

Section 138E(1)(e)(iv): "78B, 78C, 166B, 225B" are inserted in their numerical order.

Section 138M

Section 138M, heading: "**deduction**" is replaced by "**withholding**".

Section 138M, words after the paragraphs: "in respect of a tax deduction on the basis of a determination made under section NC 1 of the Income Tax Act 2004" is replaced by "in relation to an amount of tax withheld on the basis of a determination under section RD 3(5) of the Income Tax Act 2007".

Section 139A

Section 139A(1): "(1B)(a) by an Australian imputation credit account company" is replaced by "(2)(a) by an Australian ICA company".

Section 139A(1), (2), and (4): "annual imputation return" is replaced by "annual ICA return" in each place where it appears.

Section 139A(1): "section NC 15(1)(a) or (b) or (c) or (d) of the Income Tax Act 2004" is replaced by "section RD 22(1) to (5) of the Income Tax Act 2007".

Section 139A(2)(a)(ii): "(1B)(a)" is replaced by "(2)(a)".

Section 139AA

Section 139AA(1)(a): "section NC 15(1)(a) and NC 15(1)(b) of the Income Tax Act 2004" is replaced by "section RD 23(2) of the Income Tax Act 2007".

Section 139B

Section 139B(3B) and (5A): "deducted" is replaced by "withheld or deducted" in each place where it appears.

Section 139B(6)(c)(i): "a deduction of tax that must be made" is replaced by "an amount of tax that must be withheld or deducted".

Section 139C

Section 139C(1B): "section MB 11 of the Income Tax Act 2004" is replaced by "section RM 11 of the Income Tax Act 2007".

Section 139C(2), definition of **provisional tax payable**, paragraphs (a) and (aa): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 139C(2), definition of **provisional tax payable**, paragraph (a): "section MB 9" is replaced by "section RC 10" in each place where it appears.

Section 139C(2), definition of **provisional tax payable**, paragraph (a)(ii): "section MB 4" is replaced by "section RC 5".

Section 139C—*continued*

Section 139C(2), definition of **provisional tax payable**, paragraph (aa): "sections MB 9 and MB 20" is replaced by "sections RC 10 and RC 21" in each place where it appears.

Section 139C(2), definition of **provisional tax payable**, paragraph (a)(ii): "section MB 9(2)" is replaced by "section RC 10(2)".

Section 140

Section 140: replace by the following:

140 Where another person withholds RWT

For the purposes of determining a person's liability to pay a late payment penalty, the person is treated as having withheld or accounted for an amount of tax if—

(a) they are liable to pay the late payment penalty for—

(i) not withholding resident withholding tax (RWT) under the RWT rules; or

(ii) not accounting for RWT under the RWT rules; and

(b) they can satisfy the Commissioner that another person, under the RWT rules,—

(i) withheld the RWT; or

(ii) accounted for the RWT.

Section 140B

Section 140B(1): "section ME 9(1) of the Income Tax Act 2004" is replaced by "section OB 65 of the Income Tax Act 2007".

Section 140B(1) and (2)(b): "additional income tax" is replaced by "imputation additional tax" in each place where it appears.

Section 140B(1): "section ME 9C" is replaced by "section OB 72".

Section 140C

Section 140C, heading and subsection: "dividend withholding payment penalty tax" is replaced by "FDP penalty tax" in each place where it appears.

Section 140C(1) and (2): "further dividend withholding payment" is replaced by "further FDP" in each place where it appears.

Section 140C(1): "section MG 9(1) of the Income Tax Act 2004" is replaced by "section OC 30 of the Income Tax Act 2007".

Section 140CB

Section 140CB(1): "section MK 8 of the Income Tax Act 2004" is replaced by "sections OK 21 and OK 22 of the Income Tax Act 2007".

Section 140D

Repeal.

Section 140DB

Repeal.

Section 141

Section 141(7)(c): "associated persons within the meaning of section OD 8(1) of the Income Tax Act 2004" is replaced by "associated persons within the meaning of sections YB 2, YB 8 to YB 14, YB 16, YB 17, and YB 19 of the Income Tax Act 2007".

Section 141(12A): "section EY 42(1) of the Income Tax Act 2004" is replaced by "section EY 43(1) of the Income Tax Act 2007".

Section 141AA

Section 141AA(1): "withholding payment" is replaced by "schedular payment".

Section 141AA(1): "for the purposes of the Income Tax (Withholding Payments) Regulations 1979" is omitted.

Section 141AA(1)(b): "make a required tax deduction" is replaced by "withhold an amount of tax that is required".

Section 141AA(2): "required tax deduction" is replaced by "amount of tax required to be withheld".

Section 141D

Section 141D(3B)(b): "associated under section OD 7 of the Income Tax Act 2004" is replaced by "associated under subpart YB of the Income Tax Act 2007 (to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions)".

Section 141E

Section 141E(2): "deduction" is replaced by "deduction or withholding".

Section 141EB

Section 141EB(3): "loss attributing qualifying company" is replaced by "loss-attributing qualifying company" in each place where it appears.

Section 141FB

Section 141FB(4)(a)(ii) to (iv): is replaced by the following:

(ii) FBT:

(iii) GST:

(iv) RWT:

Section 141FD

Section 141FD, heading: "**loss attributing qualifying companies**" is replaced by "**loss-attributing qualifying companies**".

Section 141FD(1) and (2): "loss attributing qualifying company" is replaced by "loss-attributing qualifying company" in each place where it appears.

Section 141FD(1): "net loss" is replaced by "tax loss" in each place where it appears.

Section 141FD(3): "that the shareholder claimed in respect of the attributed net loss" is replaced by "of the shareholder for the amount of the tax loss attributed to them".

Section 141JA

Section 141JA: "section NC 16 of the Income Tax Act 2004" is replaced by "section RD 4(2) of the Income Tax Act 2007".

Section 141JB

Section 141JB(1)(a): "section NBA 4(1) of the Income Tax Act 2004" is replaced by "sections RP 9 to RP 11 of the Income Tax Act 2007".

Section 141JB(1)(b): "section NBA 4(1B)(b) of the Income Tax Act 2004" is replaced by "section RP 8(b) of that Act".

Section 142

Section 142(1)(d): "annual imputation return" is replaced by "annual ICA return" in each place where it appears.

Section 142(1)(d): "(1B)(a) by an Australian imputation credit account company" is replaced by "(2)(a) by an Australian ICA company".

Section 142(1A)(a): "section NC 15(1)(b) of the Income Tax Act 2004" is replaced by "section RD 22(2)(b) of the Income Tax Act 2007".

Section 142(1A)(b): "section NC 15(1)(c) or (d) of the Income Tax Act 2004" is replaced by "section RD 22(3) or (4) of that Act".

Section 142E

Section 142E, heading: "**dividend withholding penalty tax**" is replaced by "**FDP penalty tax**".

Section 142E(2): "dividend withholding payment penalty tax" is replaced by "FDP penalty tax" in each place where it appears.

Section 142E(1) and (2): "imputation year" is replaced by "tax year" in each place where it appears.

Section 142E(2): "further dividend withholding payment" is replaced by "further FDP".

Section 143A

Section 143A(3): "dividend withholding payment deduction" is replaced by "payment of FDP".

Section 143A(5)(a) to (f): replace by the following:

(a) a PAYE income payment:

(b) a combined tax and earner-related payment:

(c) an amount of tax withheld for—

(i) resident passive income:

(ii) non-resident passive income:

(iii) an employer's superannuation contribution:

(d) a deduction of contribution that was payable under Part 3, subpart 1 of the KiwiSaver Act 2006.

Section 143A(6): "making a deduction of dividend withholding payment in respect of a dividend derived" is replaced by "withholding FDP for a foreign dividend derived".

Section 143A(6)(a): "deducted an estimate of the amount of dividend withholding payment" is replaced by "withheld or paid an estimate of the FDP".

Section 143A(6)(b)(i): "section LF 2 of the Income Tax Act 2004" is replaced by "section LL 2 of the Income Tax Act 2007".

Section 143B

Section 143B(3): "making a deduction of a dividend withholding payment in respect of a dividend derived" is replaced by "withholding FDP for a foreign dividend derived".

Section 143B(3)(a): "deducted an estimate of the amount of dividend withholding payment" is replaced by "withheld or paid an estimate of the FDP".

Section 143B(3)(b)(i): "section LF 2 of the Income Tax Act 2004" is replaced by "section LL 2 of the Income Tax Act 2007".

Section 150A

Section 150A(1)(b) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 157

Section 157(1)(d): "a tax deduction" is replaced by "an amount of tax withheld or deducted".

Section 157(1)(d): "that tax deduction" is replaced by "that amount of tax".

Section 157(10), definition of **income tax**, paragraph (a): "the Income Tax Act 2007 and" is inserted before "the Income Tax Act 2004".

Section 157—*continued*

Section 157(10), definition of **income tax**, paragraph (b): "a tax deduction" is replaced by "an amount of tax withheld, or combined tax and earner-related payment, to which section RD 4(1) of the Income Tax Act 2007 applies, or a tax deduction".

Section 157(10), definition of **income tax**, paragraph (bb): insert "sections RP 17 to RP 21 of the Income Tax Act 2007 or" before "subpart MBA of the Income Tax Act 2004".

Section 157(10), definition of **income tax**, paragraph (c): "section RD 4(2)(a) of the Income Tax Act 2007 or" is inserted before "section NC 16(b) of the Income Tax Act 2004".

Section 157(10), definition of **income tax**, paragraph (e): "sections RA 10 and RD 70 of the Income Tax Act 2007 or" is inserted before "section NE 5 of the Income Tax Act 2004".

Section 164

Section 164: "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 165AA

Section 165AA(1), (2) and (4): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 165AA(2): "basic rate of income tax stated in schedule 1, part A, clause 4" is replaced by "basic tax rate set out in schedule 1, part A, clause 3".

Section 165A

Section 165A(1): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 165A(2): "sections LC 3, LC 4(11) and LD 1(6) of the Income Tax Act 2004" is replaced by "sections LA 3 to LA 5, LJ 7, and LK 4 of the Income Tax Act 2007".

New section 165B

After section 165A: insert the following:

165B Recovery of overpaid refunds: NRWT

(1) This section applies for the purposes of the NRWT rules when the amount of a refund made to a person is more than the amount properly refundable to them.

(2) The Commissioner may recover the amount overpaid as if it were income tax.

(3) If the person has led the Commissioner by wilful default or neglect to pay the refund, the amount of the overpayment is due on the date the refund was paid. In every other case, the amount of the overpayment is due on the 5th working day of the month after that in which the Commissioner notifies the person that the amount of the overpayment is payable.

Compare: 2004 No 35 s NG 16(5)

Section 166

Section 166(1): "sections MD 2, ME 20 and NH 4 of the Income Tax Act 2004" is replaced by "sections IA 3(2)(c), OA 2(5), RA 19, RA 20, RM 3, RM 13 to RM 21, RM 32, and RZ 6 of the Income Tax Act 2007 and sections 71B and 104B".

New section 166B

After section 166: insert the following:

166B Shipping business of absentee taxpayer

(1) This section applies if an assessment is made in relation to—

(a) an absentee who carries on a shipping business carrying goods or passengers; or

(b) a person who—

(i) is the master of a ship owned by or under charter to the absentee; and

(ii) is treated as an agent under section HD 21 of the Income Tax Act 2007.

(2) The Commissioner may require a Customs officer to withhold the clearance of the ship pending the payment of any tax assessed.

Compare: 2004 No 35 s HK 18

Section 167

Section 167, heading: "**tax deductions**" is replaced by "**tax and payments**".

Section 167(1): "The amount of every tax deduction or combined tax and earner premium deduction or combined tax and earner levy deduction made" is replaced by "Every amount of tax or combined tax and earner-related payment withheld or deducted".

Section 167(2): "Where a tax deduction or combined tax and earner premium deduction or combined tax and earner levy deduction has been made" is replaced by "When an amount of tax or combined tax and earner-related payment has been withheld or deducted".

Section 167(2): "deduction or any part of the deduction in the manner required by subsection (1) or the PAYE rules, the amount of the deduction" is replaced by "tax or payment withheld or deducted (or any part of it) in the manner required by subsection (1) or the PAYE rules, the amount of the tax or payment".

Section 167(2)(a): "deduction" is replaced by "tax or payment".

Section 167(2)(b) and (c): "tax deduction" is replaced by "tax or payment" in each place where it appears.

Section 167(2B)(b)(i): "section NBA 4(1) of the Income Tax Act 2004" is replaced by "sections RP 9 to RP 11 of the Income Tax Act 2007".

Section 167—*continued*

Section 167(2B)(b)(ii): "section NBA 4(1B)(b) of the Income Tax Act 2004" is replaced by "section RP 8(b) of that Act".

Section 167(4): "**combined tax and earner premium deduction** or **combined tax and earner levy deduction**" is replaced by "**combined tax and earner-related payment**".

Section 168

Section 168, heading: "**make tax deductions**" is replaced by "**withhold or deduct tax or payments**".

Section 168(1): "make any tax deduction or combined tax and earner premium deduction or combined tax and earner levy deduction" is replaced by "withhold or deduct an amount of tax or combined tax and earner-related payment".

Section 168(1): "paragraphs (a), (b), (c), and (d) of section NC 15(1) of the Income Tax Act 2004" is replaced by "section RD 4 of the Income Tax Act 2007".

Section 168(1): "tax deductions" is replaced by "tax or combined tax and earner-related payment".

Section 168(4)(a): "section NBA 4(1) of the Income Tax Act 2004" is replaced by "sections RP 9 to RP 11 of the Income Tax Act 2007".

Section 168(4)(b): "section NBA 4(1B)(b) of the Income Tax Act 2004" is replaced by "section RP 8 of that Act".

Section 169

Section 169, heading: "**tax deductions**" is replaced by "**tax payments**".

Section 169(1): "make any tax deduction or combined tax and earner premium deduction or combined tax and earner levy deduction" is replaced by "withhold or deduct an amount of tax or combined tax and earner-related payment".

Section 169(1): "that deduction or sum" is replaced by "that tax, payment, or sum," in each place where it appears.

Section 169(1B)(a): "section NBA 4(1) of the Income Tax Act 2004" is replaced by "sections RP 9 to RP 11 of the Income Tax Act 2007".

Section 169(1B)(b): "section NBA 4(1B)(b) of the Income Tax Act 2004" is replaced by "section RP 8(b) of that Act".

Section 170

Section 170, heading: "**resident withholding tax deductions**" is replaced by "**RWT**".

Section 170(1): "The amount of every resident withholding tax deduction made in accordance with" is replaced by "The amount of RWT withheld under".

Section 170(2): "resident withholding tax deduction" is replaced by "RWT".

Section 170—*continued*

Section 170(2): "a tax deduction" is replaced by "tax".

Section 171

Section 171, heading: "**make resident withholding tax deductions**" is replaced by "**withhold RWT**".

Section 171(1): "make any resident withholding tax deduction" is replaced by "withhold RWT".

Section 171(1): "the deduction correctly been made" is replaced by "the tax been correctly withheld".

Section 171(2): "resident withholding income" is replaced by "resident passive income".

Section 171(3): "made a deduction of resident withholding tax from the resident withholding income in relation to which the first person failed to make such a deduction" is replaced by "withheld RWT from the resident passive income which the first person failed to withhold".

Section 171(3): "that deduction" is replaced by "that tax".

Section 172

Section 172, heading: "**resident withholding tax deductions constitute**" is replaced by "**RWT constitutes**".

Section 172(1): "to make any tax deduction" is replaced by "withhold RWT".

Section 172(1): "that tax deduction" is replaced by "that tax".

Section 173L

Section 173L(2)(b) and (3): "tax deducted" is replaced by "tax withheld or deducted" in each place where it appears.

Section 173L(2)(b): "the deduction" is replaced by "the amount was withheld or deducted".

Section 173L(3): "the deduction occurred" is replaced by "the amount was withheld or deducted".

Section 173M

Section 173M(5)(b): "section CW 34 or CW 35 of the Income Tax Act 2004" is replaced by "section CW 41 or CW 42 of the Income Tax Act 2007".

Section 173MB

Section 173MB: "section NBA 6(4) of the Income Tax Act 2004" is replaced by "section RP 6(4) of the Income Tax Act 2007".

Section 173N

Section 173N, heading: "**rebates**" is replaced by "**tax credits**".

Section 173N, words before paragraph (a): "rebate" is replaced by "tax credit".

Section 173P

Section 173P(2)(a): "section MB 12 of the Income Tax Act 2004" is replaced by "section RC 12 of the Income Tax Act 2007".

Section 173Q

Section 173Q(1)(b)(ii): "section MB 4(3) of the Income Tax Act 2004" is replaced by "section RC 5(2) and (3) of the Income Tax Act 2007".

Section 173Q(2)(a): "section MB 12 of the Income Tax Act 2004" is replaced by "section RC 12 of the Income Tax Act 2007".

Section 173R

Section 173R(2)(a): "section MB 12 of the Income Tax Act 2004" is replaced by "section RC 12 of the Income Tax Act 2007".

Section 174AA

Section 174AA: "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 174AA(b): "tax paid or deducted" is replaced by "tax paid, withheld, or deducted".

Section 177A

Section 177A(3): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 177C

Section 177C(5) and (6): "net loss" is replaced by "tax loss" in each place where it appears.

Section 177C(5B) and (5C): is replaced by the following:

(5B) If the Commissioner writes off outstanding tax for a taxpayer who has a tax credit carried forward under section LE 3 of the Income Tax Act 2007, the Commissioner must extinguish an amount of the tax credit on a one-for-one basis.

(5C) If a taxpayer has both a tax loss to which subsection (5) applies and a tax credit to which subsection (5B) applies, the Commissioner must extinguish the tax loss before extinguishing the tax credit.

Section 177D

Section 177D(2)(a): "section CX 41B(4) and (5) or section EW 47B(4) and (5) of the Income Tax Act 2004" is replaced by "section CX 48(4) and (5) or EW 46(4) and (5) of the Income Tax Act 2007".

Section 177D(3)(b) is replaced by the following:

> (b) from the payment of unpaid tax or amounts owing to the Commissioner under the PAYE rules, if the unpaid tax or amounts owing relate to PAYE income payments made for the farming business for which the new start grant was paid.

Section 180

Section 180(1)(a): "section ME 5(1)(j) of the Income Tax Act 2004" is replaced by "section OB 54 of the Income Tax Act 2007".

Section 180(1)(a): "section ME 4(1)(h)" is replaced by "section OB 25".

Section 180(1)(b): "imputation year" is replaced by "tax year".

Section 180(1)(c): "sections ME 5(1)(l) to (n) and ME 12(1)(l) and (m) of the Income Tax Act 2004" is replaced by "sections OB 33, OB 38, OP 31, OP 36, and OZ 3 of the Income Tax Act 2007".

Section 181

Section 181, heading and provisions: "dividend withholding payment" is replaced by "FDP" in each place where it appears.

Section 181(1)(a): "section MG 5(1)(h) of the Income Tax Act 2004" is replaced by "section OC 25 of the Income Tax Act 2007".

Section 181(1)(a): "section MG 4(1)(d) of the Income Tax Act 2004" is replaced by "section OC 12 of that Act".

Section 181(1)(b): "imputation year" is replaced by "tax year".

Section 181(1)(c): "sections MG 5(1)(k) and MG 15(1)(l) of the Income Tax Act 2004" is replaced by "sections OC 15 and OP 67 of the Income Tax Act 2007".

Section 181B

Section 181B(1)(a): "section MK 5(1)(h) of the Income Tax Act 2004" is replaced by "section OK 17 of the Income Tax Act 2007".

Section 181B(1)(a): "section MK 4(1)(g) of the Income Tax Act 2004" is replaced by "section OK 9 of that Act".

Section 180B(1)(b): "imputation year" is replaced by "tax year".

Section 181B(1)(c): "section MK 5(1)(j) of the Income Tax Act 2004" is replaced by "section OK 13 of the Income Tax Act 2007".

Section 181C

Section 181C(1)(a): "section ME 9(1) of the Income Tax Act 2004" is replaced by "section OB 65 of the Income Tax Act 2007".

Section 181C(1)(a) and (b): "imputation year" is replaced by "tax year" in each place where it appears.

Section 181D

Section 181D: "section MK 8(5) or (5B) of the Income Tax Act 2004" is replaced by "sections OK 23 and 24 of the Income Tax Act 2007".

Section 180D: "imputation year" is replaced by "tax year".

Section 183

Section 183(1)(e)(i): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 183A

Section 183A(1)(e): "dividend withholding payment" is replaced by "FDP".

Section 183ABA

Section 183ABA(1): "section OB 1 of the Income Tax Act 2004" is replaced by "section YA 1 of the Income Tax Act 2007".

Section 183H

Section 183H(a)(ii): "dividend withholding payment" is replaced by "FDP".

Section 184

Section 184: "section MD 1 of the Income Tax Act 2004" is replaced by "sections LA 6 to LA 8, RM 2, RM 4 to RM 6, RM 8, and RM 10 of the Income Tax Act 2007".

Section 185

Section 185(1)(a): "Income Tax Act 2004" is replaced by "Income Tax Act 2007".

Section 185(1)(b): "sections LD 8 and LD 9 of the Income Tax Act 2004 by way of a refund of dividend withholding payment" is replaced by "sections LA 6 and LF 8 of the Income Tax Act 2007 by way of a refund of FDP".

Section 185(1)(e): "subpart KD of the Income Tax Act 2004" is replaced by "subparts MA to MF and MZ of the Income Tax Act 2007".

Section 185(1)(f): "section NF 7 or section NG 16 of the Income Tax Act 2004" is replaced by "section RM 8 of that Act".

Section 185(1)(g): "section NBB 6 of the Income Tax Act 2004" is replaced by "section RP 4 of that Act".

Section 185D

Section 185D(1): "subpart NBB of the Income Tax Act 2004" is replaced by "sections RP 2 to RP 5 of the Income Tax Act 2007 and sections 15C, 15G to 15I, and 15M".

Section 185D(2): "section NBB 6 of the Income Tax Act 2004" is replaced by "section RP 4 of the Income Tax Act 2007".

Section 185D(3): "section NBB 6 of this Act" is replaced by "section RP 4 of the Income Tax Act 2007".

Section 225

Section 225(1), and (1)(a), (e) and (f): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Section 225(1)(d): "section OC 4 of the Income Tax Act 2004" is replaced by "section 225AA".

New section 225AA

After section 225: insert the following:

225AA Regulations: co-operative dairy and marketing companies

(1) The Governor-General may from time to time, by Order in Council, make regulations for the type of company described in subsection (2) for the purposes described in subsection (3).

(2) The type of company to which this section applies is a company that—

- (a) is 1 of the following:
  - (i) a co-operative dairy company:
  - (ii) a co-operative milk marketing company, as defined in section 2 of the Co-operative Companies Act 1956:
  - (iii) a co-operative pig marketing company, as defined in section 2 of the Co-operative Companies Act 1956; and
- (b) is registered under Part 2 or Part 3 of the Co-operative Companies Act 1996; and
- (c) was in existence at the start of the 1988–89 income year; and
- (d) was a company to which any of sections 201 to 203 of the Income Tax Act 1976, in force at the time, applied at the time.

(3) The purposes for which the regulations can be made are—

- (a) authorising the Commissioner to classify as income, other than as a dividend, of a shareholder of the company some or all of an amount paid to the shareholder on the surrender of a share in the company, or for a share on the liquidation of the company, that is more than the available subscribed capital per share, calculated under the slice rule, of the share:

New section 225AA—*continued*

(b) authorising the Commissioner to allocate the income to an income year or income years as the Commissioner thinks fit:

(c) conferring on the Commissioner a discretionary power necessary for the purposes of the regulations.

(4) The regulations made may apply different rules in relation to different classes of companies.

Compare: 2004 No 35 s OC 4

Section 225A

Section 225A, heading: "**Part KD credit**" is replaced by "**family assistance credit**".

Section 225A(1)(a): "chief executive of the department for the time being responsible for the administration of the Social Security Act 1964" is replaced by "chief executive of the administering department".

Section 225A(1)(a) and (b), and (2)(a) and (b): "section KD 6(1)(b) of the Income Tax Act 2004" is replaced by "section 80KP" in each place where it appears.

Section 225A(2)(b)(iii) and (iv): "subpart KD credit" is replaced by "family assistance credit" in each place where it appears.

New section 225B

After section 225A: insert the following:

225B Order in Council amending schedule 27

(1) The Governor-General may from time to time, by Order in Council, amend schedule 27 of the Income Tax Act 2007 by—

(a) adding a country or territory outside New Zealand:

(b) adding types of income for a country or territory outside New Zealand:

(c) omitting a country or territory outside New Zealand:

(d) omitting types of income for a country or territory outside New Zealand.

(2) An amendment by Order in Council under subsection (1)(a) or (b) is repealed on 31 December in the tax year following the tax year in which the Order in Council is made, unless Parliament otherwise enacts.

Compare: 2004 No 35 s LC 1A(1), (2)

Section 226

Section 226(1) and (2): "Income Tax Act 2004" is replaced by "Income Tax Act 2007" in each place where it appears.

Schedule

Schedule: add "Income Tax Act 2007".

Schedule—*continued*

Schedule 50 section 3(4)(b): item repealed (with effect on 1 April 2008), on 6 October 2009, by section 591(1) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 50 Part 2B: item repealed (with effect on 1 April 2008), on 6 October 2009, by section 591(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 50 section 33A(1)(a)(iiic): item repealed, on 1 April 2008, by section 561 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 50 section 33C(1)(b): item repealed, on 1 April 2008, by section 561 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 50 section 61: item amended (with effect on 1 April 2008), on 29 August 2011 (applying for the 2008–09 and later income years), by section 140(1) of the Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63).

Schedule 50 section 120KE(6)(a): item repealed, on 1 April 2008, by section 561 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 50 section 125(d): item repealed (with effect on 1 April 2008), on 6 October 2009, by section 591(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 50 section 141B: item repealed, on 1 April 2008, by section 561 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

Schedule 51
Identified changes in legislation

s ZA 3(5)

Provisions in Income Tax Act 2007 or Tax Administration Act 1994 (TAA)	Change
Business-related provisions, listed in the appendix to this schedule	The tax year basis for these provisions is omitted, or changed to an income year basis.
CD 39(9)(b), (c)	A dividend payable to a shareholder by a company when the amount is applied under section CD 39(9)(a) by the shareholder against a loan from the company to the shareholder includes a dividend that is paid without any withholding of an amount of resident withholding tax or non-resident withholding tax.
FA 3(2)	An ambiguity is removed, which ensures that an amount of the dividend is treated as being derived on the sale of the shares to the extent to which it matches any trading loss of the share dealer.
FA 5(6)	The time of association is clarified as being the time at which the associated person acquires the asset.
FA 9(2) and (3)	The time of association is clarified as being the time at which the associated person acquires the asset.
FC 2 to FC 6	The transfer on death to the executor/administrator and the subsequent transfer from the executor/administrator to the estate is treated as one transfer.
GB 1	Section GB 1(3) is clarified to confirm that the amount of the dividend derived is part of the consideration for the shares.
GB 27(2)(c)	The $60,000 threshold is clarified in order to take into account all income that would be attributed under section GB 29.
GB 35(2)(d)	The ambiguity is removed in order to clarify that multiple purposes are referred to.
GB 42(2)(d)	The ambiguity is removed in order to clarify that multiple purposes are referred to.
HC 27(2)	The definition of **settlor** is clarified so that any transfer to a trust that increases the net assets of the trust is a settlement on the trust and any deductible payments settled on a trust are included in trustee income.

Provisions in Income Tax Act 2007 or Tax Administration Act 1994 (TAA)	Change
HC 34(2)	The date for the payment of tax on a taxable distribution from a non-complying trust is the terminal tax date of the person liable to pay that tax.
IA 4(1)	Carried forward tax losses are used first by a person, before the losses may be grouped or otherwise used.
LA 1 to LA 10	Tax credits (other than personal and family tax credits) are used for the year that corresponds to the income year in which the credits arise.
LC 9(2)	This rule relates to the housekeeper and low income tax credits (formerly termed rebates). The policy of the rule is to apportion income of an absentee between periods of the person's absence and presence in New Zealand. The apportionment set out in the bill is on a daily basis. In the interests of simplification, the bill omits from the 2004 Act corresponding rule, the formula that apportioned the income on a "weeks" basis for persons with "regular pay periods". A change in effect is anticipated, but the omission should result at most in a small difference in outcome in favour of taxpayers. The New Zealand Law Society indicated in their submission on the bill that it would be preferable to list this as an intended change.
MC 6	The reference to veteran's pension is omitted because the in-work tax credit is an incentive to return to work.
RD 36(2)	A dividend payable to a shareholder by a company when the amount is applied under section RD 36(1) by the shareholder against a loan from the company to the shareholder includes a dividend that is paid without any withholding of an amount of resident withholding tax or non-resident withholding tax.
YA 1, definition of **land**	The provision is simplified and structured so that the first 3 paragraphs of the rewritten definition are to apply generally for the Act. This is consistent with the objectives of plain accessible legislation and is thought highly unlikely to result in any material change in law. However, as this change in drafting could conceivably result in a change in outcome in some circumstances, the change should be identified for readers.
YA 1, definition of **mortgage**	The definition of mortgage was introduced at a time when mortgages were subject to tax as a subset of land tax. The drafting in the bill provides for an updated and simplified term to apply generally for the Act. This is consistent with

Provisions in Income Tax Act 2007 or Tax Administration Act 1994 (TAA)	Change
	the objectives of plain accessible and up-to-date legislation and is thought highly unlikely to result in any material change in law. However, as this change in drafting could conceivably result in a change in outcome in some circumstances, the change should be identified for readers.
YA 1, definition of **natural resource**	A definition of **natural resource** is inserted for the purposes of section BH 1, and the definitions of **land** and **New Zealand**.
YA 1, definition of **pay**	The provision is simplified and structured so it is to apply generally for the Act. This is consistent with the objectives of plain accessible legislation and is thought highly unlikely to result in any material change in law. However, as this change in drafting could conceivably result in a change in outcome in some circumstances, the change should be identified for readers.

Schedule 51: amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 141(1) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Schedule 51: amended (with effect on 1 April 2008), on 21 December 2010 (applying for the 2008–09 and later income years), by section 141(2) of the Taxation (GST and Remedial Matters) Act 2010 (2010 No 130).

Schedule 51: amended (with effect on 1 April 2008), on 7 December 2009, by section 125(1) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Schedule 51: amended (with effect on 1 April 2008), on 7 December 2009, by section 125(2) of the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63).

Schedule 51: amended (with effect on 1 April 2008), on 6 October 2009, by section 592 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Appendix: tax year omitted, or changed to income year

CC 11	FO 20
CC 12	GB 1
CG 7	GB 4
CH 6	GB 27
CS 18	GB 28
CV 12	GB 29
CV 13	GC 5
CV 14	GC 9(1)
CW 53	HA 42
CW 54	HC 7
CX 59	HC 8
DB 57	HC 10(4)
EY 11	HC 13
FA 3	HC 15
FA 5	HC 16
FA 8	HC 17
FA 9	HC 18
FA 10	HC 19
FA 11	HC 20
FB 2	HC 21
FB 8	HC 22
FB 13	HC 25
FB 19	HC 26(1)
FB 20	HC 29
FC 4(2)(c)	HC 30(6)
FE 2	HC 31
FE 5	HC 32(1)
FE 7	HC 34
FE 8	HC 35(4)(a)
FE 21	HC 36(3)
FE 22	HD 5
FE 37	HF 7
FF 2	HR 3(1)–(4)
FF 5	RD 3
FF 6	RF 2
FF 7	RG 7(4) and (7)
FF 9	YA 1, definition of **first business day**

FF 10	
FM 14	YA 1, definition of **herd livestock**
FN 14	93B TAA
FO 4	
FO 7	
FO 9	
FO 12	
FO 13	
FO 14	
FO 16	
FO 19	

Schedule 52
Comparative tables of old and rewritten provisions

s ZA 6

Part A—Income Tax Act 2004 and other legislation and regulations: corresponding provisions in Income Tax Act 2007 or Tax Administration Act 1994.

Part B—Income Tax Act 2007: corresponding provisions in the Income Tax Act 2004 and other legislation and regulations.

Part C—New provisions in the Tax Administration Act 1994: corresponding provisions in the Income Tax Act 2004.

Part A
Income Tax Act 2004 and other legislation and regulations: corresponding provisions in Income Tax Act 2007 or Tax Administration Act 1994

Notes

1 The letters "TAA" indicate that the provision referred to appears in the Tax Administration Act 1994.

2 Provisions shown as omitted have been omitted because they are spent or redundant.

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
A 1	A 1
A2	A 2
PART A	
AA 1	AA 1
AA 2	AA 2
AA 3(1)	omitted
AA 3(2)	AA 3
PART B	
Subpart BA	
BA 1	BA 1
Subpart BB	
BB 1	BB 1
BB 2	BB 2
BB 2(3)	RA 4
BB 3	BB 3
Subpart BC	
BC 1	BC 1, RB 2
BC 2	BC 2
BC 3	BC 3
BC 4	BC 4

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
BC 4(4)	IA 2(1), (2), IA 3(2)(a), (4)
BC 5	BC 5
BC 6(1)	BC 6(1)
BC 6(2)–(4)	omitted
BC 6(5)	BC 6(2)
BC 7	BC 7, RB 3
BC 8(1)	LA 7
BC 8(2)	LA 4
BC 9	BC 8, LA 2, LA 3, LA 5, LA 10, RA 3
BC 9(1)	LA 4, LA 9
BC 10	LA 4, LA 5
Subpart BD	
BD 1	BD 1
BD 2	BD 2
BD 3	BD 3
BD 4	BD 4
Subpart BE	
BE 1	BE 1
BE 1(1), (4), (5)	RA 5
BE 1(2), (3), (6)	RA 6
Subpart BF	
BF 1	BF 1
Subpart BG	
BG 1	BG 1
Subpart BH	
BH 1	BH 1
PART C	
Subpart CA	
CA 1	CA 1
CA 2	CA 2
Subpart CB	
CB 1	CB 1
CB 2	CB 3
CB 3	CB 4
CB 4	CB 5
CB 4B	CB 26
CB 5	CB 6
CB 6	CB 7
CB 6B	CB 8
CB 7	CB 9
CB 8	CB 10
CB 9	CB 11

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CB 10	CB 12
CB 11	CB 13
CB 12	CB 14
CB 13	CB 15
CB 14	CB 16
CB 15	CB 17
CB 16	CB 18
CB 17	CB 19
CB 18	CB 20
CB 19	CB 21
CB 20	CB 22
CB 21	CB 23
CB 22	CB 24
CB 23	CB 25
CB 24	CB 27
CB 24B	CB 28
CB 25	CB 29
CB 26	CB 30
CB 27	CB 31
CB 28	CB 32
Subpart CC	
CC 1	CC 1
CC 2	CC 2
CC 3	CC 3
CC 4	CC 4
CC 5	CC 5
CC 6	CC 6
CC 7	CC 7
CC 8	CC 8
CC 9	CC 9
CC 10	CC 10
Subpart CD	
CD 1	CD 1
CD 1B	CD 2
CD 2	CD 3
CD 3	CD 4
CD 4	CD 5
CD 5	CD 6
CD 6	CD 7
CD 7	CD 8
CD 7B	CD 9
CD 7C	CD 10

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CD 8	CD 13
CD 9	CD 15, OC 1(5)
CD 10	CD 16
CD 10B	CD 17
CD 10C	CD 18
CD 11	CD 19
CD 12	CD 20
CD 13	CD 21
CD 14	CD 22
CD 15	CD 23
CD 16	CD 24
CD 17	CD 25
CD 18	CD 26
CD 19	CD 27
CD 20	CD 28
CD 21	CD 29
CD 21B	CD 30
CD 22	CD 31
CD 23	CD 32
CD 24	CD 33
CD 24B	CD 34
CD 25	CD 35
CD 26	CD 36
CD 27	CD 38
CD 28	CD 39
CD 29	CD 40
CD 30	CD 41
CD 31	CD 42
CD 32	CD 43
CD 33	CD 44
CD 34	CD 45
CD 35	CD 46
CD 36	CD 47
CD 37	CD 48
CD 38	CD 49
CD 39	CD 50
CD 40	CD 51
CD 41	CD 52
CD 42	CD 53
CD 43	CD 54
Subpart CE	
CE 1	CE 1

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CE 2	CE 2
CE 3	CE 3
CE 4	CE 4
CE 5	CE 5
CE 6	CE 6
CE 7	CE 7
CE 8	CE 8
CE 9	CE 9
CE 10	CE 10
CE 11	CE 11
CE 12	CE 12
Subpart CF	
CF 1	CF 1
CF 2	CF 2
Subpart CG	
CG 1	CG 1
CG 2	CG 2
CG 3	CG 3
CG 4	CG 4
CG 5	CG 5
CG 6	CG 6
Subpart CH	
CH 1	CH 1
CH 2	CH 2
CH 3	CH 3
CH 4	CH 4
CH 5	CH 5
Subpart CP	
CP 1	CP 1
Subpart CQ	
CQ 1	CQ 1
CQ 2	CQ 2
CQ 3	CQ 3
CQ 4	CQ 4
CQ 5	CQ 5
CQ 6	CQ 6
Subpart CR	
CR 1	CR 1
CR 2	CR 2
Subpart CS	
CS 1	CS 1
CS 2	CS 2

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CS 3	CS 3
CS 4	CS 4
CS 5	CS 5
CS 6	CS 6
CS 7	CS 7
CS 8	CS 8
CS 9	CS 9
CS 10	CS 10
CS 11	CS 11
CS 12	CS 12
CS 13	CS 13
CS 14	CS 14
CS 15	CS 15
CS 16	CS 16
CS 17	CS 17
Subpart CT	
CT 1	CT 1
CT 2	CT 2
CT 3	CT 3
CT 4	CT 4
CT 5	CT 5
CT 6	CT 6
CT 7	CT 7
Subpart CU	
CU 1	CU 1
CU 2	CU 2
CU 3	CU 3
CU 4	CU 4
CU 5	CU 5
CU 6	CU 6
CU 7	CU 7
CU 8	CU 8
CU 9	CU 9
CU 10	CU 10
CU 11	CU 11
CU 12	CU 12
CU 13	CU 13
CU 14	CU 14
CU 15	CU 15
CU 16	CU 16
CU 17	CU 17
CU 18	CU 18

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CU 19	CU 19
CU 20	CU 20
CU 21	CU 21
CU 22	CU 22
CU 23	CU 23
CU 24	CU 24
CU 25	CU 25
CU 26	CU 26
CU 27	CU 27
CU 28	CU 28
CU 29	CU 29
Subpart CV	
CV 1	CV 1
CV 2	CV 6
CV 3	CV 7
CV 4	CV 8
Subpart CW	
CW 1	CW 1
CW 2	CW 2
CW 3	CW 3
CW 4	CW 4
CW 5	CW 5
CW 6	CW 6
CW 7	CW 7
CW 8	CW 8
CW 9	CW 9
CW 10	CW 10
CW 11	CW 11
CW 11B	CW 12
CW 11C	CW 13
CW 12	CW 16
CW 13	CW 17
CW 14	CW 18
CW 15	CW 19
CW 16	CW 20
CW 17	CW 21
CW 18	CW 22
CW 19	CW 23
CW 20	CW 24
CW 21	CW 25
CW 22	CW 26
CW 22B	CW 27

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CW 23	CW 28
CW 23B	CW 29
CW 24	CW 30
CW 25	CW 31
CW 26	CW 32
CW 27	CW 33
CW 28	CW 34
CW 28B	CW 35
CW 29	CW 36
CW 30	CW 37
CW 31	CW 38
CW 32	CW 39
CW 33	CW 40
CW 34	CW 41
CW 35	CW 42
CW 36	CW 43
CW 37	CW 44
CW 38	CW 45
CW 39	CW 46
CW 40	CW 47
CW 40B	CW 48
CW 41	CW 49
CW 42	CW 50
CW 43	CW 51
CW 44	CW 52
CW 45	CW 56
CW 45B	CW 57
CW 46	CW 58
CW 47	CW 59
CW 48	CW 60
CW 49	CW 61
CW 49B	CW 62
CW 50	CW 64
CW 51	omitted
Subpart CX	
CX 1	CX 1
CX 1B	CX 50
CX 2	CX 2
CX 3	CX 3
CX 4	CX 4
CX 5	CX 5
CX 6	CX 6

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CX 6B	CX 7
CX 7	CX 8
CX 8	CX 9
CX 9	CX 10
CX 10	CX 11
CX 11	CX 12
CX 12	CX 13
CX 13	CX 14
CX 14	CX 15
CX 15	CX 16
CX 16	CX 17
CX 17	CX 19
CX 18	CX 20
CX 18B	CX 21
CX 19	CX 22
CX 20	CX 23
CX 20B	CX 24
CX 21	CX 25
CX 22	CX 26
CX 23	CX 27
CX 24	CX 28
CX 25	CX 29
CX 26	CX 30
CX 26B	CX 31
CX 27	CX 32
CX 27B	CX 33
CX 28	CX 34
CX 29	CX 35
CX 30	CX 36
CX 31	CX 37
CX 32	CX 38
CX 33	CX 39
CX 34	CX 40
CX 35	CX 41
CX 36	CX 42
CX 37	CX 43
CX 38	CX 44
CX 39	CX 45
CX 40	CX 46
CX 41	CX 47
CX 41B	CX 48
CX 42	CX 49

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
CX 43	CX 51
CX 43B	CX 52
CX 44	CX 53
CX 44B	CX 54
CX 44C	CX 55
CX 44D	CX 56
CX 44E	CX 57
CX 45	omitted
Subpart CY	
CY 1	omitted
Subpart CZ	
CZ 1	CZ 1
CZ 2	CZ 2
CZ 3	CZ 3
CZ 4	CZ 4
CZ 5	CZ 5
CZ 6	CZ 6
CZ 7	CZ 7
CZ 8	CZ 8
CZ 9	CZ 9
CZ 10	CZ 10
CZ 11	CZ 11
CZ 12	CZ 12
CZ 13	CZ 13
CZ 14	CZ 14
CZ 15	CZ 15
CZ 16	CZ 16
CZ 17	CZ 17
CZ 18	CZ 18
CZ 19	CZ 19
CZ 20	CZ 22
PART D	
Subpart DA	
DA 1	DA 1
DA 2	DA 2
DA 3	DA 3
DA 4	DA 4
Subpart DB	
DB 1	DB 1
DB 2	DB 2
DB 3	DB 3
DB 4	DB 4

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
DB 5	DB 5
DB 6	DB 6
DB 7	DB 7
DB 8	DB 8
DB 9	DB 11
DB 9B	DB 12
DB 10	DB 13
DB 11	DB 14
DB 12	DB 15
DB 12B	DB 16
DB 12C	DB 17
DB 13	DB 18
DB 13B	DB 19
DB 14	DB 20
DB 15	DB 21
DB 16	DB 22
DB 17	DB 23
DB 18	DB 24
DB 19	DB 26
DB 20	DB 27
DB 21	DB 28
DB 22	DB 30
DB 23	DB 31
DB 24	DB 32
DB 25	DB 33
DB 26	DB 34
DB 27	DB 35
DB 28	DB 36
DB 28B	DB 37
DB 29	DB 38
DB 30	DB 39
DB 31	DB 40
DB 32	DB 41
DB 33	DB 42
DB 34	DB 43
DB 35	DB 44
DB 36	DB 45
DB 37	DB 46
DB 38	DB 47
DB 39	DB 48
DB 40	DB 49
DB 41	DB 50

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
DB 42	DB 51
DB 43	DB 52
DB 43B	DB 53
DB 43C	DB 54
DB 44	DB 55
DB 45	DB 56
Subpart DC	
DC 1	DC 1
DC 2	DC 2
DC 3	DC 3
DC 4	DC 4
DC 5	DC 6
DC 6	DC 7
DC 7	DC 8
DC 8	DC 9
DC 9	DC 10
DC 10	DC 11
DC 11	DC 12
DC 12	DC 13
DC 13	DC 14
DC 14	DC 15
Subpart DD	
DD 1	DD 1
DD 2	DD 2
DD 3	DD 3
DD 4	DD 4
DD 5	DD 5
DD 6	DD 6
DD 7	DD 7
DD 8	DD 8
DD 9	DD 9
DD 10	DD 10
DD 11	DD 11
Subpart DE	
DE 1	DE 1
DE 2	DE 2
DE 3	DE 3
DE 4	DE 4
DE 5	DE 5
DE 6	DE 6
DE 7	DE 7
DE 8	DE 8

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
DE 9	DE 9
DE 10	DE 10
DE 11	DE 11
DE 12	DE 12
Subpart DF	
DF 1	DF 1
DF 2	DF 2
DF 3	DF 3
DF 4	DF 4
Subpart DN	
DN 1	DN 1
DN 2	DN 2
DN 3	DN 3
DN 4	DN 4
DN 5	DN 5
DN 6	DN 6
DN 7	DN 7
DN 9	DN 8
Subpart DO	
DO 1	DO 1
DO 2	DO 2
DO 3	DO 3
DO 4	DO 4
DO 4B	DO 5
DO 4C	DO 6
DO 4D	DO 7
DO 4E “planting”, “plot”	DO 8
DO 4E “replaced area fraction”	DO 9
DO 5	DO 10
DO 5B	DO 11
DO 6	DO 12
DO 7	DO 13
Subpart DP	
DP 1	DP 1
DP 2	DP 2
DP 3	DP 3
DP 3B	DP 4
DP 4	DP 5
DP 5	DP 6
DP 6	DP 7
DP 7	DP 8
DP 8	DP 9

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
DP 9	DP 10(1), (2)
DP 10	DP 11
Subpart DQ	
DQ 1	DQ 1
DQ 2	DQ 2
DQ 3	DQ 3
DQ 4	DQ 4
Subpart DR	
DR 1	DR 1
DR 2	DR 2
DR 3	DR 3
Subpart DS	
DS 1	DS 1
DS 2	DS 2
DS 3	DS 3
DS 4	DS 4
Subpart DT	
DT 1	DT 1
DT 2	DT 2
DT 3	DT 3
DT 4	DT 4
DT 5	DT 5
DT 6	DT 6
DT 7	DT 7
DT 8	DT 8
DT 9	DT 9
DT 10	DT 10
DT 11	DT 11
DT 12	DT 12
DT 13	DT 13
DT 14	DT 14
DT 15	DT 15
DT 16	DT 16
DT 17	DT 17
DT 18	DT 18
DT 19	DT 19
DT 20	DT 20
Subpart DU	
DU 1	DU 1
DU 2	DU 2
DU 3	DU 3
DU 4	DU 4

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
DU 5	DU 5
DU 6	DU 6
DU 7	DU 7
DU 8	DU 8
DU 9	DU 9
DU 10	DU 10
DU 11	DU 11
DU 12	DU 12
Subpart DV	
DV 1	DV 1
DV 2	DV 2
DV 3	DV 3
DV 4	DV 4
DV 5	DV 5
DV 5(4)(b)	IA 2(4)(b)(i), IA 7(4)(a)
DV 6	DV 6
DV 7	DV 7
DV 7(2)	IA 2(4)(b)(ii), IA 7(4)(b)
DV 8	DV 8
DV 9	DV 9
DV 9(2)	HC 24(4)
DV 10	DV 10
DV 10B	DV 11
DV 11	DV 12
DV 12	DV 13
DV 13	DV 14
Subpart DW	
DW 1	DW 1
DW 2	DW 2
Subpart DX	
DX 1	DX 1
Subpart DY	
DY 1	omitted
DY 2	omitted
Subpart DZ	
DZ 1	DZ 1
DZ 2	DZ 2
DZ 3	DZ 3
DZ 4	DZ 4
DZ 5	DZ 5
DZ 6	DZ 6
DZ 7	DZ 7

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
DZ 8	DZ 8
DZ 9	DZ 9
DZ 10	DZ 10
DZ 11	DZ 11
DZ 12	DZ 12
DZ 13	DZ 13
DZ 14	DZ 15
DZ 15	DZ 16
DZ 16	DZ 17
DZ 17	DZ 18
PART E	
Subpart EA	
EA 1	EA 1
EA 2	EA 2
EA 3	EA 3
EA 4	EA 4
Subpart EB	
EB 1	EB 1
EB 2	EB 2
EB 3	EB 3
EB 4	EB 4
EB 5	EB 5
EB 6	EB 6
EB 7	EB 7
EB 8	EB 8
EB 9	EB 9
EB 10	EB 10
EB 11	EB 11
EB 12	EB 12
EB 13	EB 13
EB 14	EB 14
EB 15	EB 15
EB 16	EB 16
EB 17	EB 17
EB 18	EB 18
EB 19	EB 19
EB 20	EB 20
EB 21	EB 21
EB 22	EB 22
EB 23	EB 23
Subpart EC	
EC 1	EC 1

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EC 2	EC 2
EC 3	EC 3
EC 5	EC 4
EC 5B	EC 5
EC 6	EC 6
EC 7	EC 7
EC 8	EC 8
EC 9	EC 9
EC 10	EC 10
EC 11	EC 11
EC 12	EC 12
EC 13	EC 13
EC 14	EC 14
EC 15	EC 15
EC 16	EC 16
EC 17	EC 17
EC 18	EC 18
EC 19	EC 19
EC 20	EC 20
EC 21	EC 21
EC 22	EC 22
EC 23	EC 23
EC 24	EC 24
EC 25	EC 25
EC 26	EC 26
EC 27	EC 27
EC 28	EC 28
EC 29	EC 29
EC 30	EC 30
EC 31	EC 31
EC 32	EC 32
EC 33	EC 33
EC 34	EC 34
EC 35	EC 35
EC 36	EC 36
EC 37	EC 37
EC 38	EC 38
EC 39	EC 39
EC 40	EC 40
EC 41	EC 41
EC 42	EC 42
EC 43	EC 43

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EC 44	EC 44
EC 45	EC 45
EC 46	EC 46
EC 47	EC 47
EC 48	EC 48
Subpart ED	
ED 1	ED 1
ED 2	ED 2
Subpart EE	
EE 1	EE 1
EE 2	EE 2
EE 3	EE 3
EE 4	EE 4
EE 5	EE 5
EE 6	EE 6
EE 7	EE 7
EE 8	EE 8
EE 9	EE 9
EE 10	EE 10
EE 11	EE 11
EE 12	EE 12
EE 13	EE 13
EE 14	EE 14
EE 15	EE 15
EE 16	EE 16
EE 17	EE 17
EE 18	EE 18
EE 19	EE 19
EE 20	EE 20
EE 21	EE 21
EE 22	EE 22
EE 23	EE 23
EE 24	EE 24
EE 24B	EE 25
EE 25	EE 26
EE 25B	EE 27
EE 25C	EE 28
EE 25D	EE 29
EE 25E	EE 30
EE 26	EE 31
EE 26B	EE 32
EE 27	EE 33

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EE 27B	EE 34
EE 28	EE 35
EE 29	EE 36
EE 30	EE 37
EE 31	EE 38
EE 32	EE 39
EE 33	EE 40
EE 34	EE 41
EE 35	EE 42
EE 36	EE 43
EE 37	EE 44
EE 38	EE 45
EE 39	EE 46
EE 40	EE 47
EE 41	EE 48
EE 42	EE 49
EE 43	EE 51
EE 44	EE 52
EE 44B	EE 53
EE 45	EE 54
EE 46	EE 55
EE 47	EE 56
EE 48	EE 57
EE 49	EE 58
EE 50	EE 59
EE 51	EE 60
EE 52	EE 61
EE 53	EE 62
EE 54	EE 63
EE 55	EE 64
EE 56	EE 65
EE 57	EE 66
EE 58	EE 67
Subpart EF	
EF 1	EF 1
EF 2	EF 2
EF 3	EF 3
EF 4	EF 4
EF 5	EF 5
EF 6	EF 6
Subpart EG	
EG 1	EG 1

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EG 2	EG 2
EG 3	EG 3
Subpart EH	
EH 1	EH 1
EH 2	EH 2
EH 3	EH 3
EH 4	EH 4
EH 5	EH 5
EH 6	EH 6
EH 7	EH 7
EH 8	EH 8
EH 9	EH 9
EH 10	EH 10
EH 11	EH 11
EH 12	EH 12
EH 13	EH 13
EH 14	EH 14
EH 15	EH 15
EH 16	EH 16
EH 17	EH 17
EH 18	EH 18
EH 19	EH 19
EH 20	EH 20
EH 21	EH 21
EH 22	EH 22
EH 23	EH 23
EH 24	EH 24
EH 25	EH 25
EH 26	EH 26
EH 27	EH 27
EH 28	EH 28
EH 29	EH 29
EH 30	EH 30
EH 31	EH 31
EH 32	EH 32
EH 33	EH 33
EH 34	EH 34
EH 35	EH 35
EH 37	EH 36
EH 38	EH 37
EH 39	EH 38
EH 40	EH 39

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EH 41	EH 40
EH 42	EH 41
EH 43	EH 42
EH 44	EH 43
EH 45	EH 44
EH 46	EH 45
EH 47	EH 46
EH 48	EH 47
EH 49	EH 48
EH 50	EH 49
EH 51	EH 50
EH 52	EH 51
EH 53	EH 52
EH 54	EH 53
EH 55	EH 54
EH 56	EH 55
EH 57	EH 56
EH 58	EH 57
EH 59	EH 58
EH 60	EH 59
EH 61	EH 60
EH 62	EH 61
EH 64	EH 62
EH 65	EH 63
EH 66	EH 64
EH 67	EH 65
EH 68	EH 66
EH 69	EH 67
EH 70	EH 68
EH 71	EH 69
EH 72	EH 70
EH 73	EH 71
EH 74	EH 72
EH 75	EH 73
EH 76	EH 74
EH 77	EH 75
EH 78	EH 76
EH 79	EH 77
EH 80	EH 78
EH 81	EH 79
Subpart EI	
EI 1	EI 1

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EI 2	EI 2
EI 3	EI 3
EI 3B	EI 4
EI 4	EI 5
EI 5	EI 6
EI 6	EI 7
EI 7	EI 8
EI 8	EI 9
Subpart EJ	
EJ 1	EJ 1
EJ 2	EJ 2
EJ 3	EJ 3
EJ 4	EJ 4
EJ 5	EJ 5
EJ 6	EJ 6
EJ 7	EJ 7
EJ 8	EJ 8
EJ 9	EJ 10
EJ 10	EJ 11
EJ 11	EJ 12
EJ 12	EJ 13
EJ 13	EJ 15
EJ 14	EJ 16
EJ 15	EJ 17
EJ 16	EJ 18
EJ 17	EJ 19
EJ 18	EJ 20
EJ 19	EJ 21
EJ 20	EJ 22
EJ 21	EJ 23
Subpart EK	
EK 1	EK 1
EK 2	EK 2
EK 3	EK 3
EK 4	EK 4
EK 5	EK 5
EK 6	EK 6
EK 7	EK 7
EK 8	EK 8
EK 9	EK 9
EK 10	EK 10
EK 11	EK 11

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EK 12	EK 12
EK 13	EK 13
EK 14	EK 14
EK 15	EK 15
EK 16	EK 16
EK 17	EK 17
EK 18	EK 18
EK 19	EK 19
EK 20	EK 20
EK 21	EK 21
EK 22	EK 22
EK 23	EK 23
Subpart EW	
EW 1	EW 1
EW 2	EW 2
EW 3	EW 3
EW 4	EW 4
EW 5	EW 5
EW 6	EW 6
EW 7	EW 7
EW 8	EW 8
EW 9	EW 9
EW 10	EW 10
EW 11	EW 11
EW 12	EW 12
EW 13	EW 13
EW 14	EW 14
EW 15	EW 15
EW 16	EW 16
EW 17	EW 17
EW 18	EW 18
EW 19	EW 19
EW 20	EW 20
EW 21	EW 21
EW 22	EW 22
EW 23	EW 23
EW 24	EW 24
EW 25	EW 25
EW 26	EW 26
EW 27	EW 27
EW 28	EW 28
EW 29	EW 29

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EW 30	EW 30
EW 31	EW 31
EW 32	EW 32
EW 33	EW 33
EW 34	EW 34
EW 35	EW 35
EW 36	EW 36
EW 37	EW 37
EW 38	EW 38
EW 40	EW 39
EW 41	EW 40
EW 42	EW 41
EW 43	EW 42
EW 45	EW 43
EW 46	EW 44
EW 47	EW 45
EW 47B	EW 46
EW 48	EW 47
EW 49	EW 48
EW 50	EW 49
EW 51	EW 50
EW 52	EW 51
EW 52B	EW 52
EW 53	EW 53
EW 54	EW 54
EW 55	EW 55
EW 56	EW 56
EW 57	EW 57
EW 58	EW 58
EW 59	EW 59
EW 60	EW 60
EW 61	EW 61
EW 62	EW 62
EW 63	EW 63
Subpart EX	
EX 1	EX 1
EX 2	EX 2
EX 3	EX 3
EX 4	EX 4
EX 5	EX 5
EX 6	EX 6
EX 7	EX 7

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EX 8	EX 8
EX 9	EX 9
EX 10	EX 10
EX 11	EX 11
EX 12	EX 12
EX 13	EX 13
EX 14	EX 14
EX 15	EX 15
EX 16	EX 16
EX 17	EX 17
EX 18	EX 18
EX 19	EX 19
EX 20	EX 20
EX 21	EX 21
EX 22	EX 22
EX 23	EX 23
EX 24	YA 1 “grey list company”
EX 25	EX 24
EX 26	EX 25
EX 27	EX 26
EX 28	EX 27
EX 29	EX 28
EX 30	EX 29
EX 31	EX 30
EX 32	EX 34
EX 33(1), (2)	EX 35
EX 33(3)	EX 36
EX 33(4)	EX 37
EX 33(5)	EX 38
EX 33B(1), (3)	EX 39
EX 33B(2), (3)	EZ 32
EX 33C	EX 31
EX 33D	EX 32
EX 33E	EX 33
EX 34	EX 40
EX 35	EX 41
EX 36	EX 42
EX 37	EX 43
EX 38	EX 44
EX 39	EX 45
EX 40	EX 46
EX 40B	EX 47

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EX 41	EX 48
EX 42	EX 49
EX 43	EX 50
EX 44	EX 51
EX 44(7)	EX 57
EX 44B(1), (3)	EX 53(1)(b)
EX 44B(2)	EX 52(1)(b)
EX 44B(4)	omitted
EX 44C	EX 52
EX 44C(11)	EX 57
EX 44D	EX 53
EX 44D(13)	EX 57
EX 44E	EX 54
EX 45	EX 55
EX 45(15)	EX 57
EX 45B	EX 56
EX 45B(17)	EX 57
EX 46	EX 58
EX 47	EX 59
EX 48	EX 60
EX 49	EX 61
EX 50	EX 62
EX 51	EX 63
EX 52	EX 64
EX 53	EX 65
EX 54	EX 66
EX 54B	EX 67
EX 56	EX 68
EX 57	EX 69
EX 58	EX 70
EX 59	EX 71
EX 60	EX 72
Subpart EY	
EY 1	EY 1
EY 2	EY 2
EY 3	EY 3
EY 4	EY 4
EY 5	EY 5
EY 6	EY 6
EY 7	EY 7
EY 8	EY 8
EY 9	EY 9

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EY 10	EY 10
EY 11	EY 12
EY 12	EY 13
EY 13	EY 14
EY 14	EY 15
EY 15	EY 16
EY 16	EY 17
EY 17	EY 18
EY 18	EY 19
EY 19	EY 20
EY 20	EY 21
EY 21	EY 22
EY 22	EY 23
EY 23	EY 24
EY 24	EY 25
EY 25	EY 26
EY 26	EY 27
EY 27	EY 28
EY 28	EY 29
EY 29	EY 30
EY 30	EY 31
EY 31	EY 32
EY 32	EY 33
EY 33	EY 34
EY 34	EY 35
EY 35	EY 36
EY 36	EY 37
EY 37	EY 38
EY 38	EY 39
EY 39	EY 40
EY 40	EY 41
EY 41	EY 42
EY 42	EY 43
EY 42(10)	IA 7(3)
EY 43	EY 44
EY 44	EY 45
EY 45	EY 46
EY 46	EY 47
EY 47	EY 48
EY 48	EY 49
Subpart EZ	
EZ 1	EZ 1

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EZ 2	EZ 2
EZ 3	EZ 3
EZ 4	EZ 4
EZ 4B	EZ 5
EZ 4C	EZ 6
EZ 5	EZ 7
EZ 6	EZ 8
EZ 8	EZ 9
EZ 9	EZ 10
EZ 10	EZ 11
EZ 11	EZ 12
EZ 12	EZ 13
EZ 13	EZ 14
EZ 14	EZ 15
EZ 15	EZ 16
EZ 16	EZ 17
EZ 17	EZ 18
EZ 18	EZ 19
EZ 19	EZ 20
EZ 20	EZ 21
EZ 21	EZ 22
EZ 21B	EZ 23
EZ 22	EZ 24
EZ 23	EZ 25
EZ 24	EZ 26
EZ 25	EZ 27
EZ 26	EZ 28
EZ 27	EZ 29
EZ 28	EZ 30
EZ 29	EZ 31
EZ 30	EZ 33
EZ 31	EZ 34
EZ 32	EZ 35
EZ 33	EZ 36
EZ 34	EZ 37
EZ 35	EZ 38
EZ 36	EZ 39
EZ 37	EZ 40
EZ 38	EZ 41
EZ 39	EZ 42
EZ 40	EZ 43
EZ 41	EZ 44

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
EZ 42	EZ 45
EZ 43	EZ 46
EZ 44	EZ 47
EZ 45	EZ 48
EZ 46	EZ 49
EZ 47	EZ 50
EZ 48	EZ 51
EZ 49	EZ 52
PART F	
Subpart FB	
FB 2(1), (1A)	YD 5
FB 2(2)	YD 4
FB 3	CB 2
FB 4	EB 24(1)–(4)
FB 4A	DB 29
FB 7	EE 50
Subpart FC	
FC 1	FA 2, FZ 1
FC 1(1)	DB 10
FC 2	FA 2
FC 2(2)	DB 10
FC 2(3)	omitted
FC 3	FA 3
FC 4	FA 4
FC 4(f)(iv)	DB 25
FC 5	FA 5
FC 5(1)	CG 7
FC 6(2)–(8)	FZ 2
FC 6(4)	DZ 14
FC 6(7), (8)	CZ 20
FC 7	FZ 3
FC 8	DZ 14, FZ 4
FC 8A(1)	FA 6
FC 8A(2), (3)	FA 7
FC 8B(1)	FA 8
FC 8B(2)	FA 9(1)
FC 8B(3)	FA 10(1), (2)
FC 8C	FA 10(6), (7)
FC 8D	FA 10(3)–(5)
FC 8D(2)	CC 12
FC 8E	CC 11, FA 9(2), (3)
FC 8F	FA 6

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
FC 8G	FA 6
FC 8H	FA 11(1), (2)
FC 8H(2)	CH 6
FC 8I	FA 11(3)–(7)
FC 8I(3)(a)	CH 6
FC 9	FA 12
FC 10	FA 12
FC 10(1)(a)	FA 13
FC 10(1)(c), (5)(c)	FA 14
FC 10(2), (5)(a)	FA 15
FC 10(3)	FA 16
FC 10(4)	FA 17
FC 10(5)(b)	omitted
FC 10(5)(d)–(f)	CC 13, FA 18
FC 13	CR 3, YD 8
FC 14(1)	YD 8
FC 14(2)	CR 3
FC 15	DW 3
FC 16	HD 16
FC 17	HD 17
FC 18	CV 16, YD 6(1), (2), (4), (5)
FC 19	CV 16(3), YD 6(3)
FC 20	DW 3
FC 21	YD 7
FC 21(1), (2), (4)	CV 1
FC 21(3), (5)	DW 3
FC 22	HR 8(1)
FC 23	HR 8(2)
FC 24	HR 8(3)–(6)
Subpart FCB	
FCB 1	FL 1
FCB 2	FL 2(1)
FCB 2(b)	CD 14
FCB 3	FL 2(2)
Subpart FD	
FD 1	FM 1, FM 2(1)
FD 2	FM 6(1)–(3), (5)
FD 3(a)	FM 35(1)
FD 3(b)–(e)	FM 31(2)–(6)
FD 4(1), (2)	FM 35
FD 4(3)–(8)	FM 38
FD 5	FM 32

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
FD 6	FM 34(1)–(4)
FD 6(1)	HD 11
FD 7(1), (2)	FM 36
FD 7(3)–(8)	FM 38
FD 8(1)	FM 37
FD 8(2)	FM 39
FD 8(3), (4), (6), (7)	FM 40
FD 8(5)	FM 41
FD 8(5) proviso	FM 34(5)
FD 8(8)	FM 42
FD 8(9)	FM 33
FD 9	FM 14
FD 10(1), (2)	FM 15
FD 10(3)	FM 16
FD 10(4), (4A)	FM 18
FD 10(4), (4B)	FM 19
FD 10(4), (4C)	FM 20
FD 10(5)	FM 17
FD 10(6), (7)	FM 21
FD 10(8)	CV 3, FM 23
FD 10(9)	FM 22
FD 11	FM 6(4)
Subpart FDA	
FDA 1	FN 4
FDA 2	FN 7
FDA 2(1)–(3), (5)	FN 9(1), (2)
FDA 3(1), (3)	FN 8(2)
FDA 3(2), (4)	FN 5
FDA 4	FN 3, FN 9(3)
FDA 5	FN 6(1)–(5)
FDA 5(3)	HD 11
FDA 6(1)	FN 10
FDA 6(2)	FN 11
FDA 6(3), (4), (7), (8)	FN 12
FDA 6(5)	FN 13
FDA 6(6)	FN 6(6)
FDA 6(9)	FN 14
Subpart FE	
FE 1(1)(a), (b)	FO 1
FE 1(1)(c)	FO 4(3)
FE 1(2)	FO 2
FE 2	FO 6

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
FE 3	DV 15(1), (2), FO 8
FE 4(a)	FO 9
FE 4(b)	CV 4, FO 7
FE 5	FO 11, FO 15
FE 6(1)–(3B)	FO 10(1)–(6)
FE 6(1), (4)	FO 16
FE 6(3A), (3B)	FO 17
FE 6(5), (6)	FO 12
FE 6(5), (7)	FO 13
FE 6(5), (8)	FO 14
FE 6A	DV 15, FO 10(7)
FE 7(1)(a), (2)	FO 12
FE 7(1)(b), (3)	FO 13
FE 7(1)(b), (4)	FO 14
FE 8	FO 4(1), (2)
FE 9	FO 5
FE 10(1)–(5), (6)(c)	FO 18
FE 10(6)(a)	FO 19
FE 10(6)(b)	FO 20
Subpart FF	
FF 1	FB 10
FF 2	FB 9
FF 3	FB 13
FF 4	FB 2
FF 5	FZ 5
FF 6(1)(a)	FB 3
FF 6(1)(a)(iv), (b)(iv), (2)	FB 5
FF 6(1)(b)	FB 4
FF 7(1), (2), (5)	FB 6
FF 7(3), (4), (5)	FB 7
FF 8	FB 8
FF 9	FB 15
FF 10	FB 16
FF 11	FB 17
FF 12	FB 18
FF 13	FB 13
FF 13(1)	EB 24
FF 13(1)(a)(i), (3)	FB 14
FF 14	FB 19
FF 15	FB 21
FF 16	FB 21
FF 17(1)	FB 11

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
FF 17(2), (3)	FB 12
FF 18	IZ 1
FF 19	FB 20
Subpart FG	
FG 1	FE 1
FG 2(1), (6), (8)	FE 2
FG 2(2)	FE 38
FG 2(3)	FE 39
FG 2(4)	FE 40
FG 2(4)–(6)	FE 41
FG 3	FE 5, FE 12
FG 4(1)	FE 12
FG 4(2)	FE 15
FG 4(3), (4)	FE 16
FG 4(5), (6)	FE 8
FG 4(7)	FE 10(3)
FG 4(8)	FE 11
FG 4(9), (15), (17)	FE 14(1)–(3)
FG 4(10), (11)	FE 25
FG 4(10)	FE 26
FG 4(12)–(14B)	FE 27
FG 4(12), (14C), (14E)	FE 28
FG 4(12), (14C), (14E), (14F)	FE 29
FG 4(14)(D)	FE 30
FG 4(15), (16)	FE 3
FG 5(1)	FE 12
FG 5(2), (10)	FE 17
FG 5(2)–(5), (12), (13)	FE 18
FG 5(6)	FE 10(2)(a)
FG 5(7)	FE 11
FG 5(8)	FE 31
FG 5(9)	FE 32
FG 6	FE 13
FG 7	FE 10(2)(b)
FG 8	CH 9, FE 6
FG 8B	FE 7
FG 8B(1)	CH 10
FG 8B(3)	FE 23
FG 8C(1), (2), (4)–(7)	FE 36
FG 8C(3)	omitted
FG 8C(8)	FE 35
FG 8C(9), (10)	FE 34

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
FG 8D	FE 37
FG 8E	FE 8
FG 8F	FE 20
FG 8G(1)–(3)	FE 21
FG 8G(4)	FE 22
FG 8G(5), (6)	FE 24
FG 8H	FE 19
FG 8I	FE 10(1)
FG 8J	FE 11
FG 9	FE 14(4)
FG 10	FE 9
Subpart FH	
FH 1	FF 4
FH 1(1)	FF 2
FH 2	FF 8
FH 3	FF 9
FH 3(1)	FF 10
FH 4	FF 10
FH 5	FF 5
FH 6	FF 6(1), (4), (5)
FH 7	FF 6(2), (3)
FH 8	FF 7
FH 8(3)	CV 10
FH 8(6)	FF 11
Subpart FI	
FI 1	FC 1
FI 2	FC 2(1)
FI 3	FC 2(2)
FI 4	FC 3
FI 5	FC 4
FI 6	FC 6
FI 7	FC 5
FI 8	FC 7
FI 9	FZ 6(1), (3), (4)
FI 10	FZ 6(2)
FI 11	FC 8
Subpart FZ	
FZ 1	omitted
FZ 2	omitted
PART G	
Subpart GB	
GB 1(1)–(2C)	CW 63, DB 58, GA 1

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
GB 1(3)	CD 11, GB 1
Subpart GC	
GC 1	GB 2
GC 2	GB 3
GC 3	GB 5
GC 4	GB 4
GC 5	GB 6
GC 6	GB 33
GC 7	EX 3(2), GB 7
GC 8	GB 8
GC 9(1), (4)	EX 3(3)(a), (b), GB 9, GB 10
GC 9(2)	EX 3(3)(c), (d), GB 11, GB 12
GC 9(3), (4)	EX 3(3)(e), (f), GB 13, GB 14
GC 9(5)	omitted
GC 9(6)	YD 2(2)
GC 9(7)	EX 3, GB 9–GB 14
GC 10	GB 15, GB 16
GC 11A	DB 58, GB 17
GC 11B	EJ 9, GB 18
GC 12	GB 20
GC 12(1)	GC 12
GC 14	GB 22
GC 14A	GB 26
GC 14B	GB 27
GC 14C	GB 28
GC 14D	GB 29
GC 14E	GB 27
GC 14F	GB 30
GC 14G	GB 49
GC 15	GB 32
GC 15(3), (4)	CX 18, RD 54
GC 16	schedule 5, clause 4
GC 16(b)	GB 31
GC 17	GB 31
GC 17B	GA 2
GC 18	omitted
GC 19	omitted
GC 20	omitted
GC 21	GB 34
GC 22(1), (2)	GB 35
GC 22(3), (7), (8)	TAA 90AF
GC 22(4), (5), (9)	GB 36, LE 1(5)

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
GC 23	GB 37, LE 1(5)
GC 24	GB 38, LE 1(5)
GC 25	GB 39
GC 26	GB 40
GC 27	GB 41
GC 27A(1)–(3)	GB 42
GC 27A(4), (7)–(9)	TAA 90AG
GC 27A(5), (6), (10)	GB 43
GC 28	GB 44
GC 29(1)	GB 45
GC 29(2), (3)	GB 47
GC 30	GB 48
GC 31	DB 58, GB 46
Subpart GD	
GD 1(1), (3), (4)	GC 1
GD 1(2), (3A)	GC 2
GD 3(1), (2)	CD 11, CW 63, DB 58, GB 23
GD 3(3)	omitted
GD 3(4), (5)	GB 24
GD 4	DB 57, DC 5
GD 5	CD 11, DB 58, GB 25
GD 6(1), (2)	CS 18
GD 6(3)	CZ 21
GD 7	DB 59, GC 3
GD 8(1), (3)–(8)	EY 11
GD 8(2)	omitted
GD 10	DB 59, GC 5
GD 11	GB 21
GD 12	DB 58, GB 17
GD 12(1)	GZ 1
GD 12A	DB 58, EJ 9, GB 19
GD 12B	EJ 9, GB 18
GD 13(1), (2)	GC 6
GD 13(3)	GC 7
GD 13(4), (5)	GC 8
GD 13(6)–(9)	GC 13
GD 13(10)	GC 9, GC 10
GD 13(11)	GC 11
GD 13(12)	GC 12
GD 13(13)	GC 14
GD 14	GC 4
GD 15	DP 10(3)–(5)

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
Subpart GE	
GE 1	omitted
Subpart GZ	
GZ 1	omitted
PART H	
Subpart HB	
HB 1(1)	FM 3
HB 1(2)	FM 5
HB 1(3)–(5)	FM 4
HB 2(1)	FM 3, FM 7
HB 2(1)(a)	CX 60, FM 8
HB 2(1)(b)	DV 16(2), FM 10
HB 2(1)(c)	DV 17, FM 11
HB 2(1)(d)	DV 16(3), FM 12
HB 2(1)(e)	CV 2, FM 9
HB 2(2)	FM 13
Subpart HD	
HD 1(1)(a)	HC 2
HD 1(1)(b), (c), (2)	HR 1
Subpart HE	
HE 1	HD 13
HE 2(1), (1A)	HR 2
HE 2(2), (3)	HR 3(5), (8)
Subpart HF	
HF 1(1)	CB 33
HF 1(2), (3)(a), (b), (4)	DV 19
HF 1(3)(c), (5), (6)	CB 34
HF 1(4)	HE 4
HF 1(7)	HE 5
HF 1(8)	HE 2
HF 1(9) “association”, “member”	YA 1 “association”, “member”
HF 1(9) “rebate”	HE 3
Subpart HG	
HG 1(a), (b)	HA 6(1)
HG 1(c), (d)	HA 1, HA 13
HG 1(d)	HA 1, HA 20
HG 2	HA 44
HG 3(1)	HA 1, HA 5
HG 3(2), (3)	HA 30
HG 3(4), (5)	HA 31
HG 4(1)	HA 1, HA 5
HG 4(1)–(3)	HA 8

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
HG 4(2)(a)	HA 28
HG 4(3)	HA 29
HG 4(4)	HA 30
HG 5(1)	HA 32
HG 5(2)	HA 33
HG 6(1)	HA 34
HG 6(2)(a), (b)	HA 35
HG 6(2)(c)	HA 36
HG 6(3)	HA 37
HG 7	HA 4, HA 11
HG 8	TAA 92AB
HG 9(1)	HA 14
HG 9(2)	HA 20
HG 9(3)–(5)	DB 9
HG 10(a)	CW 14, HA 17
HG 10(b)	HA 22
HG 11(1), (1A)	HA 40
HG 11(1B), (2), (4)	HA 41
HG 11(3)	HA 21
HG 11(3A)	HA 23
HG 12	HA 42
HG 12(2)	YA 2(1)–(3)
HG 13(1)	HA 14
HG 13(1)–(4)	HA 15
HG 13(1)(a), (1A)	CW 15
HG 13(1)(a)(i), (1A)	HA 16
HG 13(1)(aa)	HA 17
HG 13(5)	HA 19
HG 13(6)	HA 18
HG 14	HA 1, HA 3
HG 14(a), (b)	HA 5, HA 10
HG 14(c)	HA 38
HG 14(d)	HA 4, HA 12
HG 14A	HA 38
HG 15	HA 39
HG 16	HA 20, IA 7(2)
HG 16(1)	HA 24
HG 16(2)	HA 26
HG 16(3), (4)	HA 27
HG 16(4)	IA 7(5)
HG 17	HA 25
HG 17(1)(a)	HA 24

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
HG 18	HA 11
Subpart HH	
HH 1(1)	YB 21
HH 1(2)–(4), (8), (10)	HC 28
HH 1(5), (6)	HC 13
HH 1(7)	CV 13, HC 7(3)
HH 1(8), (9)	HC 1(2)(a), (b), (5)
HH 1(9)	CD 12
HH 1(10)	HC 27
HH 1A	HC 3
HH 2	HC 30
HH 2(2)	HC 10(2)–(4)
HH 3(1)	CV 13, CX 59, HC 17, HC 18
HH 3(1), (4)	HC 19
HH 3(2)	HC 32, HD 12(1)
HH 3(3)	CV 15, HC 23
HH 3(4)	CX 59, HC 19, HC 22, HC 34(1), IA 3(3)
HH 3(5)	CW 53, HC 20
HH 3(5A)	CV 14, HC 21
HH 3(6)	HC 1(2)(c)
HH 3A–HH 3F	CX 58
HH 3A	HC 35(2)
HH 3A(1)(a)	HC 7(2)
HH 3A(1)(b)	HC 17
HH 3A(2)	HD 12(1)
HH 3B	HC 35(4)(a)
HH 3C	HC 35(4)(b)(i), (ii)
HH 3C(1)(a)–(d), (2), (3)	HC 36
HH 3C(1)(e)	HC 37
HH 3D	HC 36
HH 3E	HC 35(4)(c)
HH 3F	HC 35(4)(b)(iii), (iv)
HH 3F(1)–(2A), (3), (4)	HC 36
HH 3F(2)	YA 1 “minor”
HH 4(1), (2)	HC 24(1)–(3), (5)
HH 4(3), (3A), (6) provisos	HC 25
HH 4(3B)	CW 54
HH 4(3B), (3BB), (3BC)	HC 26
HH 4(4)	HD 12(2)
HH 4(4), (5)	HC 29
HH 4(5)	HC 10(4)
HH 4(7)	HC 33

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
HH 4(8)	HC 1(2)(c)
HH 5	HC 31
HH 6(1), (2), (4)	HC 16
HH 6(2)(c), (3)	HC 15
HH 7	TAA 93B
HH 8	CV 12, HC 8
Subpart HI	
HI 1	HF 3
HI 2	HF 2
HI 3	HF 11
HI 4(1), (2)	HF 4(1), (2), (4)–(6)
HI 4(2)	CD 37
HI 4(3)	CV 11(1), HF 5
HI 5(1)	CW 53, HF 6
HI 5(2), (3)	CV 11(1), HF 7
HI 5(4)	HF 4(3)
HI 6	HF 8
HI 7	CV 11(2), HF 4(4)
HI 8	HF 9
HI 9	HF 10
Subpart HJ	
HJ 1	HR 4
Subpart HK	
HK 1	HD 3(1), (2), (4)
HK 1(1)	HD 1, HD 18(1)
HK 2	HD 7
HK 3(1), (1A)	HD 4
HK 3(1A)	HC 32
HK 3(2)	HD 2
HK 3(3)	HD 3
HK 4	HD 5(2)
HK 5	HD 5(3)
HK 6	HD 5(1)
HK 7(1)	HD 2, HD 3(2)
HK 7(2)	HD 5(4)
HK 8	HD 6
HK 9	HD 9
HK 10	HD 10
HK 11	HD 15
HK 12	HD 14(1)
HK 13	HD 14(2)–(6)
HK 16	HD 18(1), HD 20

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
HK 17	HD 20
HK 18	TAA 166B
HK 18(1)	HD 24
HK 19	HD 25
HK 20	HD 19
HK 21	HD 21
HK 22	HD 23
HK 23	HD 22
HK 24(1), (4)	HD 26
HK 24(2)	HD 27(1)
HK 24(3)	HD 28
HK 25	HD 27(2)
HK 26	HD 29
Subpart HL	
HL 1	HL 1
HL 2	HL 2
HL 3	HL 3
HL 4	HL 4
HL 5	HL 5
HL 6	HL 6
HL 7	HL 7
HL 8	HL 8
HL 9	HL 9
HL 10	HL 10
HL 11	HL 11
HL 11B	HL 12
HL 12	HL 13
HL 13	HL 14
HL 14	HL 15
HL 15	HL 16
HL 16	HL 17
HL 17	HL 18
HL 18	HL 19
HL 19	HL 20
HL 20	HL 21
HL 21	HL 22
HL 22	HL 23
HL 23	HL 24
HL 23B	HL 25
HL 24	HL 26
HL 25	HL 27
HL 26	HL 28

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
HL 27	HL 29
HL 28	HL 30
HL 29	HL 31
HL 30	HL 32
HL 31	HL 33
Subpart HZ	
HZ 1	HZ 1
HZ 2	HZ 2
PART I	
Subpart ID	
ID 1(1)	IA 8
Subpart IE	
IE 1(1)(a)	IA 1
IE 1(1), (2)	IA 3(2), (4)
IE 1(1), (3)(a)	IA 2(1), (2)
IE 1(2)	IA 4
IE 1(2B)	omitted
IE 1(2BB)	IA 7(10)
IE 1(2C)	IA 7(9)
IE 1(3)(b)	IA 9(1), (2)
IE 2	IZ 1
IE 2(1)	IA 2(4)(g)
IE 3(1)	IQ 1
IE 3(2), (3), (5)	IQ 2
IE 3(4)	IQ 9
IE 3(5)	IA 2(4)(e), IA 7(5)
IE 4(1)	IQ 1
IE 4(2)–(6)	IQ 3
IE 4(6)	IA 2(4)(f), IA 7(6)
Subpart IF	
IF 1(1)	IA 5
IF 1(2), (3)	IP 3, IP 6
IF 1(5)	IZ 4
IF 1(6)	IZ 5
IF 2	IZ 6
IF 3	IQ 1(2)
IF 4	IE 1, IE 2, IE 5
IF 5	IA 9(3), IE 1
IF 6	IE 1, IE 3(1), (2), IQ 1(4)
IF 7	IV 1
Subpart IG	
IG 1(1)	IA 6(1), (2)

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
IG 1(1), (2)	IC 6
IG 1(1), (3)	IC 1, IC 2
IG 1(2), (5)	IC 3
IG 1(3)	IC 4
IG 2(1), 2(c), (e)	IC 1, IC 2
IG 2(2)	IC 5
IG 2(2)(b)–(f), (5)	IP 5
IG 2(2)(c), (4)(d)(ii), (5)(c)(ii)	IC 6
IG 2(2)(c), (d)(ii)(B)	IZ 7
IG 2(2)(c), (e)	IC 10
IG 2(2)(d), (11)	IC 7
IG 2(2)(e), (4)(c), (d), (5)(b), (c)	IP 2
IG 2(2)(f), (g)	IC 8
IG 2(2)(g), (3)	IC 9
IG 2(4)	IP 4
IG 2(4)(c)(d), (5)(c), (d), (10)	IP 6
IG 2(4)(e), (f), (5)(e), (f)	IP 1
IG 2(4), (5)	IP 7
IG 2(6)	IC 12
IG 2(7)	IC 11
IG 3	omitted
IG 4	IQ 4
IG 4(1)	IQ 1
IG 4(4)	IA 7(5)
IG 5	IQ 5
IG 5(1)	IQ 1
IG 5(4)	IA 7(6)
IG 6(1A)–(3)	ID 1
IG 6(2)	IS 1
IG 6(4), (6), (7)	ID 2
IG 6(5)	IA 9(3)
IG 6(6)	ID 3
IG 6(7)	ID 4
IG 6(8)	ID 5
IG 6(9)	IS 1(2)
IG 7(1)	IQ 1
IG 7(2)	IQ 6
IG 7(2), (3)	IA 7
IG 7(4)	IQ 7
IG 7(5)	IQ 8
IG 8	IE 5
IG 9	IE 4, IE 5

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
IG 10	IA 3(1), IW 1
Subpart IH	
IH 1	IS 6, IA 7(7)
IH 1(1)	IS 2
IH 1(2)	IA 7(8), IZ 3
IH 2	IZ 2
IH 2(1)	IA 7(8), IS 5(4)
IH 3	IS 5(1)–(3)
IH 3(1)	EJ 14, IA 7(8)
IH 4	IA 7(7)
IH 4(1)(e)	IS 6
IH 4(2)	IS 1
IH 4(3)	IS 3
IH 4(3) proviso	IS 4
IH 5	IA 7(7), IS 2
Subpart II	
II 1(1), (2)	IA 7(3)
II 1(3), (4)	IT 1(1), (2)
II 2	YA 1 “policyholder loss”
II 3	IT 1(3), (4)
Subpart IZ	
IZ 1	RZ 8(1)
IZ 2	RZ 8(3)
IZ 3	RZ 7
IZ 4	RZ 8(2), (4)–(6)
IZ 5	RZ 10
IZ 6	RZ 9
IZ 7	YA 2(1)–(3)
PART K	
Subpart KB	
KB 2	LC 10
KB 3	MA 4
Subpart KC	
KC 1(1)(c)	LC 2
KC 1(1)(a), (b), (4)	LC 1
KC 1(2)	LC 11
KC 1(3)	LC 12
KC 2	LC 3
KC 3(1)	LC 4
KC 3(2)	LC 11, LC 12
KC 3(3) “full time earner”, “remunerative work”	LC 5
KC 4(1), (1A)	LC 6

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
KC 4(2) "child", "communal home", "home", "institution", "qualifying payments", "separated person"	LC 8
KC 4(2) "housekeeper"	LC 7
KC 5	LD 1
KC 5(1)	LD 2
KC 5(1)(aa)–(cp), (4)	LD 3
KC 5(1)(ae)–(cp)	schedule 32
Subpart KD	
KD A1	omitted
KD 1(1)(a), (b), (e)(vii), (i), (3)	MB 1
KD 1(1)(e)(i)–(vi)	omitted
KD 1(1)(f), (2)	MB 3
KD 1(1)(g)	MB 4
KD 1(1)(h)	MB 5
KD 1(4)–(6)	MB 2
KD 1A	MC 1
KD 1A(2)	LB 4
KD 2(1), (2)	LB 4, MD 1
KD 2(3)	MD 3
KD 2(4)	MZ 2
KD 2(5)	MD 12
KD 2(6), (7)	MD 13
KD 2(6B)	MD 14
KD 2(6C)	MD 15
KD 2A	MD 2
KD 2AA(1), (11)	MC 11
KD 2AA(2), (3)	MC 10
KD 2AA(3)	MD 3(7), MD 11(4)
KD 2AA(3A)	MZ 1(2)
KD 2AA(4)	MC 4
KD 2AA(7)–(11)	MC 9
KD 2AAA(1)(a)	MD 5
KD 2AAA(1)(b)	MD 6
KD 2AAA(1)(c), (3), (4)	MD 7
KD 2AAA(1)(d), (5)–(8)	MD 9
KD 2AAA(1)(e)	MD 8
KD 2AAA(1), (3A)	MD 4
KD 2AAA(2)	MD 10
KD 2AAAB	MZ 1(2)
KD 2AB	MD 11
KD 3(1) "qualifying person"	MC 3–MC 6

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
KD 3(1) "employment"	ME 2(1), (2)
KD 3(2)	LB 4
KD 3(2)–(5)	ME 1
KD 3A(2)–(4)	MC 7
KD 3A(5)–(9)	MC 9
KD 3A(10)	ME 2(3), (4)
KD 3B	omitted
KD 4(2)	LA 4, LA 7
KD 4(2), (2A)	MF 6
KD 4(4)	MF 5
KD 4(5)	TAA 80KV
KD 5(1), (1A)	MF 1
KD 5(1B)–(1C)	TAA 80KA
KD 5(2)–(2AB)	TAA 80KB
KD 5(2A), (5)(b), (7)	TAA 80KF
KD 5(3), (3A)	TAA 80KC
KD 5(4), (5)(a)	TAA 80KD
KD 5(6)	MF 3
KD 5(6A), (7)	MF 4
KD 5(8)	MF 2
KD 5(9)	TAA 80KG
KD 5(10), (12)	TAA 80KH
KD 5(11)	TAA 80KE
KD 5B	omitted
KD 5C	MF 7
KD 6(1)	TAA 80KN
KD 6(1A)	TAA 80KO
KD 6(1B)	TAA 80KP
KD 6(1C)	TAA 80KQ
KD 6(1D)	TAA 80KR
KD 6(2), (3)	TAA 80KS
KD 6(4)	TAA 80KT
KD 7(1)	TAA 80KI
KD 7(2), (2A)	TAA 80KM
KD 7(2B), (2C)	TAA 80KK
KD 7(3)	TAA 80KJ
KD 7(3A), (3B), (3C)	TAA 80KU
KD 7(4)	TAA 80KL
KD 7A	TAA 80KW
KD 8	MA 3
KD 9	MA 5
Subpart KE	

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
KE 1(1)	LZ 6, LZ 7
KE 1(3)	LZ 8
Subpart KF	
KF 3	LC 9
Subpart KG	
KG 1(1)	LZ 9
KG 1(1) proviso	LZ 10
KG 1(2)	LZ 11
KG 1(3), (4)	LZ 12
Subpart KH	
KH 1(1), (2)	LQ 1
KH 1(3)	LQ 2
KH 2(1)–(2A), (4)	LQ 4
KH 2(3), (5)–(7)	LQ 3
Subpart KI	
KI 1	LS 1
Subpart KJ	
KJ 1	MK 1, MK 3(2)
KJ 2	MK 2
KJ 3	MK 4, MK 8
KJ 4	MK 3(1), (3), (4)
KJ 5(1), (5)	MK 7
KJ 5(2)	MK 5
KJ 5(3), (4)	MK 6
Subpart KZ	
KZ 1	omitted
KZ 2	omitted
KZ 3(1)	LZ 5
KZ 3(1), (4)	LZ 2
KZ 3(2)	LZ 3
KZ 3(3)	LZ 4
PART L	
Subpart LB	
LB 1(1), (3), (3A)	LO 2
LB 1(1)(a), (2), (3), (3A)	LE 5, LF 3
LB 1(1)(ab)	LE 4, LF 2
LB 1(1)(b), (4), (4A), (4B)	LE 6
LB 1(1)(c)	LE 8
LB 1(1)(d)	LF 6, LF 8
LB 1(1)(e), (5)	LE 9, LF 7
LB 1(1)(ea)	LO 3
LB 1(1)(f)	LE 11

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
LB 1(1)(g)	LF 10
LB 1(1)(h)	LE 10
LB 1(1)(hb)	LE 3
LB 1(1)(i)	LF 9
LB 1(1)(j), (k)	LE 1
LB 1(1)(l)	LF 1
LB 1(1)(m)	LO 1
LB 1A	LE 4, LF 2
LB 2(1), (1B), (1C), (2C)	LE 1
LB 2(1C)	LE 7
LB 2(2)	LA 9
LB 2(2B), (3)	LE 2
LB 2(2B), (3B), (3C)	LE 3
LB 2(3), (3A)	IA 2(4)(a)
LB 2(4)	LE 11, TAA 78D
LB 2(5), (6)	LE 10
Subpart LC	
LC 1(1), (1B), (1C)	LJ 2(1), (3), (4)
LC 1(1)	LJ 3
LC 1(1)–(3), (4), (5)	LJ 1
LC 1(2)	LJ 1(1)–LJ 6
LC 1(3A), (3B)	LJ 7
LC 1(4)	LJ 1(5)
LC 1(5)	LJ 1(3)
LC 1A(1), (2)	TAA 225B
LC 1A(3)	omitted
LC 2	LJ 2(2)
LC 3	LJ 7
LC 4(1)	LK 3
LC 4(1)–(3)	LK 2
LC 4(1), (4)	LK 1
LC 4(1C)	TAA 93C
LC 4(4)	LK 4
LC 4(4)–(6)	LK 5
LC 4(7)	LK 7
LC 5	LK 6
LC 8	LK 12, LK 13
LC 9	LK 14(2)
LC 10	LK 14(1), (3)
LC 11	LK 12
LC 12	LK 12, LK 15
LC 13(1)	TAA 78B

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
LC 13(2)	TAA 78C
LC 14	LJ 5
LC 14(1)	LJ 1, LJ 4
LC 14A	LJ 1(4)
LC 16(1)	LK 8
LC 16(2), (3)	LK 9
LC 16(4)	LK 10
LC 16(5)	LK 11
Subpart LD	
LD 1	LA 6
LD 1(2), (2A), (4), (5)	LB 1
LD 1B	LB 6
LD 2	LA 8
LD 3	LA 6
LD 3(2)	LB 3
LD 3(3)	LA 4
LD 3(4)	TAA 78D
LD 3A	LA 6
LD 3A(1)	LO 1
LD 3A(4)	LA 4
LD 3A(5)	LO 5, TAA 78D
LD 3A(6)	LO 4
LD 6	LA 6, LB 2
LD 7	LA 6, LB 2
LD 8	LA 6
LD 8(1), (1B), (1C)	LF 1
LD 8(1C)	LF 5
LD 8(3)	LF 10, TAA 78D
LD 8(4), (5)	LF 9
LD 9	LF 8, OC 1(6)
LD 9(4)	TAA 78D
LD 10	LS 2
LD 10B	LS 3
LD 11	LS 4
Subpart LE	
LE 1	LP 1
LE 2(1), (2), (2A)	LP 2
LE 2(3), (4), (6), (7)	LP 3
LE 2(4), (8)	LA 9
LE 2(5)	LP 4
LE 2(6)	LA 4
LE 2(9), (10)	LP 5

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
LE 2(11), (12)	LP 6
LE 3(1), (3), (11)	LP 7
LE 3(5)	LP 2
LE 3(6), (8)	CV 9, LP 8
LE 3(7), (9)	LP 9
LE 3(10)	DX 3, LP 10
LE 4	DX 3, LP 10
LE 4(5)	IA 2(4)(c)
Subpart LF	
LF 1(1)(a)	LL 1
LF 1(1)(a), (2)	LL 2
LF 1(2)	LL 9
LF 2(2), (3)	LL 2, LL 9
LF 3(1)	LL 2
LF 3(1)(f), (g), (h)	LL 5
LF 3(2)	LL 8
LF 4	LF 6
LF 5(1)	LL 3
LF 5(1)(e), (5)	LL 9
LF 5(2)–(5)	LL 4
LF 5(2)(e)	LL 8
LF 6(1), (3)	LZ 1
LF 6(4)–(6)	LL 2, TAA 78E
LF 6(6)	TAA 78F
LF 7	DX 2, LL 7
Subpart LG	
LG 1	LQ 5
PART M	
Subpart MB	
MB 1	RC 1
MB 2	RC 3
MB 3	RC 4
MB 4	RA 4, RC 5
MB 5	RC 6
MB 6	RC 7
MB 7	RC 8
MB 8	RC 9
MB 8(1), (2)	RA 14
MB 9	RC 10
MB 10	RC 11
MB 11	RM 11
MB 12	RA 2, RC 12

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MB 13	RC 13
MB 14	RC 14
MB 15(1)–(4), (11)	RC 16
MB 15(5)–(10)	RC 17
MB 16	RC 15
MB 17	RC 18
MB 18	RC 19
MB 19	RC 20
MB 20	RC 21
MB 21	RC 22
MB 22	RC 23
MB 23	RC 24
MB 24	RC 25
MB 25	RC 26
MB 26	omitted
MB 27	RC 27
MB 28	omitted
MB 29	RC 28
MB 30	RC 29
MB 31	RC 30
MB 32	RC 31
MB 33	RC 32
MB 34	RC 33
MB 35	RC 34
MB 36	RM 12
MB 37	RC 35
MB 38	RC 36
Subpart MBA	
MBA 1	RP 1
MBA 2	RP 17
MBA 3	RP 18, TAA 15R
MBA 3(1)	TAA 15N
MBA 3(1)(d)	TAA 15Q
MBA 4(1), (2), (4)	TAA 15P
MBA 4(3)	RP 18(3)
MBA 4(5), (6)	TAA 15O
MBA 5(1)–(4)	RP 18
MBA 5(5), (6)	TAA 120OE(1)–(3)
MBA 6(1)–(3)	RP 19
MBA 6(4)–(9)	RP 20
MBA 7	RP 21
MBA 8	TAA 15S

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MBA 9	TAA 120OE(4)–(5)
Subpart MBB	
MBB 1	omitted
MBB 2(1)(a), (d)	RC 37
MBB 2(1)(b), (c), (2)–(4)	RC 38
MBB 3	RC 39
MBB 4	RC 40
Subpart MC	
MC 1	RA 3, RA 13, RB 1
Subpart MD	
MD 1	LA 6–LA 8
MD 1(1)	RM 2
MD 1(1A)	RM 5
MD 1(1B)	omitted
MD 1(2)	RM 4
MD 1(2B)	RM 6
MD 1(3), (3A)	RB 4
MD 1(3), (3A), (4)	RM 10
MD 1(4)(b), (c)	RM 8
MD 2(1), (1A)	RM 13
MD 2(2)	RM 14
MD 2(3), (4)	RM 15
MD 2(5)(a)(ii)	RZ 6
MD 2(5), (5A)	RM 16
MD 2(6)	RM 17
MD 2(7)	RM 32
MD 2A	RM 33
MD 2B(1), (1B)	RM 22
MD 2B(2)	RM 23
MD 2B(3)	RM 24
MD 2B(4), (4B)	RM 25
MD 2B(5)	RM 26
MD 2B(6)	RM 27
MD 3(1)	RM 28
MD 3(2)	RM 29
MD 3(3)	RM 30
MD 3(4)	RM 31
MD 3(4)(a)	RZ 6
MD 5	omitted
Subpart ME	
ME 1(1), (2)	OA 2(2), (3), OB 1
ME 1(3)	omitted

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
ME 1A	OB 2
ME 1B	OB 60(6), (7)
ME 2	OA 3(3), (4)
ME 3(1)	OA 2(2), (3), OA 3(2)
ME 3(2)	OA 7
ME 4(1)(a)(viii)	OZ 1
ME 4(1)(a), (1C), (2)(a)	OB 4
ME 4(1)(aab), (2)(aab)	OB 19
ME 4(1)(ab), (2)(ab)	OB 16
ME 4(1)(ac), (2)(ac)	OB 5
ME 4(1)(ad), (2)(ad)	OB 6
ME 4(1)(c), (2)(a)	OB 7
ME 4(1)(cb), (2)(bb)	OB 13
ME 4(1)(cc), (2)(bc)	OB 14
ME 4(1)(cd), (2)(bd)	OB 15
ME 4(1)(d), (2)(c)	OB 9
ME 4(1)(da)	OF 5
ME 4(1)(da), (2)(ca)	OB 18
ME 4(1)(e), (2)(c)	OB 10
ME 4(1)(ea), (2)(cb)	OB 20
ME 4(1)(e), (f)	OC 1(8)
ME 4(1)(eb), (ec), (2)(cc)	OB 22
ME 4(1)(ed), (2)(cd)	OB 23
ME 4(1)(f), (2)(d)	OB 11
ME 4(1)(g), (2)(e)	OB 12
ME 4(1)(h), (2)(f)	OB 25
ME 4(1)(i), (2)(g)	OB 8
ME 4(1)(j), (2)(h)	OB 17
ME 4(1)(k), (2)(k)	OB 21
ME 4(1A), (2A)	OB 26
ME 4(1B)(a), (2B)(a)	OB 27
ME 4(1B)(b), (2B)(b)	OB 28
ME 4(1B)(c), (2B)(c)	OB 29
ME 5(1)(a), (2)(a)	OB 30
ME 5(1)(ab), (2)(ab)	OB 49
ME 5(1)(ac), (2)(ac)	OB 50
ME 5(1)(ad), (2)(ac)	OB 51
ME 5(1)(b), (2)(b)	OB 47
ME 5(1)(c), (2)(c)	OB 42
ME 5(1)(d), (2)(d)	OB 31
ME 5(1)(e)(i)	OZ 2
ME 5(1)(e), (2)(e)	OB 32

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
ME 5(1)(ea), (2)(ea), (eb)	OB 34
ME 5(1)(eb), (2)(ea), (eb)	OB 35
ME 5(1)(f), (2)(f)	OB 43
ME 5(1)(fb), (2)(fb)	OB 44
ME 5(1)(g), (2)(g)	OB 36
ME 5(1)(h), (2)(e)	OB 37
ME 5(1)(i), (2)(h)	OB 41
ME 5(1)(ia), (2)(ha)	OB 40
ME 5(1)(j), (2)(i)	OB 54
ME 5(1)(ja), (2)(ia)	OB 46
ME 5(1)(k), (2)(j)	OB 56
ME 5(1)(ka), (2)(ja)	OB 48
ME 5(1)(l), (2)(k)	OB 33
ME 5(1)(m), (2)(k)	OB 38
ME 5(1)(n)	OZ 3
ME 5(1)(o), (2)(l), (6), (7)	OB 39
ME 5(1A)(a), (2A)	OB 57
ME 5(1A)(b), (2A)	OB 58
ME 5(1A)(c), (2A)	OB 59
ME 5(3)	OA 8
ME 5(4)	OZ 4
ME 6	OB 60(2), OB 62
ME 6(1B)–(1D)	OB 63
ME 6(4)(a)	OB 55
ME 6B	OB 64
ME 7	OB 47
ME 8(1)	OA 18
ME 8(1), (2)	OB 60(3)–(5)
ME 8(2), (3)	OB 61
ME 9(1), (1A), (2)	OB 65
ME 9(3)	OB 66
ME 9(5), (5B)	OB 69
ME 9(5A), (8), (9)	OB 68
ME 9(5B)	IA 2(4)(d)
ME 9(6)	OB 70, YA 2(1)–(3)
ME 9(7)–(9)	OB 67
ME 9B	OB 71
ME 9B(1), (2)	OB 13
ME 9B(2)(a)(i)	OB 44
ME 9C	OB 72
ME 10	OP 1
ME 10(1), (1A)–(1C)	OA 2(2), (3)

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
ME 10(1A)–(1C), (2)	OA 7
ME 10(1A), (1B), (1D)	OP 3
ME 10(1C)	OP 4
ME 11(1)(a), (2)(a)	OP 7
ME 11(1)(aa), (2)(aa)	OP 8
ME 11(1)(ab), (2)(ab)	OP 9
ME 11(1)(b), (2)(b)	OP 10
ME 11(1)(c), (2)(a)	OP 11
ME 11(1)(d), (2)(c)	OP 12
ME 11(1)(e), (2)(c)	OP 13
ME 11(1)(eb), (ec), (2)(cb)	OP 15
ME 11(1)(ed), (2)(cc)	OP 16
ME 11(1)(f), (2)(a)	OP 14
ME 11(1)(fb), (2)(fb)	OP 18
ME 11(1)(g), (2)(d)	OP 19
ME 11(1)(i), (2)(e)	OP 24
ME 11(1)(j), (2)(c)	OP 17
ME 11(1)(jb), (2)(eb)	OP 20
ME 11(1)(k), (2)(d)	OP 21
ME 11(1A), (2A)	OP 23
ME 11(1B)(a), (2B)(a)	OP 25
ME 11(1B)(b), (2B)(b)	OP 26
ME 11(1B)(c), (2B)(c)	OP 27
ME 12(1)	OP 5
ME 12(1)(a), (2)(a)	OP 28
ME 12(1)(ab), (2)(ab)	OP 39
ME 12(1)(ac), (2)(ac)	OP 40
ME 12(1)(ad), (2)(ac)	OP 41
ME 12(1)(b), (2)(b)	OP 44
ME 12(1)(c), (2)(c)	OP 29
ME 12(1)(d), (2)(d)	OP 30
ME 12(1)(da), (2)(da)	OP 32
ME 12(1)(db), (2)(da)	OP 33
ME 12(1)(e), (2)(e)	OP 43
ME 12(1)(f), (2)(d)	OP 34, OP 35
ME 12(1)(h)	OA 8
ME 12(1)(h), (2)(g)	OP 42
ME 12(1)(i), (2)(h)	OP 46
ME 12(1)(j), (2)(h)	OP 47
ME 12(1)(k), (2)(j)	OP 37
ME 12(1)(l), (2)(k)	OP 31
ME 12(1)(m), (2)(k)	OP 36

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
ME 12(1)(n), (2)(l), (3), (4)	OP 38
ME 12(1A)(a), (2A)	OP 48
ME 12(1A)(b), (2A)	OP 49
ME 12(1A)(c), (2A)	OP 50
ME 13	OA 4, OP 2
ME 13(1)	OB 3
ME 13(2)	OP 42
ME 13(2), (3)	OP 22
ME 13(2), (4)	OA 8
ME 13(3)	OB 52
ME 13(6)	OB 69
ME 14(1)	OJ 3(1)(a), OP 44
ME 14(2)	OB 61
ME 14(3)	OP 6
ME 15	OA 2(2), (3), OJ 1, OJ 2(1)
ME 16	OA 3(3), (4)
ME 17(1)	OA 2(2), (3), OA 3(2), OJ 2(2), (3)
ME 17(2)	OA 7
ME 18(1)(a), (2)(a)	OJ 3
ME 18(1)(b), (2)(b)	OJ 4
ME 18(1)(bb), (2)(bb)	OJ 6
ME 18(1)(bc), (2)(bb)	OJ 7
ME 18(1)(c), (2)(c)	OJ 5
ME 18(3)(a), (4)(a)	OJ 8(4), (5)
ME 18(3)(b), (4)(b)	OJ 9(3), (8)
ME 18(3)(c), (4)(c)	OJ 11(4), (6)
ME 19	LR 1
ME 19(1), (2)	OJ 8(1)–(3)
ME 19(3)–(6)	OJ 9(1), (2), (4)–(7)
ME 19A	OJ 11(1)–(3), (5)
ME 20	OA 2(5), TAA 104B
ME 21	OJ 1
ME 21(1)	OA 2(2), (3)
ME 21(1), (2)	OJ 12
ME 21(3), (4)	OJ 13
ME 22(1)	OA 2(2), (3), OA 3(2), OJ 1(4)
ME 22(2)	OA 7
ME 23(1)(a), (2)(a), (3), (6)(a)	OJ 14
ME 23(1)(b), (2)(b)	OJ 15
ME 23(4)(a), (5)(a)	OJ 16(4), (5)
ME 23(4)(b), (5)(b)	OJ 17
ME 23(4)(c), (5)(c)	OJ 18

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
ME 24	LR 1, OJ 16(1)–(3)
ME 25	OA 2(2), (3), OP 1(1), OP 109
ME 26	OA 3(2)
ME 26(1)	OA 7
ME 26(2)	OA 2(2), (3)
ME 26(2)(a), (3)(a)	OP 110
ME 26(2)(b), (3)(b)	OP 111
ME 26(2)(c), (3)(c)	OP 112(1), (4)
ME 26(2)(d), (3)(d)	OP 113
ME 26(2)(e), (3)(d)	OP 114
ME 26(4)(a), (5)(a)	OP 115(3), (5)
ME 26(4)(b), (5)(b)	OP 116(3), (8)
ME 27	OP 2
ME 27(1), (3)	OJ 2(4), (5), OP 112(1)–(3)
ME 27(2)	OJ 10
ME 28	LR 1
ME 28(1), (2)	OP 115(1), (2), (4)
ME 28(3), (4)	OP 116(1), (2), (4)–(7)
ME 28(4)	OA 4
ME 29	OB 24, OB 53
ME 29(1)	OA 10, OA 13
ME 29(1)(a)	OA 9
ME 29(2)	OA 17
ME 29(2)(a)	OA 14
ME 29(2)(b)	OA 15
ME 30	OB 73(1)–(3), (8)
ME 30(2)	DV 18
ME 30(3), (4)	OB 77
ME 31	OB 73(4)–(7)
ME 32	OB 74
ME 33	OB 75
ME 34	OB 76
ME 35	OB 78, OB 82
ME 35(2)	DV 18
ME 36	OB 78
ME 37	OB 79
ME 38	OB 80
ME 39	OB 81
ME 40	OA 1(5),TAA 104B
ME 41	OB 45, OP 45
Subpart MF	
MF 1(1)	OA 2(2), (3), OE 1(1), (4)

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MF 1(1), (2)	OE 3
MF 1(3)	OE 2(1)
MF 1(4), (5)	OE 4
MF 2	OA 3(3), (4)
MF 3(1)	OA 2(2), (3), OA 3(2)
MF 3(2)	OA 7
MF 4(1)(a)	OE 2(2)
MF 4(1)(a), (2)(a)	OE 6
MF 4(1)(c), (2)(b)	OE 7(5), (9), OE 8
MF 4(1)(d), (2)(c)	OE 9
MF 4(1)(e), (2)(d), (5), (6)	OE 10
MF 4(1)(f), (2)(e)	OE 11
MF 4(3)(a), (4)(a)	OE 2(3), OE 12
MF 4(3)(b), (4)(b)	OE 13
MF 4(3)(c), (4)(c)	OE 14
MF 4(3)(d), (4)(d), (5), (6)	OE 15
MF 4(3)(e), (4)(e)	OE 16
MF 4(5)	OA 8, OE 2(6)
MF 5(1)–(3)	OE 13(2)–(4)
MF 5(4)–(7)	OE 7(1)–(4), (6)–(8), OE 8
MF 6	OA 1(5), TAA 104B
MF 7(1)	OA 2(2), (3)
ME 7(1)(a)	OE 2(4)
MF 7(1), (2)	OP 97
MF 7(2)	OP 1(1)
MF 7(3), (4)	OP 98
MF 8	OA 3(2)
MF 8(1)	OA 7
MF 8(2)(a), (3)(a)	OP 100
MF 8(2)(c), (3)(b)	OP 101, OP 102
MF 8(2)(d), (3)(c)	OP 103
MF 8(2)(e), (3)(d)	OP 104
MF 8(4)	OA 8
MF 8(4)(a), (5)(a)	OP 105
MF 8(4)(b), (5)(b)	OP 106
MF 8(4)(c), (5)(c)	OP 107
MF 8(4)(d), (5)(d)	OP 108
MF 9	OA 4, OE 2(5), OP 2, OP 99
MF 10(1)	OP 106
MF 10(4), (5), (6)	OP 101, OP 102
MF 11(1)	OA 2(2), (3), OE 1(2), (4)
MF 11(1), (2)	OE 17

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MF 11(3)	OA 4
MF 11(4), (5)	OE 18
MF 12(1)	OA 2(2), (3), OA 3(2)
MF 12(2)	OA 7
MF 13(1), (2)	OE 19
MF 13(3)(a)	OE 20
MF 13(3)(b)	OE 21
MF 13(3)(c)	OE 22
MF 14	OE 20(4), (5)
MF 15	OE 5
MF 16(1)	OA 10
MF 16(1)(a)	OA 9
MF 16(2)(a)	OA 14
MF 16(2)(b)	OA 15
Subpart MG	
MG 1	OA 3(3), (4)
MG 2(1)	OA 2(2), (3)
MG 2(1), (3)	OC 1(1), (2)
MG 2(2), (3)	OC 3
MG 2(4), (5)	OC 4, OP 52
MG 2(6), (7)	OC 5
MG 3(1)	OA 2(2), (3), OA 3(2)
MG 3(2)	OA 7
MG 4(1)(a), (b)	OC 1(3), (4)
MG 4(1)(a), (c), (2)(a), (3)	OC 6(1), (2), (3)(a), (4)
MG 4(1)(b), (2)(b)	OC 7
MG 4(1)(ba), (2)(ba)	OC 9
MG 4(1)(bb), (2)(bb)	OC 8
MG 4(1)(bc), (2)(bc)	OC 10
MG 4(1)(bd), (2)(bd)	OC 11
MG 4(1)(d), (2)(d)	OC 12
MG 5(1)(a), (2)(a)	OC 13
MG 5(1)(ab), (2)(ab)	OC 17
MG 5(1)(b), (2)(b)	OC 20(2), (9)
MG 5(1)(c), (2)(c)	OC 18
MG 5(1)(ca), (2)(ca)	OC 19(1), (4)–(6)
MG 5(1)(d), (2)(d)	OC 14
MG 5(1)(e), (2)(d)	OC 16
MG 5(1)(f), (2)(e)	OC 22
MG 5(1)(g), (2)(e)	OC 23(2), (5)
MG 5(1)(h), (2)(f)	OC 25
MG 5(1)(i), (2)(g), (3), (4)	OC 24

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MG 5(1)(j), (2)(h)	OC 26
MG 5(1)(k), (2)(i)	OC 15
MG 5(3)	OC 1(7)
MG 5(4)	OZ 4
MG 6	OC 27(1), (2)
MG 7	OC 20(1), (3)–(8)
MG 8(1)	OA 18
MG 8(1), (2)	OC 27(3)–(5)
MG 8(1), (8)	OD 20(2), (5)
MG 8(2), (3)	OC 28(1)–(6), (8), (9)
MG 8(2), (3), (8)	OD 21(1)–(5)
MG 8(4)	OC 22, OD 17(5)
MG 8B	OC 23(1), (3)
MG 8B(4) “reduced deficit debit”	OC 38
MG 8B(4) “DWP reference period”	OC 35
MG 8B(4) “maximum deficit debit”	OC 36
MG 8B(4) “policyholder DWP ratio”	OC 37
MG 8B(4) “shareholder DWP ratio”	OC 39
MG 9(1), (2), (6)	OC 30
MG 9(3)	OC 31
MG 9(4), (5A)	OC 33
MG 9(5)	OC 34(1), (2)
MG 9(7), (8)	OC 32
MG 10	OC 29, OD 22
MG 10(1)	OA 18
MG 11	OC 18(1)–(5)
MG 12	OA 2(5), TAA 104B
MG 13	OP 1
MG 13(1)	OA 2(2), (3), OP 51
MG 13(3)	OA 7
MG 13(6), (7)	OP 53
MG 14(1)	OA 2(2), (3), OA 3(2)
MG 14(1)(a), (2)(a)	OP 56
MG 14(1)(b), (2)(a)	OP 58
MG 14(1)(bb), (2)(ab)	OP 60
MG 14(1)(c), (2)(a)	OP 57
MG 14(1)(d), (2)(b)	OP 63
MG 14(1)(e), (2)(c)	OP 59(2), (4)
MG 14(1)(f), (2)(d)	OP 62
MG 15(1)	OA 2(2), (3), OA 3(2), (4), OA 8
MG 15(1)(a), (2)(a)	OP 64
MG 15(1)(ab), (2)(ab)	OP 65

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MG 15(1)(b), (2)(b)	OP 74
MG 15(1)(c), (2)(c)	OP 69
MG 15(1)(d), (2)(d)	OP 66
MG 15(1)(e), (2)(d)	OP 68
MG 15(1)(f), (2)(e)	OP 72
MG 15(1)(g), (2)(e)	OP 75
MG 15(1)(h), (2)(f)	OP 76
MG 15(1)(i), (2)(g)	OP 73
MG 15(1)(j), (2)(h)	OP 77
MG 15(1)(k), (2)(i)	OP 71
MG 15(1)(l), (2)(j)	OP 67
MG 16	OA 4, OP 2
MG 16(1)	OP 54
MG 16(1), (4)	OC 2
MG 16(2), (4)	OP 59(1), (3)
MG 16(3)	OC 21
MG 16(5)	OP 71
MG 16(6)	OC 34(3)
MG 16A(1)	OC 28(7)
MG 16A(1B)	OC 23(4)
MG 16A(2)	OP 55
MG 17	OB 24, OB 53
MG 17(1)	OA 3(2)–(4), OA 10, OA 11
MG 17(1)(a)	OA 9
MG 17(2)(a)	OA 14
MG 17(2)(b)	OA 15, OA 16
Subpart MH	
MH 1	RA 7
Subpart MI	
MI 1	OA 3(2)
MI 2(1)–(3)	OD 3
MI 2(1), (4)	OA 2(2), (3), OD 1(1), (2), (5)
MI 2(4)	OD 2(1)
MI 2(5)–(7)	OD 4
MI 3	OA 2(2), (3), OA 3(3), (4)
MI 3(2)	OA 7
MI 4(1)(a)	OD 1(3)
MI 4(1)(a), (2)(a)	OD 5
MI 4(1)(b), (2)(b)	OD 8
MI 4(1)(c), (2)(c)	OD 7
MI 4(1)(d), (2)(d)	OD 9
MI 4(1)(e), (2)(e)	OD 6

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MI 5(1)(a)	OD 1(4)
MI 5(1)(a), (2)(a)	OD 1(4), OD 10
MI 5(1)(b), (2)(b)	OD 13
MI 5(1)(c), (2)(c)	OD 17
MI 5(1)(d), (2)(d)	OD 18
MI 5(1)(e), (2)(e), (3)–(6)	OD 16
MI 5(1)(f), (2)(f), (5), (7)	OD 14
MI 5(1)(g), (2)(f), (5)	OD 15
MI 5(1)(h), (2)(g)	OD 19
MI 5(1)(i), (2)(h)	OD 11
MI 5(1)(j), (2)(i)	OD 12
MI 5(3)–(7)	OA 8
MI 6(1)	OC 19(2), (3), OD 6
MI 6(2)	OD 11
MI 7(1)	OD 22(1)
MI 7(2)	OD 20(6)
MI 8	OD 21
MI 8(1)	OA 18, OD 20, OD 22
MI 9	OD 18
MI 10	OD 23
MI 10(2)	OC 6(3)(b)
MI 10(5)	YA 2(1)–(3)
MI 11	OD 25
MI 12	OA 2(5), TAA 104B
MI 13	OA 9, OA 10, OB 24, OB 53
MI 13(6)	OA 12
MI 13(7)	OD 24
MI 14	OA 2(2), (3), OP 1(1), OP 78(1)
MI 14(1)	OD 1(5)
MI 15	OA 7
MI 16	OP 78(2), YA 1 “CTR company”
MI 17(1)	OA 2(2), (3), OA 3(2)
MI 17(1)(a), (2)(a)	OP 81
MI 17(1)(b), (2)(b)	OP 82
MI 17(1)(c), (2)(c)	OP 83
MI 17(1)(d), (2)(d)	OP 86
MI 17(1)(e), (2)(e)	OP 84(2), (4)
MI 17(1)(f), (2)(f)	OP 85(1), (5)
MI 18(1)	OA 2(2), (3), OA 3(2)
MI 18(1)(a), (2)(a)	OP 87
MI 18(1)(b), (2)(b)	OP 89
MI 18(1)(c), (2)(c)	OP 92

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MI 18(1)(d), (2)(d)	OP 93
MI 18(1)(e), (2)(e), (3), (4)	OP 91
MI 18(1)(e), (3), (4)	OA 8
MI 18(1)(f), (2)(f)	OP 94
MI 18(1)(g), (2)(g)	OP 88(1), (5)
MI 19	OA 4, OP 2
MI 19(1), (2)	OP 79
MI 19(1), (5)	OD 2(2)
MI 19(3), (4)	OP 84(1), (3)
MI 19(5)	OP 90
MI 20(1)	OP 70, OP 85(2)–(4)
MI 20(2)	OP 61, OP 88(2)–(4)
MI 21	OP 95
MI 21(5)	YA 2(1)–(3)
MI 22	OD 21(6)–(8)
MI 22(1)	OP 80
MI 22(4)	OP 96
Subpart MJ	
MJ 1(1)	OA 2(2), (3), OF 1(1), (2), OF 3
MJ 1(2)	OZ 5
MJ 2	OA 3(3), (4)
MJ 3(1)	OA 2(2), (3), OA 3(2), OF 2
MJ 3(2)	OA 7
MJ 4	OZ 5
MJ 5	OF 4
MJ 5(1)	OF 1(3)
MJ 6	OF 5(2)(b)
MJ 6(1)	OF 1(4)
MJ 7	OA 7, OZ 6
MJ 8	OA 2(5), TAA 104B
Subpart MK	
MK 1	OK 1
MK 1(1)	OA 1(5)
MK 2	OA 3(3), (4)
MK 3	OK 1
MK 3(1)	OA 2(2), (3), OA 3(2)–(4)
MK 3(2)	OA 7
MK 4(1)(a), (2)(a)	OK 2
MK 4(1)(b), (2)(a)	OK 3
MK 4(1)(c), (2)(a)	OK 4
MK 4(1)(d), (2)(b)	OK 5
MK 4(1)(e), (2)(c)	OK 6

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
MK 4(1)(f), (2)(c)	OK 7
MK 4(1)(g), (2)(d)	OK 9
MK 4(1)(h), (2)(e)	OK 8
MK 5(1)(a), (2)(a)	OK 10
MK 5(1)(b), (2)(b)	OK 11
MK 5(1)(c), (g), (2)(c)	OK 12
MK 5(1)(d), (2)(d)	OK 16(4), (5)
MK 5(1)(e), (2)(c)	OK 14
MK 5(1)(f), (2)(f)	OK 15
MK 5(1)(h), (2)(g)	OK 17
MK 5(1)(i), (2)(h)	OK 18
MK 5(1)(j), (2)(i)	OK 13
MK 5(3), (4)	OA 8
MK 6	OK 19
MK 7(1)	OA 18, OK 19(2), (3)
MK 7(2)–(4)	OK 20
MK 7(5)	OK 16(1)–(3)
MK 8(1), (2), (6)	OK 21
MK 8(3), (4), (6)	OK 22
MK 8(5)	OK 23
MK 8(5B)	OK 24
MK 8(6)	YA 2(1)–(3)
MK 9	OA 2(5), TAA 104B
Subpart MZ	
MZ 1	omitted
MZ 2	omitted
MZ 3	omitted
MZ 4	omitted
MZ 5	omitted
MZ 6	omitted
MZ 8	RZ 1
MZ 9	RZ 2
MZ 10	RZ 3
MZ 11	RZ 4
MZ 12	RZ 5
PART N	
Subpart NB	
NB 1	FM 3
Subpart NBA	
NBA 1	RP 2(1), (2), TAA 15C
NBA 2(1)(a)–(c), (2), (3)	TAA 15D
NBA 2(1)(c)	TAA 15F

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
NBA 2(4)	TAA 15E
NBA 3	TAA 15J
NBA 4(1)(a)	RP 9
NBA 4(1)(b)(i), (ii)	RP 10
NBA 4(1)(b)(iii)	RP 11
NBA 4(1B)	RP 8
NBA 4(2), (3)	RP 7
NBA 4(4)	RP 12
NBA 5	RP 16
NBA 5(1)	RP 14
NBA 5(1B)	RP 15
NBA 5(1), (2)	RP 13
NBA 5(3)	TAA 15K
NBA 5(4)	TAA 15L
NBA 6	RP 6
NBA 7	RA 19, RM 7
NBA 8	RP 2(3), TAA 15J(3), (4)
Subpart NBB	
NBB 1	RP 4
NBB 2	TAA 15G
NBB 3	RP 3, TAA 15C(2)
NBB 3(2)	TAA 15M
NBB 4(1)	TAA 15H
NBB 4(2)–(5)	TAA 15I
NBB 5(1)–(3)	TAA 15M
NBB 5(4), (5)	RP 5
NBB 6	RP 4
NBB 7(1), (2)	TAA 15J(3), (4)
NBB 7(3)	RP 2(3)
Subpart NC	
NC 1(1)	omitted
NC 1(2)	RD 3(1), (5)
NC 2(1)	RA 2, RD 16
NC 2(2)–(4)	RD 15
NC 2(5)	RD 17
NC 3	YA 1 “pay”
NC 4	RD 6
NC 5	RD 21
NC 5(2)	RA 10
NC 6	RD 10(1), (2), (4)
NC 6(1A), (3)	RD 9
NC 6(1C), (1D)	RD 11

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
NC 7(1)	TAA 24L
NC 7(2)	RD 18
NC 7(3)	TAA 24P
NC 8(1) proviso	TAA 24C
NC 8(1), (1AA)	TAA 24B
NC 8(1A)	RD 10(2)(a)
NC 8(2)–(4), (11)	TAA 24I
NC 8(7)	TAA 24H
NC 8(9A)	TAA 24D
NC 8(10)	TAA 24P
NC 8(12)	TAA 24E
NC 8A	TAA 24I
NC 9	TAA 24H
NC 10	RD 12
NC 11	RD 13
NC 12	RD 14
NC 12A	TAA 24G
NC 13	RD 11
NC 14	TAA 24F
NC 15	RA 5, RA 15
NC 15(1)	RD 4(1)
NC 15(1), (2), (2B)	TAA 24J
NC 15(1), (5), (6)	RD 22
NC 15(3)	TAA 24P
NC 15(4)	RD 2(3)
NC 15(7)	RA 20
NC 16	RA 8, RA 10, RD 4(2)
NC 18	RD 23
NC 18(1)	RD 24
NC 19	RA 9
NC 20	RA 22
NC 20(1)	RA 10
NC 21	RA 21
NC 21(f)–(h)	RD 8
Subpart ND	
ND 1	RA 5(1)(b), RA 10
ND 1(1)–(3)	RD 26
ND 1(2)(a)	RD 59
ND 1(2)(b), (4)	RD 58
ND 1(2)(c), (4), (5)	RD 61
ND 1(2)(c), (5)	RD 60
ND 1(6)	TAA 46E

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
ND 1A(1)	RD 27(1)
ND 1A(1)–(1D)	RD 28
ND 1A(2)–(6)	RD 29
ND 1AB	RD 30
ND 1B(1)–(6)	RD 31
ND 1B(7)	RD 32
ND 1C	RD 33
ND 1D	RD 34
ND 1DB	RD 35
ND 1E	RD 36
ND 1F	RA 21
ND 1G	RD 34(1), (3)
ND 1H	RD 37
ND 1I	RD 38
ND 1IB	RD 39
ND 1J	RD 40
ND 1K	RD 41
ND 1L	RD 27(2), (3)
ND 1M	YA 1 “identical goods”
ND 1N	RD 42
ND 1O	RD 43
ND 1P(1)	YA 1 “cost”, “price”
ND 1P(2)	RD 44
ND 1Q	RD 45
ND 1R	RD 46
ND 1S	RD 54
ND 1T	RD 55
ND 1U	RD 56
ND 1V	RD 57
ND 1W(1)	omitted
ND 1W(2)	RA 2, RA 10
ND 2(1)–(4)	RD 59
ND 2(2)	RD 58
ND 2(3)	TAA 46B
ND 2(4)	RD 62(5)
ND 2(5)	omitted
ND 3(1), (1A)	RD 47
ND 3(2)	RD 48
ND 3(4)–(7)	RD 49(1), (2)
ND 4	RD 49(3)
ND 5(1), (2)	RD 51(1)–(2)
ND 5(3)–(6)	RD 50

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
ND 5A	RD 52
ND 6	RD 53
ND 7	RD 51(4), (6)
ND 7A	RD 51(5), (6)
ND 8	RD 63
ND 8B	RD 39
ND 9	TAA 46B
ND 9(2), (3)	RA 15
ND 10	RA 15
ND 10(1)	RD 59
ND 10(2)–(5)	TAA 46B
ND 10(4)(a)	RA 19, RM 9
ND 11	TAA 46B
ND 12	TAA 46B
ND 13	RA 15, RD 61
ND 13(5), (6)	TAA 46C
ND 13(8)	RA 20
ND 14	RA 15, RD 60
ND 14(2B)	RD 62(5)
ND 14(5), (6)	TAA 46C
ND 14(8)	RA 20
ND 15	RD 62(5)
ND 15(7), (8)	RD 60(5), TAA 46D
ND 16	RD 49(4)
Subpart NE	
NE 1	RD 64(2)
NE 2	RD 67
NE 2(2)	RD 65(2)
NE 2A(1), (2)	RA 8, RD 68
NE 2A(3)	omitted
NE 2AA	RD 69
NE 2B	RD 69
NE 3B	RD 66(7)(d), (8)–(11), (13)
NE 3	RA 5(1)(c), RD 66(3)–(7), (13)
NE 4	RA 15
NE 5	RA 10, RD 70
NE 6	RA 9, RD 71
NE 6(b), (c)	RD 66(12)
NE 7	RA 23
NE 7(2)	RA 2, YA 2(1)–(3)
Subpart NEA	
NEA 1	RD 72

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
Subpart NF	
NF 1(1)	omitted
NF 1(2), (4), (5)	RE 2
NF 1(2)(b)(ix), (x)	LB 3(3)
NF 2(1)(a)	RE 12
NF 2(1)(b)	RE 13
NF 2(1)(c), (2)	RE 14
NF 2(1)(d)	RE 15
NF 2(1)(e), (f)	RE 16
NF 2(1)(g)	RE 17
NF 2(1A), (1AB)	RE 3
NF 2(1B)	RE 18
NF 2(3), (4)	RE 4
NF 2(5)	RE 10
NF 2(6)	RF 5
NF 2(7), (7B)	RE 5, RE 29
NF 2(8)	RE 6
NF 2A(1), (3)	RE 19
NF 2A(2)	omitted
NF 2AA	TAA 15T
NF 2B	RE 11
NF 2C	omitted
NF 2D(1), (3)	RE 19
NF 2D(2)	omitted
NF 3	RA 8, RA 10
NF 3(1)	RE 8
NF 3(1), (2)	RE 7
NF 3(3)–(5)	RE 9
NF 4	RA 6, RA 10, RA 15
NF 4(1), (2)	RE 20
NF 4(1)–(5), (7), (8)	RE 21
NF 4(5)	RA 16
NF 4(6)	RA 17, RE 28
NF 4(6B)	RA 18
NF 4(9)	RE 26
NF 5	RE 22
NF 6(1)	RA 11
NF 6(2)–(4)	RA 12
NF 7(1)	RA 19
NF 7(1), (2)	RA 12
NF 7(1), (2), (5)	RM 8
NF 8(1)	RE 23

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
NF 8(2)–(4)	TAA 24K
NF 8A(1)	RE 24
NF 8A(2), (3)	TAA 24K
NF 8B	RE 25
NF 8B(b)	LB 3(2)
NF 9(1)	RE 27
NF 9(1)–(3)	TAA 32E
NF 9(4), (5)	TAA 32H
NF 9(6), (7), (9)–(11)	TAA 32G
NF 9(8), (10)	TAA 32F
NF 9(12)–(14)	TAA 32I
NF 10	RE 30
NF 10(1)(a), (d), (3)	TAA 32J
NF 11(1)	TAA 32K
NF 11(1), (2)	RE 27
NF 11(2)–(9)	TAA 32L
NF 12	RA 9
NF 13	RA 2, RA 10, YA 2(1)–(3)
Subpart NG	
NG 1(1)	omitted
NG 1(2)–(4)	RF 2
NG 2(1)(a)	RF 8
NG 2(1)(b)(i), (ib)	RF 12
NG 2(1)(ab)	RF 12B
NG 2(1)(b)(iii)	RF 12C
NG 2(1)(b)(ii)	RF 10(5B)
NG 2(1)(c)	RF 7
NG 2(2)	RF 14
NG 2(3), (4)	RF 9
NG 3	RB 3, RF 2(4)
NG 4	RF 2(5), (6)
NG 5	TAA 32M(1)
NG 6	TAA 32M(2)
NG 7	TAA 32M(3)–(5)
NG 8(1)	RF 3
NG 8(2), (3)	RF 4
NG 9	RF 10
NG 9(1)(a)	OD 1(3)
NG 10	RF 15
NG 11	RA 6, RA 15
NG 11(1)–(3)	RF 13
NG 11(4)	RA 16

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
NG 11(4B)	RA 18
NG 12	RA 8, RA 10
NG 13	RA 10, RF 6
NG 14	RF 11
NG 15	RA 9
NG 16	RA 19
NG 16(1), (1A)	RM 8
NG 16(5)	TAA 165B
NG 16A(1)	RA 11
NG 16A(2), (3)	RA 12
NG 17(1)	RA 23
NG 17(2)	RA 2, YA 2(1)–(3)
Subpart NH	
NH 1(1)	RG 3
NH 1(2)	RG 2
NH 2(1)	RG 4
NH 2(2), (3)	RG 5
NH 2(4)	TAA 32N
NH 3	RA 6, RA 15
NH 3(1)	RG 3
NH 3(2)	IA 3(2)(b)
NH 3(2)–(4)	RG 6
NH 3(6)	TAA 32N
NH 3(7)	RA 2, RM 6, YA 2(1)–(3)
NH 4	RA 19
NH 4(1)	RM 3
NH 4(2), (3)	RM 18
NH 4(4)(a)	RM 19
NH 4(4)(b)	RM 20
NH 4(5)(b), (c)	TAA 71B
NH 4(5), (6)	IA 3(2)(c), RM 21
NH 4(8)	RA 20
NH 4(9)	FM 30(6)
NH 5(1), (2)	FM 25
NH 5(3), (9)	FM 24
NH 5(4)	FM 26
NH 5(5), (6), (8)	FM 27
NH 5(6), (7)	IA 3(2)(c)
NH 5(7)	FM 28
NH 6(1), (2), (5), (7)	FM 30(1)–(5), (7)
NH 6(6)	FM 29
NH 7	RG 7

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
Subpart NZ	
NZ 1	omitted
PART O	
Subpart OB	
OB 1	YA 1
OB 1 “absentee”	HD 18(2)
OB 1 “beneficiary income”	HC 5, HC 6(1)–(3)
OB 1 “category A income”	HR 3(1), (2), (7)
OB 1 “category B income”	HR 3(3)
OB 1 “complying fund rules”	RD 66
OB 1 “consideration”	FA 7, FA 13
OB 1 “consolidation rules”	FM 2(2)
OB 1 “corpus”	HC 4
OB 1 “current value”	HR 3(4)
OB 1 “designated investment fund”	HR 3(6)
OB 1 “distribution”	HC 14
OB 1 “dividend withholding payment rules”	RG 1
OB 1 “DWP reference period”	OC 35
OB 1 “effective interest”	HA 43
OB 1 “eligible company”	FM 31(1)
OB 1 “eligible period”	MC 8
OB 1 “employer’s superannuation contribution”	RD 65(1)
OB 1 “extra pay”	RD 7
OB 1 “FBT rules”	RD 25
OB 1 “foreign company”	HA 6(2)
OB 1 “foreign trust”	HC 10(2)–(4), HC 11
OB 1 “full time earner”	MA 7
OB 1 “fully conduit tax relief credited”	RF 9(6), (7)
OB 1 “group investment fund”	HR 3(4)
OB 1 “imputation rules”	FN 2
OB 1 “lessee’s acquisition cost”	FA 7, FA 13
OB 1 “lessee’s outstanding balance”	FA 15
OB 1 “lessor’s disposition value”	FA 7, FA 13
OB 1 “lessor’s outstanding balance”	FA 15
OB 1 “Maori authority”	HF 1
OB 1 “Maori authority rules”	HF 1
OB 1 “maximum deficit debit”	OC 36
OB 1 “member credit contributions”	MK 3(1)
OB 1 “member credit year”	MK 1(2), MK 4, MK 8
OB 1 “net balance due”	FA 15
OB 1 “non-qualifying trust”	HC 12
OB 1 “NRWT rules”	RF 1

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
OB 1 "PAYE rules"	RD 2(1), (2)
OB 1 "policyholder DWP ratio"	OC 37
OB 1 "principal caregiver"	MC 10
OB 1 "provisional tax rules"	RC 2, RC 3
OB 1 "qualifying amalgamation"	FO 3
OB 1 "qualifying person" (a)(i)	MC 3
OB 1 "qualifying person" (a)(ii)	MC 4
OB 1 "qualifying person" (a)(iii)	MC 5
OB 1 "qualifying trust"	HC 10(1)
OB 1 "reduced deficit debit"	OC 38
OB 1 "relative"	YB 9–YB 12
OB 1 "resident imputation subgroup"	FN 8
OB 1 "RWT rules"	RE 1
OB 1 "salary or wages"	RD 5
OB 1 "settlor"	HC 27, HC 28
OB 1 "shareholder DWP ratio"	OC 39
OB 1 "specified period"	MC 11
OB 1 "specified superannuation contribution"	RD 65(1), (2)
OB 1 "SSCWT rules"	RD 64
OB 1 "taxable distribution"	HC 15
OB 1 "trans-Tasman imputation group"	FN 8
OB 1 "trustee income"	HC 5, HC 7(1)
OB 2	RD 3(1)–(4)
OB 3(1)	HA 2
OB 3(1)(a), (b), (g)	HA 6(2)
OB 3(1)(c), (3)	HA 7
OB 3(1)(d)	HA 9(1)
OB 3(1)(f)	HA 5
OB 3(3A)	HA 11(5)
OB 3(4)	HA 9(2)
OB 3A	YA 1 "charitable purpose"
OB 6	YA 2
OB 6(1)(a), (d), (i)	omitted
OB 6(1)(b), (c)	YA 2(4)
OB 6(1)(e)	YA 2(5)
OB 6(1)(f)	YA 2(6)
OB 6(2), (3)	YA 3
Subpart OC	
OC 1(1)	omitted
OC 1(2)	HR 5
OC 1(2)–(6)	HR 6
OC 1(6)	HR 7

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
OC 3(a)	YA 1 “company” (e)
OC 3(b)	YA 1 “business” (b)(i)
OC 3(c)	CV 5
OC 3(d)	omitted
OC 4	TAA 225AA
Subpart OD	
OD 1	YC 1
OD 2	omitted
OD 3(1), (2)	YC 2
OD 3(3)(a)	YC 5
OD 3(3)(c)	YC 6
OD 3(3)(d)	YC 4(1)–(3)
OD 4(1), (2)	YC 3
OD 4(3)(a)	YC 5
OD 4(3)(c)	YC 6
OD 4(3)(d), (4)	YC 4(4)–(8)
OD 5(1)	YC 7
OD 5(2)	YC 8
OD 5(3), (4)	YC 9
OD 5(5)	YC 10
OD 5(5A)–(5C)	YC 12
OD 5(6)	YC 11
OD 5(6A)–(6F)	YC 13
OD 5(7)	YC 14
OD 5(8)	YC 15
OD 5(9)	YC 16
OD 5A	YC 17
OD 5AA	YC 18
OD 5B	YC 19
OD 6	YC 20
OD 7(1)(a), (2), (3)	YB 2
OD 7(1)(b), (2)	YB 5
OD 7(1)(c)	YB 9–YB 12
OD 7(1)(d)(i)	YB 16
OD 7(1)(d)(ii)	YB 17
OD 8(1), (3), (4)	YB 20
OD 8(1)(a), (2), (3)(a)(i), (3A), (4)(a)(i), (6)	YB 2
OD 8(1)(b), (2)(b), (c)	YB 8
OD 8(1)(c), (3)(d), (4)(c)	YB 9–YB 12
OD 8(1)(d), (3)(e), (4)(d)	YB 16
OD 8(1)(e), (3)(f), (4)(e)	YB 17
OD 8(1)(f), (3)(h)	YB 14

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
OD 8(1)(g), (3)(g)	YB 13
OD 8(1)(h)	YB 19
OD 8(3)(a)(ii), (3A)	YB 3
OD 8(3)(b)	YB 7
OD 8(3)(c), (3A)	YB 4
OD 8(3)(i)	YB 15
OD 8(3)(j)	YB 18
OD 8(4)(b)	YB 6
OD 8(4)(b)(i)	YB 5
OD 9	YB 21
Subpart OE	
OE 1	YD 1
OE 2(1), (1B)	YD 2(1), (3)
OE 2(2)–(6)	YD 3
OE 4(1)	YD 4
OE 4(1A)	YZ 1
OE 5	omitted
OE 7(1), (2)	YD 10
OE 7(3)–(5)	YD 11
OE 8	YD 9
Subpart OF	
OF 1	YE 1
OF 2(1)	HC 6(3), (4)
PART Y	
Subpart YA	
YA 1	ZA 1
YA 2	ZA 2
YA 3	ZA 3
YA 4	ZA 4
YA 5	ZA 5
YA 6	ZA 6
Schedules	
Schedule 1	schedule 1
Schedule 2 part A	schedule 5
Schedule 2 part B	schedule 1
Schedule 3	schedule 24
Schedule 4	schedule 25
Schedule 5	schedule 26
Schedule 6	schedule 27
Schedule 6B	schedule 19
Schedule 7	schedule 20
Schedule 8	schedule 17

Provision in Income Tax Act 2004 (unless otherwise stated)	Corresponding provision in Income Tax Act 2007 or Tax Administration Act 1994
Schedule 9	schedule 18
Schedule 10	schedule 10
Schedule 11	schedule 12
Schedule 11B	schedule 11
Schedule 12	schedule 31
Schedule 13	schedule 3
Schedule 14	schedule 1
Schedule 15	schedule 37
Schedule 16	schedule 13
Schedule 17	schedule 14
Schedule 18	schedule 36
Schedule 19	schedule 2
Schedule 19, appendix	omitted
Schedule 20	schedule 48
Schedule 21	schedule 49
Schedule 22	schedule 50
Schedule 22A	schedule 51
Schedule 23	schedule 52
Other legislation and regulations	
Income Tax Amendment Act (No 5) 1988, s 9	HC 1(2)(d)
Income Tax (Withholding Payments) Regulations 1979, regs 2, 4, 6–8	RD 8
Income Tax (Withholding Payments) Regulations 1979, reg 3	RD 10(3)
Income Tax (Withholding Payments) Regulations 1979, reg 5	TAA 24M
Income Tax (Withholding Payments) Regulations 1979, reg 5(3)	RD 24
Income Tax (Withholding Payments) Regulations 1979, reg 6A	TAA 24N
Income Tax (Withholding Payments) Regulations 1979, regs 10, 11	RD 19
Income Tax (Withholding Payments) Regulations 1979, reg 12	RD 20
Income Tax (Withholding Payments) Regulations 1979, reg 12A	TAA 24O
Income Tax (Withholding Payments) Regulations 1979, schedule	schedule 4

Schedule 52 part A: amended, on 1 April 2008, by section 593(1)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(1)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(2) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(3) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(4)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(4)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(5) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(6) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(7) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(8) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(9) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(10)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(10)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(10)(c) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(10)(d) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(11) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(12) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part A: amended, on 1 April 2008, by section 593(13) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part B
Income Tax Act 2007: corresponding provisions in Income Tax Act 2004 and other legislation or regulation

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
A 1	A 1
A 2	A 2
PART A	
AA 1	AA 1
AA 2	AA 2
AA 3(1)	AA 3(2)
AA 3(2)	new
AA 4	new
PART B	
Subpart BA	
BA 1	BA 1
Subpart BB	
BB 1	BB 1
BB 2	BB 2
BB 3	BB 3
Subpart BC	
BC 1	BC 1
BC 2	BC 2
BC 3	BC 3
BC 4	BC 4
BC 5	BC 5
BC 6	BC 6(1), (5)
BC 7	BC 7
BC 8	BC 9
Subpart BD	
BD 1	BD 1
BD 2	BD 2
BD 3	BD 3
BD 4	BD 4
Subpart BE	
BE 1	BE 1
Subpart BF	
BF 1	BF 1
Subpart BG	
BG 1	BG 1
Subpart BH	
BH 1	BH 1
PART C	

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
Subpart CA	
CA 1	CA 1
CA 2	CA 2
Subpart CB	
CB 1	CB 1
CB 2	FB 3
CB 3	CB 2
CB 4	CB 3
CB 5	CB 4
CB 6	CB 5, OB 1 “land” (a)(i)
CB 7	CB 6
CB 8	CB 6B
CB 9	CB 7
CB 10	CB 8
CB 11	CB 9
CB 12	CB 10
CB 13	CB 11
CB 14	CB 12
CB 15	CB 13
CB 16	CB 14
CB 17	CB 15
CB 18	CB 16
CB 19	CB 17
CB 20	CB 18
CB 21	CB 19
CB 22	CB 20
CB 23	CB 21
CB 24	CB 22
CB 25	CB 23
CB 26	CB 4B
CB 27	CB 24
CB 28	CB 24B
CB 29	CB 25
CB 30	CB 26
CB 31	CB 27
CB 32	CB 28
CB 33	HF 1(1)
CB 34	HF 1(3)(c), (5), (6)
Subpart CC	
CC 1	CC 1
CC 2	CC 2
CC 3	CC 3

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CC 4	CC 4
CC 5	CC 5
CC 6	CC 6
CC 7	CC 7
CC 8	CC 8
CC 9	CC 9
CC 10	CC 10
CC 11	FC 8E
CC 12	FC 8D(2)
CC 13	FC 10(5)(d)–(f)
Subpart CD	
CD 1	CD 1
CD 2	CD 1B
CD 3	CD 2
CD 4	CD 3
CD 5	CD 4
CD 6	CD 5
CD 7	CD 6
CD 8	CD 7
CD 9	CD 7B
CD 10	CD 7C
CD 11	GB 1(3), GD 3, GD 5
CD 12	HH 1(9)
CD 13	CD 8
CD 14	FCB 2(b)
CD 15	CD 9
CD 16	CD 10
CD 17	CD 10B
CD 18	CD 10C
CD 19	CD 11
CD 20	CD 12
CD 21	CD 13
CD 22	CD 14
CD 23	CD 15
CD 24	CD 16
CD 25	CD 17
CD 26	CD 18
CD 27	CD 19
CD 28	CD 20
CD 29	CD 21
CD 30	CD 21B
CD 31	CD 22

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CD 32	CD 23
CD 33	CD 24
CD 34	CD 24B
CD 35	CD 25
CD 36	CD 26
CD 37	HI 4(2)
CD 38	CD 27
CD 39	CD 28
CD 40	CD 29
CD 41	CD 30
CD 42	CD 31
CD 43	CD 32
CD 44	CD 33
CD 45	CD 34
CD 46	CD 35
CD 47	CD 36
CD 48	CD 37
CD 49	CD 38
CD 50	CD 39
CD 51	CD 40
CD 52	CD 41
CD 53	CD 42
CD 54	CD 43
Subpart CE	
CE 1	CE 1
CE 2	CE 2
CE 3	CE 3
CE 4	CE 4
CE 5	CE 5
CE 6	CE 6
CE 7	CE 7
CE 8	CE 8
CE 9	CE 9
CE 10	CE 10
CE 11	CE 11
CE 12	CE 12
Subpart CF	
CF 1	CF 1
CF 2	CF 2
Subpart CG	
CG 1	CG 1
CG 2	CG 2

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CG 3	CG 3
CG 4	CG 4
CG 5	CG 5
CG 6	CG 6
CG 7	FC 5(1)
Subpart CH	
CH 1	CH 1
CH 2	CH 2
CH 3	CH 3
CH 4	CH 4
CH 5	CH 5
CH 6	FC 8H(2), FC 8I(3)(a)
CH 7	new
CH 8	new
CH 9	FG 8(1)
CH 10	FG 8B(1)
Subpart CP	
CP 1	CP 1
Subpart CQ	
CQ 1	CQ 1
CQ 2	CQ 2
CQ 3	CQ 3
CQ 4	CQ 4
CQ 5	CQ 5
CQ 6	CQ 6
Subpart CR	
CR 1	CR 1
CR 2	CR 2
CR 3	FC 13, FC 14(2)
Subpart CS	
CS 1	CS 1
CS 2	CS 2
CS 3	CS 3
CS 4	CS 4
CS 5	CS 5
CS 6	CS 6
CS 7	CS 7
CS 8	CS 8
CS 9	CS 9
CS 10	CS 10
CS 11	CS 11
CS 12	CS 12

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CS 13	CS 13
CS 14	CS 14
CS 15	CS 15
CS 16	CS 16
CS 17	CS 17
CS 18	GD 6(1), (2)
Subpart CT	
CT 1	CT 1
CT 2	CT 2
CT 3	CT 3
CT 4	CT 4
CT 5	CT 5
CT 6	CT 6
CT 7	CT 7
Subpart CU	
CU 1	CU 1
CU 2	CU 2
CU 3	CU 3
CU 4	CU 4
CU 5	CU 5
CU 6	CU 6
CU 7	CU 7
CU 8	CU 8
CU 9	CU 9
CU 10	CU 10
CU 11	CU 11
CU 12	CU 12
CU 13	CU 13
CU 14	CU 14
CU 15	CU 15
CU 16	CU 16
CU 17	CU 17
CU 18	CU 18
CU 19	CU 19
CU 20	CU 20
CU 21	CU 21
CU 22	CU 22
CU 23	CU 23
CU 24	CU 24
CU 25	CU 25
CU 26	CU 26
CU 27	CU 27

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CU 28	CU 28
CU 29	CU 29
Subpart CV	
CV 1	CV 1
CV 2	HB 2(1)(e)
CV 3	FD 10(8)
CV 4	FE 4(b)
CV 5	OC 3(c)
CV 6	CV 2
CV 7	CV 3
CV 8	CV 4
CV 9	LE 3(6), (8)
CV 10	FH 8(3)
CV 11	HI 4(3), HI 5(2), (3), HI 7
CV 12	HH 8
CV 13	HH 1(7), HH 3(1)
CV 14	HH 3(5A)
CV 15	HH 3(3)
CV 16	FC 18, FC 19
CV 17	FC 21(1), (2), (4)
Subpart CW	
CW 1	CW 1
CW 2	CW 2
CW 3	CW 3
CW 4	CW 4
CW 5	CW 5
CW 6	CW 6
CW 7	CW 7
CW 8	CW 8
CW 9	CW 9
CW 10	CW 10
CW 11	CW 11
CW 12	CW 11B
CW 13	CW 11C
CW 14	HG 10(a)
CW 15	HG 13(1)(a), (1A)
CW 16	CW 12
CW 17	CW 13
CW 18	CW 14
CW 19	CW 15
CW 20	CW 16
CW 21	CW 17

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CW 22	CW 18
CW 23	CW 19
CW 24	CW 20
CW 25	CW 21
CW 26	CW 22
CW 27	CW 22B
CW 28	CW 23
CW 29	CW 23B
CW 30	CW 24
CW 31	CW 25
CW 32	CW 26
CW 33	CW 27
CW 34	CW 28
CW 35	CW 28B
CW 36	CW 29
CW 37	CW 30
CW 38	CW 31
CW 39	CW 32
CW 40	CW 33
CW 41	CW 34
CW 42	CW 35
CW 43	CW 36
CW 44	CW 37
CW 45	CW 38
CW 46	CW 39
CW 47	CW 40
CW 48	CW 40B
CW 49	CW 41
CW 50	CW 42
CW 51	CW 43
CW 52	CW 44
CW 53	HH 3(5)
CW 54	HH 4(3B)
CW 55	HI 5(1)
CW 56	CW 45
CW 57	CW 45B
CW 58	CW 46
CW 59	CW 47
CW 60	CW 48
CW 61	CW 49
CW 62	CW 49B
CW 63	GB 1(1)–(2C), GD 3(1), (2)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CW 64	CW 50
Subpart CX	
CX 1	CX 1
CX 2	CX 2
CX 3	CX 3
CX 4	CX 4
CX 5	CX 5
CX 6	CX 6
CX 7	CX 6B
CX 8	CX 7
CX 9	CX 8
CX 10	CX 9
CX 11	CX 10
CX 12	CX 11
CX 13	CX 12
CX 14	CX 13
CX 15	CX 14
CX 16	CX 15
CX 17	CX 16
CX 18	GC 15(3), (4)
CX 19	CX 17
CX 20	CX 18
CX 21	CX 18B
CX 22	CX 19
CX 23	CX 20
CX 24	CX 20B
CX 25	CX 21
CX 26	CX 22
CX 27	CX 23
CX 28	CX 24
CX 29	CX 25
CX 30	CX 26
CX 31	CX 26B
CX 32	CX 27
CX 33	CX 27B
CX 34	CX 28
CX 35	CX 29
CX 36	CX 30
CX 37	CX 31
CX 38	CX 32
CX 39	CX 33
CX 40	CX 34

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CX 41	CX 35
CX 42	CX 36
CX 43	CX 37
CX 44	CX 38
CX 45	CX 39
CX 46	CX 40
CX 47	CX 41
CX 48	CX 41B
CX 49	CX 42
CX 50	CX 1B
CX 51	CX 43
CX 52	CX 43B
CX 53	CX 44
CX 54	CX 44B
CX 55	CX 44C
CX 56	CX 44D
CX 57	CX 44E
CX 58	HH 3A–HH 3F
CX 59	HH 3(4)
CX 60	HB 2(1)(a)
CX 61	GB (1)–(2C), GD 3(1), (2)
Subpart CZ	
CZ 1	CZ 1
CZ 2	CZ 2
CZ 3	CZ 3
CZ 4	CZ 4
CZ 5	CZ 5
CZ 6	CZ 6
CZ 7	CZ 7
CZ 8	CZ 8
CZ 9	CZ 9
CZ 10	CZ 10
CZ 11	CZ 11
CZ 12	CZ 12
CZ 13	CZ 13
CZ 14	CZ 14
CZ 15	CZ 15
CZ 16	CZ 16
CZ 17	CZ 17
CZ 18	CZ 18
CZ 19	CZ 19
CZ 20	FC 6(7), (8)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
CZ 21	GD 6(3)
CZ 22	CZ 20
PART D	
Subpart DA	
DA 1	DA 1
DA 2	DA 2
DA 3	DA 3
DA 4	DA 4
Subpart DB	
DB 1	DB 1
DB 2	DB 2
DB 3	DB 3
DB 4	DB 4
DB 5	DB 5
DB 6	DB 6
DB 7	DB 7
DB 8	DB 8
DB 9	HG 9(3)–(5)
DB 10	FC 1(1), FC 2(2)
DB 11	DB 9
DB 12	DB 9B
DB 13	DB 10
DB 14	DB 11
DB 15	DB 12
DB 16	DB 12B
DB 17	DB 12C
DB 18	DB 13
DB 19	DB 13B
DB 20	DB 14
DB 21	DB 15
DB 22	DB 16
DB 23	DB 17
DB 24	DB 18
DB 25	FC 4(f)(iv)
DB 26	DB 19
DB 27	DB 20
DB 28	DB 21
DB 29	FB 4A
DB 30	DB 22
DB 31	DB 23
DB 32	DB 24
DB 33	DB 25

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
DB 34	DB 26
DB 35	DB 27
DB 36	DB 28
DB 37	DB 28B
DB 38	DB 29
DB 39	DB 30
DB 40	DB 31
DB 41	DB 32
DB 42	DB 33
DB 43	DB 34
DB 44	DB 35
DB 45	DB 36
DB 46	DB 37
DB 47	DB 38
DB 48	DB 39
DB 49	DB 40
DB 50	DB 41
DB 51	DB 42
DB 52	DB 43
DB 53	DB 43B
DB 54	DB 43C
DB 55	DB 44
DB 56	DB 45
DB 57	GD 4
DB 58	GB 1(1)–(2C), GC 11A, GC 31, GD 3(1), (2), GD 5, GD 12, GD 12A
DB 59	GD 7, GD 10
Subpart DC	
DC 1	DC 1
DC 2	DC 2
DC 3	DC 3
DC 4	DC 4
DC 5	GD 4
DC 6	DC 5
DC 7	DC 6
DC 8	DC 7
DC 9	DC 8
DC 10	DC 9
DC 11	DC 10
DC 12	DC 11
DC 13	DC 12
DC 14	DC 13

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
DC 15	DC 14
Subpart DD	
DD 1	DD 1
DD 2	DD 2
DD 3	DD 3
DD 4	DD 4
DD 5	DD 5
DD 6	DD 6
DD 7	DD 7
DD 8	DD 8
DD 9	DD 9
DD 10	DD 10
DD 11	DD 11
Subpart DE	
DE 1	DE 1
DE 2	DE 2
DE 3	DE 3
DE 4	DE 4
DE 5	DE 5
DE 6	DE 6
DE 7	DE 7
DE 8	DE 8
DE 9	DE 9
DE 10	DE 10
DE 11	DE 11
DE 12	DE 12
Subpart DF	
DF 1	DF 1
DF 2	DF 2
DF 3	DF 3
DF 4	DF 4
Subpart DN	
DN 1	DN 1
DN 2	DN 2
DN 3	DN 3
DN 4	DN 4
DN 5	DN 5
DN 6	DN 6
DN 7	DN 7
DN 8	DN 9
Subpart DO	
DO 1	DO 1

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
DO 2	DO 2
DO 3	DO 3
DO 4	DO 4
DO 5	DO 4B
DO 6	DO 4C
DO 7	DO 4D
DO 8	DO 4E “planting”, “plot”
DO 9	DO 4E “replaced area fraction”
DO 10	DO 5
DO 11	DO 5B
DO 12	DO 6
DO 13	DO 7
Subpart DP	
DP 1	DP 1
DP 2	DP 2
DP 3	DP 3
DP 4	DP 3B
DP 5	DP 4
DP 6	DP 5
DP 7	DP 6
DP 8	DP 7
DP 9	DP 8
DP 10	DP 9, GD 15
DP 11	DP 10
Subpart DQ	
DQ 1	DQ 1
DQ 2	DQ 2
DQ 3	DQ 3
DQ 4	DQ 4
Subpart DR	
DR 1	DR 1
DR 2	DR 2
DR 3	DR 3
Subpart DS	
DS 1	DS 1
DS 2	DS 2
DS 3	DS 3
DS 4	DS 4
Subpart DT	
DT 1	DT 1
DT 2	DT 2
DT 3	DT 3

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
DT 4	DT 4
DT 5	DT 5
DT 6	DT 6
DT 7	DT 7
DT 8	DT 8
DT 9	DT 9
DT 10	DT 10
DT 11	DT 11
DT 12	DT 12
DT 13	DT 13
DT 14	DT 14
DT 15	DT 15
DT 16	DT 16
DT 17	DT 17
DT 18	DT 18
DT 19	DT 19
DT 20	DT 20
Subpart DU	
DU 1	DU 1
DU 2	DU 2
DU 3	DU 3
DU 4	DU 4
DU 5	DU 5
DU 6	DU 6
DU 7	DU 7
DU 8	DU 8
DU 9	DU 9
DU 10	DU 10
DU 11	DU 11
DU 12	DU 12
Subpart DV	
DV 1	DV 1
DV 2	DV 2
DV 3	DV 3
DV 4	DV 4
DV 5	DV 5
DV 6	DV 6
DV 7	DV 7
DV 8	DV 8
DV 9	DV 9
DV 10	DV 10
DV 11	DV 10B

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
DV 12	DV 11
DV 13	DV 12
DV 14	DV 13
DV 15	FE 6A
DV 15(1), (2)	FE 3
DV 16	HB 2(1)(b), (d)
DV 17	HB 2(1)(c)
DV 18	ME 30(2), ME 35(2)
DV 19	HF 1(2), (3)(a), (b), (4)
Subpart DW	
DW 1	DW 1
DW 2	DW 2
DW 3	FC 15, FC 20, FC 21(3), (5)
Subpart DX	
DX 1	DX 1
DX 2	LF 7
DX 3	LE 3(10), LE 4
Subpart DZ	
DZ 1	DZ 1
DZ 2	DZ 2
DZ 3	DZ 3
DZ 4	DZ 4
DZ 5	DZ 5
DZ 6	DZ 6
DZ 7	DZ 7
DZ 8	DZ 8
DZ 9	DZ 9
DZ 10	DZ 10
DZ 11	DZ 11
DZ 12	DZ 12
DZ 13	DZ 13
DZ 14	FC 6(4), FC 8
DZ 15	DZ 14
DZ 16	DZ 15
DZ 17	DZ 16
DZ 18	DZ 17
PART E	
Subpart EA	
EA 1	EA 1
EA 2	EA 2
EA 3	EA 3
EA 4	EA 4

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
Subpart EB	
EB 1	EB 1
EB 2	EB 2
EB 3	EB 3
EB 4	EB 4
EB 5	EB 5
EB 6	EB 6
EB 7	EB 7
EB 8	EB 8
EB 9	EB 9
EB 10	EB 10
EB 11	EB 11
EB 12	EB 12
EB 13	EB 13
EB 14	EB 14
EB 15	EB 15
EB 16	EB 16
EB 17	EB 17
EB 18	EB 18
EB 19	EB 19
EB 20	EB 20
EB 21	EB 21
EB 22	EB 22
EB 23	EB 23
EB 24	FB 4, FF 13(1)
Subpart EC	
EC 1	EC 1
EC 2	EC 2
EC 3	EC 3
EC 4	EC 5
EC 5	EC 5B
EC 6	EC 6
EC 7	EC 7
EC 8	EC 8
EC 9	EC 9
EC 10	EC 10
EC 11	EC 11
EC 12	EC 12
EC 13	EC 13
EC 14	EC 14
EC 15	EC 15
EC 16	EC 16

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EC 17	EC 17
EC 18	EC 18
EC 19	EC 19
EC 20	EC 20
EC 21	EC 21
EC 22	EC 22
EC 23	EC 23
EC 24	EC 24
EC 25	EC 25
EC 26	EC 26
EC 27	EC 27
EC 28	EC 28
EC 29	EC 29
EC 30	EC 30
EC 31	EC 31
EC 32	EC 32
EC 33	EC 33
EC 34	EC 34
EC 35	EC 35
EC 36	EC 36
EC 37	EC 37
EC 38	EC 38
EC 39	EC 39
EC 40	EC 40
EC 41	EC 41
EC 42	EC 42
EC 43	EC 43
EC 44	EC 44
EC 45	EC 45
EC 46	EC 46
EC 47	EC 47
EC 48	EC 48
Subpart ED	
ED 1	ED 1
ED 2	ED 2
Subpart EE	
EE 1	EE 1
EE 2	EE 2
EE 3	EE 3
EE 4	EE 4
EE 5	EE 5
EE 6	EE 6

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EE 7	EE 7
EE 8	EE 8
EE 9	EE 9
EE 10	EE 10
EE 11	EE 11
EE 12	EE 12
EE 13	EE 13
EE 14	EE 14
EE 15	EE 15
EE 16	EE 16
EE 17	EE 17
EE 18	EE 18
EE 19	EE 19
EE 20	EE 20
EE 21	EE 21
EE 22	EE 22
EE 23	EE 23
EE 24	EE 24
EE 25	EE 24B
EE 26	EE 25
EE 27	EE 25B
EE 28	EE 25C
EE 29	EE 25D
EE 30	EE 25E
EE 31	EE 26
EE 32	EE 26B
EE 33	EE 27
EE 34	EE 27B
EE 35	EE 28
EE 36	EE 29
EE 37	EE 30
EE 38	EE 31
EE 39	EE 32
EE 40	EE 33
EE 41	EE 34
EE 42	EE 35
EE 43	EE 36
EE 44	EE 37
EE 45	EE 38
EE 46	EE 39
EE 47	EE 40
EE 48	EE 41

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EE 49	EE 42
EE 50	FB 7
EE 51	EE 43
EE 52	EE 44
EE 53	EE 44B
EE 54	EE 45
EE 55	EE 46
EE 56	EE 47
EE 57	EE 48
EE 58	EE 49
EE 59	EE 50
EE 60	EE 51
EE 61	EE 52
EE 62	EE 53
EE 63	EE 54
EE 64	EE 55
EE 65	EE 56
EE 66	EE 57
EE 67	EE 58
Subpart EF	
EF 1	EF 1
EF 2	EF 2
EF 3	EF 3
EF 4	EF 4
EF 5	EF 5
EF 6	EF 6
Subpart EG	
EG 1	EG 1
EG 2	EG 2
EG 3	EG 3
Subpart EH	
EH 1	EH 1
EH 2	EH 2
EH 3	EH 3
EH 4	EH 4
EH 5	EH 5
EH 6	EH 6
EH 7	EH 7
EH 8	EH 8
EH 9	EH 9
EH 10	EH 10
EH 11	EH 11

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EH 12	EH 12
EH 13	EH 13
EH 14	EH 14
EH 15	EH 15
EH 16	EH 16
EH 17	EH 17
EH 18	EH 18
EH 19	EH 19
EH 20	EH 20
EH 21	EH 21
EH 22	EH 22
EH 23	EH 23
EH 24	EH 24
EH 25	EH 25
EH 26	EH 26
EH 27	EH 27
EH 28	EH 28
EH 29	EH 29
EH 30	EH 30
EH 31	EH 31
EH 32	EH 32
EH 33	EH 33
EH 34	EH 34
EH 35	EH 35
EH 36	EH 37
EH 37	EH 38
EH 38	EH 39
EH 39	EH 40
EH 40	EH 41
EH 41	EH 42
EH 42	EH 43
EH 43	EH 44
EH 44	EH 45
EH 45	EH 46
EH 46	EH 47
EH 47	EH 48
EH 48	EH 49
EH 49	EH 50
EH 50	EH 51
EH 51	EH 52
EH 52	EH 53
EH 53	EH 54

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EH 54	EH 55
EH 55	EH 56
EH 56	EH 57
EH 57	EH 58
EH 58	EH 59
EH 59	EH 60
EH 60	EH 61
EH 61	EH 62
EH 62	EH 64
EH 63	EH 65
EH 64	EH 66
EH 65	EH 67
EH 66	EH 68
EH 67	EH 69
EH 68	EH 70
EH 69	EH 71
EH 70	EH 72
EH 71	EH 73
EH 72	EH 74
EH 73	EH 75
EH 74	EH 76
EH 75	EH 77
EH 76	EH 78
EH 77	EH 79
EH 78	EH 80
EH 79	EH 81
Subpart EI	
EI 1	EI 1
EI 2	EI 2
EI 3	EI 3
EI 4	EI 3B
EI 5	EI 4
EI 6	EI 5
EI 7	EI 6
EI 8	EI 7
EI 9	EI 8
Subpart EJ	
EJ 1	EJ 1
EJ 2	EJ 2
EJ 3	EJ 3
EJ 4	EJ 4
EJ 5	EJ 5

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EJ 6	EJ 6
EJ 7	EJ 7
EJ 8	EJ 8
EJ 9	GC 11B, GD 12A, GD 12B
EJ 10	EJ 9
EJ 11	EJ 10
EJ 12	EJ 11
EJ 13	EJ 12
EJ 14	IH 3(1)
EJ 15	EJ 13
EJ 16	EJ 14
EJ 17	EJ 15
EJ 18	EJ 16
EJ 19	EJ 17
EJ 20	EJ 18
EJ 21	EJ 19
EJ 22	EJ 20
EJ 23	EJ 21
Subpart EK	
EK 1	EK 1
EK 2	EK 2
EK 3	EK 3
EK 4	EK 4
EK 5	EK 5
EK 6	EK 6
EK 7	EK 7
EK 8	EK 8
EK 9	EK 9
EK 10	EK 10
EK 11	EK 11
EK 12	EK 12
EK 13	EK 13
EK 14	EK 14
EK 15	EK 15
EK 16	EK 16
EK 17	EK 17
EK 18	EK 18
EK 19	EK 19
EK 20	EK 20
EK 21	EK 21
EK 22	EK 22
EK 23	EK 23

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
Subpart EW	
EW 1	EW 1
EW 2	EW 2
EW 3	EW 3
EW 4	EW 4
EW 5	EW 5
EW 6	EW 6
EW 7	EW 7
EW 8	EW 8
EW 9	EW 9
EW 10	EW 10
EW 11	EW 11
EW 12	EW 12
EW 13	EW 13
EW 14	EW 14
EW 15	EW 15
EW 16	EW 16
EW 17	EW 17
EW 18	EW 18
EW 19	EW 19
EW 20	EW 20
EW 21	EW 21
EW 22	EW 22
EW 23	EW 23
EW 24	EW 24
EW 25	EW 25
EW 26	EW 26
EW 27	EW 27
EW 28	EW 28
EW 29	EW 29
EW 30	EW 30
EW 31	EW 31
EW 32	EW 32
EW 33	EW 33
EW 34	EW 34
EW 35	EW 35
EW 36	EW 36
EW 37	EW 37
EW 38	EW 38
EW 39	EW 40
EW 40	EW 41
EW 41	EW 42

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EW 42	EW 43
EW 43	EW 45
EW 44	EW 46
EW 45	EW 47
EW 46	EW 47B
EW 47	EW 48
EW 48	EW 49
EW 49	EW 50
EW 50	EW 51
EW 51	EW 52
EW 52	EW 52B
EW 53	EW 53
EW 54	EW 54
EW 55	EW 55
EW 56	EW 56
EW 57	EW 57
EW 58	EW 58
EW 59	EW 59
EW 60	EW 60
EW 61	EW 61
EW 62	EW 62
EW 63	EW 63
Subpart EX	
EX 1	EX 1
EX 2	EX 2
EX 3	EX 3, GB 7, GC 9
EX 4	EX 4
EX 5	EX 5
EX 6	EX 6
EX 7	EX 7
EX 8	EX 8
EX 9	EX 9
EX 10	EX 10
EX 11	EX 11
EX 12	EX 12
EX 13	EX 13
EX 14	EX 14
EX 15	EX 15
EX 16	EX 16
EX 17	EX 17
EX 18	EX 18
EX 19	EX 19

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EX 20	EX 20
EX 21	EX 21
EX 22	EX 22
EX 23	EX 23
EX 24	EX 25
EX 25	EX 26
EX 26	EX 27
EX 27	EX 28
EX 28	EX 29
EX 29	EX 30
EX 30	EX 31
EX 31	EX 33C
EX 32	EX 33D
EX 33	EX 33E
EX 34	EX 32
EX 35	EX 33(1), (2)
EX 36	EX 33(3)
EX 37	EX 33(4)
EX 38	EX 33(5)
EX 39	EX 33B(1), (3)
EX 40	EX 34
EX 41	EX 35
EX 42	EX 36
EX 43	EX 37
EX 44	EX 38
EX 45	EX 39
EX 46	EX 40
EX 47	EX 40B
EX 48	EX 41
EX 49	EX 42
EX 50	EX 43
EX 51	EX 44
EX 52	EX 44B(2), EX 44C
EX 53	EX 44B(1), (3), EX 44D
EX 54	EX 44E
EX 55	EX 45
EX 56	EX 45B
EX 57	EX 44(7), EX 44C(11), EX 44D(13), EX 45(15), EX 45B(17)
EX 58	EX 46
EX 59	EX 47
EX 60	EX 48

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EX 61	EX 49
EX 62	EX 50
EX 63	EX 51
EX 64	EX 52
EX 65	EX 53
EX 66	EX 54
EX 67	EX 54B
EX 68	EX 56
EX 69	EX 57
EX 70	EX 58
EX 71	EX 59
EX 72	EX 60
Subpart EY	
EY 1	EY 1
EY 2	EY 2
EY 3	EY 3
EY 4	EY 4
EY 5	EY 5
EY 6	EY 6
EY 7	EY 7
EY 8	EY 8
EY 9	EY 9
EY 10	EY 10
EY 11	GD 8(1), (3)–(9)
EY 12	EY 11
EY 13	EY 12
EY 14	EY 13
EY 15	EY 14
EY 16	EY 15
EY 17	EY 16
EY 18	EY 17
EY 19	EY 18
EY 20	EY 19
EY 21	EY 20
EY 22	EY 21
EY 23	EY 22
EY 24	EY 23
EY 25	EY 24
EY 26	EY 25
EY 27	EY 26
EY 28	EY 27
EY 29	EY 28

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EY 30	EY 29
EY 31	EY 30
EY 32	EY 31
EY 33	EY 32
EY 34	EY 33
EY 35	EY 34
EY 36	EY 35
EY 37	EY 36
EY 38	EY 37
EY 39	EY 38
EY 40	EY 39
EY 41	EY 40
EY 42	EY 41
EY 43	EY 42
EY 44	EY 43
EY 45	EY 44
EY 46	EY 45
EY 47	EY 46
EY 48	EY 47
EY 49	EY 48
Subpart EZ	
EZ 1	EZ 1
EZ 2	EZ 2
EZ 3	EZ 3
EZ 4	EZ 4
EZ 5	EZ 4B
EZ 6	EZ 4C
EZ 7	EZ 5
EZ 8	EZ 6
EZ 9	EZ 8
EZ 10	EZ 9
EZ 11	EZ 10
EZ 12	EZ 11
EZ 13	EZ 12
EZ 14	EZ 13
EZ 15	EZ 14
EZ 16	EZ 15
EZ 17	EZ 16
EZ 18	EZ 17
EZ 19	EZ 18
EZ 20	EZ 19
EZ 21	EZ 20

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
EZ 22	EZ 21
EZ 23	EZ 21B
EZ 24	EZ 22
EZ 25	EZ 23
EZ 26	EZ 24
EZ 27	EZ 25
EZ 28	EZ 26
EZ 29	EZ 27
EZ 30	EZ 28
EZ 31	EZ 29
EZ 32	EX 33B(2), (3)
EZ 33	EZ 30
EZ 34	EZ 31
EZ 35	EZ 32
EZ 36	EZ 33
EZ 37	EZ 34
EZ 38	EZ 35
EZ 39	EZ 36
EZ 40	EZ 37
EZ 41	EZ 38
EZ 42	EZ 39
EZ 43	EZ 40
EZ 44	EZ 41
EZ 45	EZ 42
EZ 46	EZ 43
EZ 47	EZ 44
EZ 48	EZ 45
EZ 49	EZ 46
EZ 50	EZ 47
EZ 51	EZ 48
EZ 52	EZ 49
PART F	
Subpart FA	
FA 1	new
FA 2	FC 1, FC 2
FA 3	FC 3
FA 4	FC 4
FA 5	FC 5
FA 6	FC 8A(1), FC 8F, FC 8G
FA 7	FC 8A(2), (3), OB 1 “consideration”, “lessee’s acquisition cost”, “lessor’s disposition value”
FA 8	FC 8B(1)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
FA 9(1)	FC 8B(2)
FA 9(2), (3)	FC 8E
FA 10(1), (2)	FC 8B(3)
FA 10(3)–(5)	FC 8D
FA 10(6), (7)	FC 8C
FA 11(1), (2)	FC 8H
FA 11(3)–(7)	FC 8I
FA 12	FC 9, FC 10
FA 13	FC 10(1)(a), OB 1 "consideration", "lessee's acquisition cost", "lessor's disposition value"
FA 14	FC 10(1)(c), (5)(c)
FA 15	FC 10(2), (5)(a), OB 1 "lessee's outstanding balance", "lessor's outstanding balance", "net balance due"
FA 16	FC 10(3)
FA 17	FC 10(4)
FA 18	FC 10(5)(d)–(f)
Subpart FB	
FB 1	new
FB 2	FF 4
FB 3	FF 6(1)(a)
FB 4	FF 6(1)(b)
FB 5	FF 6(1)(a)(iv), (b)(iv), (2)
FB 6	FF 7(1), (2), (5)
FB 7	FF 7(3), (4), (5)
FB 8	FF 8
FB 9	FF 2
FB 10	FF 1
FB 11	FF 17(1)
FB 12	FF 17(2), (3)
FB 13	FF 13
FB 14	FF 13(1)(a)(i), (3)
FB 15	FF 9
FB 16	FF 10
FB 17	FF 11
FB 18	FF 12
FB 19	FF 14
FB 20	FF 19
FB 21	FF 15, FF 16
Subpart FC	
FC 1	FI 1
FC 2	FI 2, FI 3
FC 3	FI 4

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
FC 4	FI 5
FC 5	FI 7
FC 6	FI 6
FC 7	FI 8
FC 8	FI 11
Subpart FE	
FE 1	FG 1
FE 2	FG 2(1), (6), (8)
FE 3	FG 4(15), (16)
FE 4	new
FE 5	FG 3
FE 6	FG 8
FE 7	FG 8B
FE 8	FG 4(5), (6), FG 8E
FE 9	FG 10
FE 10	FG 4(7), FG 5(6), FG 7, FG 8I
FE 11	FG 4(8), FG 5(7), FG 8J
FE 12	FG 3, FG 4(1), FG 5(1)
FE 13	FG 6
FE 14	FG 4(9), (15), (17), FG 9
FE 15	FG 4(2)
FE 16	FG 4(3), (4)
FE 17	FG 5(2), (10)
FE 18	FG 5(2)–(5), (12), (13)
FE 19	FG 8H
FE 20	FG 8F
FE 21	FG 8G(1)–(3)
FE 22	FG 8G(4)
FE 23	FG 8B(3)
FE 24	FG 8G(5), (6)
FE 25	FG 4(10), (11)
FE 26	FG 4(10)
FE 27	FG 4(12)–(14B)
FE 28	FG 4(12), (14C), (14E)
FE 29	FG 4(12), (14C), (14E), (14F)
FE 30	FG 4(14D)
FE 31	FG 5(8)
FE 32	FG 5(9)
FE 33	new
FE 34	FG 8C(9), (10)
FE 35	FG 8C(8)
FE 36	FG 8C(1), (2), (4)–(7)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
FE 37	FG 8D
FE 38	FG 2(2)
FE 39	FG 2(3)
FE 40	FG 2(4)
FE 41	FG 2(4)–(6)
Subpart FF	
FF 1	new
FF 2	FH 1(1)
FF 3	new
FF 4	FH 1
FF 5	FH 5
FF 6	FH 6, FH 7
FF 7	FH 8
FF 8	FH 2
FF 9	FH 3
FF 10	FH 3(1), FH 4
FF 11	FH 8(6)
Subpart FL	
FL 1	FCB 1
FL 2	FCB 2, FCB 3
Subpart FM	
FM 1	FD 1
FM 2	FD 1, OB 1 “consolidation rules”
FM 3	HB 1(1), HB 2(1), NB 1
FM 4	HB 1(3)–(5)
FM 5	HB 1(2)
FM 6	FD 2, FD 11
FM 7	HB 2(1)
FM 8	HB 2(1)(a)
FM 9	HB 2(1)(e)
FM 10	HB 2(1)(b)
FM 11	HB 2(1)(c)
FM 12	HB 2(1)(d)
FM 13	HB 2(2)
FM 14	FD 9
FM 15	FD 10(1), (2)
FM 16	FD 10(3)
FM 17	FD 10(5)
FM 18	FD 10(4), (4A)
FM 19	FD 10(4), (4B)
FM 20	FD 10(4), (4C)
FM 21	FD 10(6), (7)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
FM 22	FD 10(9)
FM 23	FD 10(8)
FM 24	NH 5(3), (9)
FM 25	NH 5(1), (2)
FM 26	NH 5(4)
FM 27	NH 5(5), (6), (8)
FM 28	NH 5(7)
FM 29	NH 6(6)
FM 30	NH 4(9), NH 6(1), (2), (5), (7)
FM 31	FD 3(b)–(e), OB 1 "eligible company"
FM 32	FD 5
FM 33	FD 8(9)
FM 34	FD 6, FD 8(5) proviso
FM 35	FD 3(a), FD 4(1), (2)
FM 36	FD 7(1), (2)
FM 37	FD 8(1)
FM 38	FD 4(3)–(8), FD 7(3)–(8)
FM 39	FD 8(2)
FM 40	FD 8(3), (4), (6), (7)
FM 41	FD 8(5)
FM 42	FD 8(8)
Subpart FN	
FN 1	new
FN 2	OB 1 "imputation rules"
FN 3	FDA 4
FN 4	FDA 1
FN 5	FDA 3(2)–(4)
FN 6	FDA 5, FDA 6(6)
FN 7	FDA 2
FN 8	FDA 3(1), (3), OB 1 "resident imputation subgroup", "trans-Tasman imputation group"
FN 9	FDA 2(1)–(3), (5), FDA 4
FN 10	FDA 6(1)
FN 11	FDA 6(2)
FN 12	FDA 6(3), (4), (7), (8)
FN 13	FDA 6(5)
FN 14	FDA 6(9)
Subpart FO	
FO 1	FE 1(1)(a), (b)
FO 2	FE 1(2)
FO 3	OB 1 "qualifying amalgamation"
FO 4	FE 1(1)(c), FE 8

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
FO 5	FE 9
FO 6	FE 2
FO 7	FE 4(b)
FO 8	FE 3
FO 9	FE 4(a)
FO 10	FE 6(1)–(3B), FE 6A
FO 11	FE 5
FO 12	FE 6(5), (6), FE 7(1)(a), (2)
FO 13	FE 6(5), (7), FE 7(1)(b), (3)
FO 14	FE 6(5), (8), FE 7(1)(b), (4)
FO 15	FE 5
FO 16	FE 6(1), (4)
FO 17	FE 6(3A), (3B)
FO 18	FE 10(1)–(5), (6)(c)
FO 19	FE 10(6)(a)
FO 20	FE 10(6)(b)
Subpart FZ	
FZ 1	FC 1
FZ 2	FC 6(2)–(8)
FZ 3	FC 7
FZ 4	FC 8
FZ 5	FF 5
FZ 6	FI 9, FI 10
PART G	
Subpart GA	
GA 1	GB 1(1)–(2C)
GA 2	GC 17B
Subpart GB	
GB 1	GB 1(3)
GB 2	GC 1
GB 3	GC 2
GB 4	GC 4
GB 5	GC 3
GB 6	GC 5
GB 7	GC 7
GB 8	GC 8
GB 9	GC 9(1), (4)
GB 10	GC 9(1), (4)
GB 11	GC 9(2)
GB 12	GC 9(2)
GB 13	GC 9(3), (4)
GB 14	GC 9(3), (4)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
GB 15	GC 10
GB 16	GC 10
GB 17	GC 11A, GD 12
GB 18	GC 11B, GD 12B
GB 19	GD 12A
GB 20	GC 12
GB 21	GD 11
GB 22	GC 14
GB 23	GD 3(1), (2)
GB 24	GD 3(4), (5)
GB 25	GD 5
GB 26	GC 14A
GB 27	GC 14B, GC 14E
GB 28	GC 14C
GB 29	GC 14D
GB 30	GC 14F
GB 31	GC 16(b), GC 17
GB 32	GC 15
GB 33	GC 6
GB 34	GC 21
GB 35	GC 22(1), (2)
GB 36	GC 22(4), (5), (9)
GB 37	GC 23
GB 38	GC 24
GB 39	GC 25
GB 40	GC 26
GB 41	GC 27
GB 42	GC 27A(1)–(3)
GB 43	GC 27A(5), (6), (10)
GB 44	GC 28
GB 45	GC 29(1)
GB 46	GC 31
GB 47	GC 29(2), (3)
GB 48	GC 30
GB 49	GC 14G
Subpart GC	
GC 1	GD 1(1), (3), (4)
GC 2	GD 1(2), (3A)
GC 3	GD 7
GC 4	GD 14
GC 5	GD 10
GC 6	GD 13(1), (2)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
GC 7	GD 13(3)
GC 8	GD 13(4), (5)
GC 9	GD 13(10)
GC 10	GD 13(10)
GC 11	GD 13(11)
GC 12	GC 12(1), GD 13(12)
GC 13	GD 13(6)–(9)
GC 14	GD 13(13)
Subpart GZ	
GZ 1	GD 12(1)
PART H	
Subpart HA	
HA 1	HG 1(c), (d), HG 3(1), HG 4(1), HG 14
HA 2	OB 3(1)
HA 3	HG 14
HA 4	HG 7, HG 14(d)
HA 5	HG 3(1), HG 4(1), HG 14(a), (b), OB 3(1)(f)
HA 6	HG 1(a), (b), OB 1 “foreign company”, OB 3(1)(a), (b), (g)
HA 7	OB 3(1)(c), (3)
HA 8	HG 4(1)–(3)
HA 9	OB 3(1)(d), (4)
HA 10	HG 14(a), (b)
HA 11	HG 7, HG 18, OB 3(3A)
HA 12	HG 14(d)
HA 13	HG 1(c)
HA 14	HG 9(1), HG 13(1)
HA 15	HG 13(1)–(4)
HA 16	HG 13(1)(a)(i), (1A)
HA 17	HG 10(a), HG 13(1)(aa)
HA 18	HG 13(6)
HA 19	HG 13(5)
HA 20	HG 1(d), HG 9(2), HG 16
HA 21	HG 11(3)
HA 22	HG 10(b)
HA 23	HG 11(3A)
HA 24	HG 16(1), HG 17(1)(a)
HA 25	HG 17
HA 26	HG 16(2)
HA 27	HG 16(3), (4)
HA 28	HG 4(2)(a)
HA 29	HG 4(3)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
HA 30	HG 3(2), (3), HG 4(4)
HA 31	HG 3(4), (5)
HA 32	HG 5(1)
HA 33	HG 5(2)
HA 34	HG 6(1)
HA 35	HG 6(2)(a), (b)
HA 36	HG 6(2)(c)
HA 37	HG 6(3)
HA 38	HG 14(c), HG 14A
HA 39	HG 15
HA 40	HG 11(1), (1A)
HA 41	HG 11(1B), (2), (4)
HA 42	HG 12
HA 43	OB 1 “effective interest”
HA 44	HG 2
Subpart HC	
HC 1	GC 14, HH 1(8), (9), HH 3(6), HH 4(8), Income Tax Amendment Act (No 5) 1988, s 9
HC 2	HD 1(1)(a)
HC 3	HH 1A
HC 4	OB 1 “corpus”
HC 5	OB 1 “beneficiary income”, “trustee income”
HC 6	OB 1 “beneficiary income”, OF 2(3)
HC 7	HH 1(7), HH 3A(1)(a), OB 1 “trustee income”
HC 8	HH 8
HC 9	new
HC 10	HH 2(2), HH 4(5) proviso, OB 1 “foreign trust”, “qualifying trust”
HC 11	OB 1 “foreign trust”
HC 12	OB 1 “non-qualifying trust”
HC 13	HH 1(5), (6)
HC 14	OB 1 “distribution”
HC 15	HH 6(2)(c), (3), OB 1 “taxable distribution”
HC 16	HH 6(1), (2), (4)
HC 17	HH 3(1), HH 3A(1)(b)
HC 18	HH 3(1)
HC 19	HH 3(1), (4)
HC 20	HH 3(5)
HC 21	HH 3(5A)
HC 22	HH 3(4)
HC 23	HH 3(3)
HC 24	DV 9(2), HH 4(1), (2)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
HC 25	HH 4(3), (3A), (6) provisos
HC 26	HH 4(3B), (3BB), (3BC)
HC 27	HH 1(10), OB 1 “settlor”
HC 28	HH 1(1)–(4), (8), (10), OB 1 “settlor”
HC 29	HH 4(4), (5)
HC 30	HH 2
HC 31	HH 5
HC 32	HH 3(2), HK 3(1A)
HC 33	HH 4(7)
HC 34	HH 3(4)
HC 35	HH 3A–HH 3C, HH 3E, HH 3F(2), (2A)
HC 36	HH 3C(1)(a)–(d), (2), (3), HH 3D, HH 3F(1), (2A)–(4)
HC 37	HH 3C(1)(e)
Subpart HD	
HD 1	HK 1(1)
HD 2	HK 3(2), HK 7(1)
HD 3	HK 1, HK 3(3), HK 7(1)
HD 4	HK 3(1), (1A)
HD 5	HK 4–HK 6, HK 7(2)
HD 6	HK 8
HD 7	HK 2
HD 8	new
HD 9	HK 9
HD 10	HK 10
HD 11	FD 6(1), FDA 5(3)
HD 12	HH 3(2), HH 3A(2), HH (4)
HD 13	HE 1
HD 14	HK 12, HK 13
HD 15	HK 11
HD 16	FC 16
HD 17	FC 17
HD 18	HK 1(1), HK 16, OB 1 “absentee”
HD 19	HK 20
HD 20	HK 16, HK 17
HD 21	HK 21
HD 22	HK 23
HD 23	HK 22
HD 24	HK 18(1)
HD 25	HK 19
HD 26	HK 24(1), (4)
HD 27	HK 24(2), HK 25

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
HD 28	HK 24(3)
HD 29	HK 26
Subpart HE	
HE 1	new
HE 2	HF 1(8)
HE 3	HF 1(9) “rebate”
HE 4	HF 1(4)
HE 5	HF 1(7)
Subpart HF	
HF 1	OB 1 “Maori authority”, “Maori authority rules”
HF 2	HI 2
HF 3	HI 1
HF 4	HI 4(1), (2), HI 5(4), HI 7
HF 5	HI 4(3)
HF 6	HI 5(1)
HF 7	HI 5(2), (3)
HF 8	HI 6
HF 9	HI 8
HF 10	HI 9
HF 11	HI 3
Subpart HL	
HL 1	HL 1
HL 2	HL 2
HL 3	HL 3
HL 4	HL 4
HL 5	HL 5
HL 6	HL 6
HL 7	HL 7
HL 8	HL 8
HL 9	HL 9
HL 10	HL 10
HL 11	HL 11
HL 12	HL 11B
HL 13	HL 12
HL 14	HL 13
HL 15	HL 14
HL 16	HL 15
HL 17	HL 16
HL 18	HL 17
HL 19	HL 18
HL 20	HL 19
HL 21	HL 20

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
HL 22	HL 21
HL 23	HL 22
HL 24	HL 23
HL 25	HL 23B
HL 26	HL 24
HL 27	HL 25
HL 28	HL 26
HL 29	HL 27
HL 30	HL 28
HL 31	HL 29
HL 32	HL 30
HL 33	HL 31
Subpart HR	
HR 1	HD 1(1)(b), (c), (2)
HR 2	HE 2(1), (1A)
HR 3	HE 2(2), (3), OB 1 "category A income", "category B income", "current value", "designated investment fund", "group investment fund"
HR 4	HJ 1
HR 5	OC 1(2)
HR 6	OC 1(2)–(6)
HR 7	OC 1(6)
HR 8	FC 22–FC 24
HR 8(2)	FC 23
Subpart HZ	
HZ 1	HZ 1
HZ 2	HZ 2
PART I	
Subpart IA	
IA 1	IE 1(1)(a)
IA 2	BC 4(4), DV 5(4)(b), DV 7(2), IE 1(1), (3)(a), IE 2(1), IE 3(5), IE 4(6), LB 2(3), (3A), LE 4(5), ME 9(5B)
IA 3	BC 4(4), HH 3(4), IE 1(1), (2), IG 10, NH 3(2), NH 4(5), (6), NH 5(6), (7)
IA 4	IE 1(2)
IA 5	IF 1(1)
IA 6	IG 1(1)
IA 7	DV 5(4)(b), DV 7(2), EY 42(10), HG 16, IE 1(2BB), (2C), IE 3(5), IE 4(6), IG 4(4), IG 5(5), IG 7(2), (3), IH 1, IH 2(1), IH 3–IH 5, II 1(1), (2)
IA 8	ID 1(1)
IA 9	IE 1(3)(b), IF 5, IG 6(5)
IA 10	new

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
Subpart IC	
IC 1	IG 1(1), (3), IG 2(1), 2(c), (e)
IC 2	IG 1(1), (3), IG 2(1), 2(c), (e)
IC 3	IG 1(2), (5)
IC 4	IG 1(3)
IC 5	IG 2(2)
IC 6	IG 1(1), (2), IG 2(2)(c), (4)(d)(ii), (5)(c)(ii)
IC 7	IG 2(2)(d), (11)
IC 8	IG 2(2)(f), (g)
IC 9	IG 2(g), (3)
IC 10	IG 2(c), (e)
IC 11	IG 2(7)
IC 12	IG 2(6)
Subpart ID	
ID 1	IG 6(1A)–(3)
ID 2	IG 6(4), (6), (7)
ID 3	IG 6(6)
ID 4	IG 6(7)
ID 5	IG 6(8)
Subpart IE	
IE 1	IF 4–IF 6
IE 2	IF 4
IE 3(1), (2)	IF 6
IE 4	IG 9
IE 5	IF 4, IG 8, IG 9
Subpart IP	
IP 1	IG 2(4)(e), (f), (5)(e), (f)
IP 2	IG 2(2)(e), (4)(c), (d), (5)(b), (c)
IP 3	IF 1(2), (3)
IP 4	IG 2(4)
IP 5	IG 2(2)(b)–(f), (5)
IP 6	IF 1(2), (3), IG 2(4)(c), (d), (5)(c), (d), (10)
IP 7	IG 2(4), (5)
Subpart IQ	
IQ 1	IE 3(1), IE 4(1), IF 3, IF 6, IG 4(1), IG 5(1), IG 7(1)
IQ 2	IE 3(2), (3), (5)
IQ 3	IE 4(2)–(6)
IQ 4	IG 4
IQ 5	IG 5
IQ 6	IG 7(2)
IQ 7	IG 7(4)
IQ 8	IG 7(5)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
IQ 9	IE 3(4)
Subpart IS	
IS 1	IG 6(2), IH 4(2)
IS 2	IH 1(1), IH 5
IS 3	IH 4(3)
IS 4	IH 4(3) proviso
IS 5	IH 2(1), IH 3
IS 6	IH 1, IH 4(1)(e)
Subpart IT	
IT 1	II 1(3), (4), II 3
Subpart IV	
IV 1	IF 7
Subpart IW	
IW 1	IG 10
Subpart IZ	
IZ 1	FF 18, IE 2
IZ 2	IH 2
IZ 3	IH 1(2)
IZ 4	IF 1(5)
IZ 5	IF 1(6)
IZ 6	IF 2
IZ 7	IG 2(2)(c), (d)(ii)(B)
PART L	
Subpart LA	
LA 1	new
LA 2	BC 9
LA 3	BC 9
LA 4	BC 8(2), BC 9(1), BC 10, KD 4(2), LD 3(3), LD 3A(4), LE 2(6)
LA 5	BC 9, BC 10
LA 6	LD 1, LD 3, LD 3A, LD 6, LD 7, LD 8, MD 1
LA 7	BC 8(1), MD 1, KD 4(2)
LA 8	LD 2, MD 1
LA 9	BC 9(1), LB 2(2), LE 2(4), (8)
LA 10	BC 9
Subpart LB	
LB 1	LD 1(2), (2A), (4), (5)
LB 2	LD 6, LD 7
LB 3	LD 3(2), NF 1(2)(b)(ix), (x), NF 8B(b)
LB 4	KD 1A(2), KD 2(1), KD 3(2)
LB 5	LD 2
LB 6	LD 1B

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
Subpart LC	
LC 1	KC 1(1)(a), (b), (4)
LC 2	KC 1(1)(c)
LC 3	KC 2
LC 4	KC 3(1)
LC 5	KC 3(3) "full time earner", "remunerative work"
LC 6	KC 4(1), (1A)
LC 7	KC 4(2) "housekeeper"
LC 8	KC 4(2) "child", "communal home", "home", "institution", "qualifying payments", "separated person"
LC 9	KF 3
LC 10	KB 2
LC 11	KC 1(2), KC 3(2)
LC 12	KC 1(3), KC 3(2)
Subpart LD	
LD 1	KC 5
LD 2	KC 5(1)
LD 3	KC 5(1)(aa)–(cp), (4)
Subpart LE	
LE 1	LB 1(1)(j), (k), LB 2(1), (1B), (1C), (2C), GC 22(4), (5), (9), GC 23, GC 24
LE 2	LB 2(2B), (3)
LE 3	LB 1(1)(hb), LB 2(2B), (3B), (3C)
LE 4	LB 1(1)(ab), LB 1A
LE 5	LB 1(1)(a), (2), (3), (3A)
LE 6	LB 1(1)(b), (4), (4A), (4B)
LE 7	LB 2(1C)
LE 8	LB 1(1)(c)
LE 9	LB 1(1)(e), (5)
LE 10	LB 1(1)(h), LB 2(5), (6)
LE 11	LB 1(1)(f), LB 2(4)
Subpart LF	
LF 1	LB 1(1)(l), LD 8(1), (1B), (1C)
LF 2	LB 1(1)(ab), LB 1A
LF 3	LB 1(1)(a), (2), (3), (3A)
LF 4	LB 1(1)(b), (4), (4A), (4B)
LF 5	LD 8(1C)
LF 6	LB 1(1)(d)
LF 7	LB 1(1)(e), (5)
LF 8	LB 1(1)(d), LD 9
LF 9	LB 1(1)(i), LD 8(4), (5)
LF 10	LB 1(1)(g), LD 8(3)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
Subpart LJ	
LJ 1	LC 1(1)–(5), LC 14(1), LC 14A
LJ 2	LC 1(1), (1B), (1C), LC 2
LJ 3	LC 1(1)
LJ 4	LC 14(1)
LJ 5	LC 14
LJ 6	LC 1(2)
LJ 7	LC 1(3A), (3B), LC 3
Subpart LK	
LK 1	LC 4(1), (4)
LK 2	LC 4(1)–(3)
LK 3	LC 4(1)
LK 4	LC 4(4)
LK 5	LC 4(4)–(6)
LK 6	LC 5
LK 7	LC 4(7)
LK 8	LC 16(1)
LK 9	LC 16(2), (3)
LK 10	LC 16(4)
LK 11	LC 16(5)
LK 12	LC 8, LC 11, LC 12
LK 13	LC 8
LK 14	LC 9, LC 10
LK 15	LC 12
Subpart LL	
LL 1	LF 1(1)(a)
LL 2	LF 1(1)(a), (2), LF 2(2), (3), LF 3(1), LF 6(4)–(6)
LL 3	LF 5(1)
LL 4	LF 5(2)–(5)
LL 5	LF 3(1)(f), (g), (h)
LL 6	LF 4
LL 7	LF 7
LL 8	LF 3(2), LF 5(2)(e)
LL 9	LF 1(2), LF 2(2), (3), LF 5(1)(e), (5)
Subpart LO	
LO 1	LB 1(1)(m), LD 3A(1)
LO 2	LB 1(3), (3A)
LO 3	LB 1(1)(ea)
LO 4	LD 3A(6)
LO 5	LD 3A(5)
Subpart LP	
LP 1	LE 1

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
LP 2	LE 2(1), (2), (2A), LE 3(5)
LP 3	LE 2(3), (4), (6), (7)
LP 4	LE 2(5)
LP 5	LE 2(9), (10)
LP 6	LE 2(11), (12)
LP 7	LE 3(1), (3), (11)
LP 8	LE 3(6), (8)
LP 9	LE 3(7), (9)
LP 10	LE 3(10), LE 4
Subpart LQ	
LQ 1	KH 1(1), (2)
LQ 2	KH 1(3)
LQ 3	KH 2(3), (5)–(7)
LQ 4	KH 2(1)–(2A), (4)
LQ 5	LG 1
Subpart LR	
LR 1	ME 19, ME 24, ME 28
Subpart LS	
LS 1	KI 1
LS 2	LD 10
LS 3	LD 10B
LS 4	LD 11
Subpart LZ	
LZ 1	LF 6(1), (3)
LZ 2	KZ 3(1), (4)
LZ 3	KZ 3(2)
LZ 4	KZ 3(3)
LZ 5	KZ 3(1)
LZ 6	KE 1(1)
LZ 7	KE 1(1)
LZ 8	KE 1(3)
LZ 9	KG 1(1)
LZ 10	KG 1(1) proviso
LZ 11	KG 1(2)
LZ 12	KG 1(3), (4)
PART M	
Subpart MA	
MA 1	new
MA 2	new
MA 3	KD 8
MA 4	KB 3
MA 5	KD 9

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
MA 6	new
MA 7	OB 1 "full time earner"
MA 8	new
Subpart MB	
MB 1	KD 1(1)(a), (b), (e)(vii), (i), (3)
MB 2	KD 1(4)–(6)
MB 3	KD 1(1)(f), (2)
MB 4	KD 1(1)(g)
MB 5	KD 1(1)(h)
Subpart MC	
MC 1	KD 1A
MC 2	new
MC 3	KD 2AA(4), KD 3(1), OB 1 "qualifying person" (a)(i)
MC 4	KD 2AA(4), KD 3(1), OB 1 "qualifying person" (a)(ii)
MC 5	KD 3(1), OB 1 "qualifying person" (a)(iii)
MC 6	KD 3(1) "qualifying person"
MC 7	KD 3A(2)–(4)
MC 8	OB 1 "eligible period"
MC 9	KD 2AA(7)–(10), KD 3A(5)–(9)
MC 10	KD 2AA(2), (3), OB 1 "principal caregiver"
MC 11	KD 2AA(1), (11), OB 1 "specified period", "eligible period"
Subpart MD	
MD 1	KD 2(1), (2)
MD 2	KD 2A
MD 3	KD 2(3), KD 2AA(3)
MD 4	KD 2AAA(1), (3A)
MD 5	KD 2AAA(1)(a)
MD 6	KD 2AAA(1)(b)
MD 7	KD 2AAA(1)(c), (3), (4)
MD 8	KD 2AAA(1)(e)
MD 9	KD 2AAA(1)(d), (5)–(8)
MD 10	KD 2AAA(2)
MD 11	KD 2AA(3), KD 2AB
MD 12	KD 2(5)
MD 13	KD 2(6), (7)
MD 14	KD 2(6B)
MD 15	KD 2(6C)
Subpart ME	
ME 1	KD 3(2)–(5)
ME 2	KD 3(1) "employment", KD 3A(10)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
Subpart MF	
MF 1	KD 5(1), (1A)
MF 2	KD 5(8)
MF 3	KD 5(6)
MF 4	KD 5(6A), (7)
MF 5	KD 4(4)
MF 6	KD 4(2), (2A)
MF 7	KD 5C
Subpart MK	
MK 1	KJ 1, OB 1 "member credit year"
MK 2	KJ 2
MK 3	KJ 1, KJ 4, OB 1 "member credit contribution"
MK 4	KJ 3, OB 1 "member credit year"
MK 5	KJ 5(2)
MK 6	KJ 5(3), (4)
MK 7	KJ 5(1), (5)
MK 8	KJ 3, OB 1 "member credit year"
Subpart MZ	
MZ 1	KD 2AA(3A), KD 2AAAB
MZ 2	KD 2(4)
PART O	
Subpart OA	
OA 1	new
OA 2(2), (3)	ME 1(1), ME 3(1), ME 10(1), (1A)–(1C), ME 15, ME 17(1), ME 20, ME 21(1), ME 22(1), ME 25, ME 26(2), ME 40, MF 1(1), MF 3(1), MF 6, MF 7(1), MF 11(1), MF 12(1), MG 2(1), MG 3(1), MG 12, MG 13(1), MG 14(1), MG 15(1), MI 2(1), (4), MI 3(1), MI 14, MI 17(1), MI 18(1), MJ 1(1), MJ 3(1), MJ 8, MK 1(1), MK 3(1), MK 9
OA 3	ME 2, ME 3(1), ME 16, ME 17(1), ME 22(1), ME 26, MF 3(1), MF 8, MF 12(1), MG 1, MG 3(1), MG 14(1), MG 15(1), MI 1, MI 3(1), MI 17(1), MI 18(1), MJ 2, MJ 3(1), MK 2, MK 3(1)
OA 4	ME 13, ME 28(4), MF 9, MF 11(3), MG 16, MI 19
OA 5	new
OA 6	new
OA 7	ME 3(2), ME 10(1A)–(1C), (2), ME 17(2), ME 22(2), ME 26(1), MF 3(2), MF 8(1), MF 12(2), MG 3(2), MG 13(3), MI 3(2), MI 15, MJ 3(2), MK 3(2)
OA 8	ME 5(3), ME 12(1)(h), ME 13(2), (4), MF 4(5), MF 8(4), MG 15(1), MI 5(3)–(7), MI 18(1)(e), (3), (4), MK 5(3), (4)
OA 9	ME 29(1)(a), MF 16(1)(a), MG 17(1)(a), MI 13
OA 10	ME 29(1), MF 16(1), MG 17(1), MI 13

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OA 11	MG 17(1)
OA 12	MI 13(6)
OA 13	ME 29(1)
OA 14	ME 29(2)(a), MF 16(2)(a), MG 17(2)(a)
OA 15	ME 29(2)(b), MF 16(2)(b), MG 17(2)(b)
OA 16	MG 17(2)(b)
OA 17	ME 29(2)
OA 18	ME 8(1), MG 8(1), MG 10(1), MI 8(1), MK 7(1)
Subpart OB	
OB 1	ME 1
OB 2	ME 1A
OB 3	ME 13(1)
OB 4	ME 4(1)(a), (1C), (2)(a)
OB 5	ME 4(1)(ac), (2)(ac)
OB 6	ME 4(1)(ad), (2)(ad)
OB 7	ME 4(1)(c), (2)(a)
OB 8	ME 4(1)(i), (2)(g)
OB 9	ME 4(1)(d), (2)(c)
OB 10	ME 4(1)(e), (2)(c)
OB 11	ME 4(1)(f), (2)(d)
OB 12	ME 4(1)(g), (2)(e)
OB 13	ME 4(1)(cb), (2)(bb), ME 9B(1), (2)
OB 14	ME 4(1)(cc), (2)(bc)
OB 15	ME 4(1)(cd), (2)(bd)
OB 16	ME 4(1)(ab), (2)(ab)
OB 17	ME 4(1)(j), (2)(h)
OB 18	ME 4(1)(da), (2)(ca)
OB 19	ME 4(1)(aab), (2)(aab)
OB 20	ME 4(1)(ea), (2)(cb)
OB 21	ME 4(1)(k), (2)(k)
OB 22	ME 4(1)(eb), (ec), (2)(cc)
OB 23	ME 4(1)(ed), (2)(cd)
OB 24	ME 29, MG 17, MI 13
OB 25	ME 4(1)(h), (2)(f)
OB 26	ME 4(1A), (2A)
OB 27	ME 4(1B)(a), (2B)(a)
OB 28	ME 4(1B)(b), (2B)(b)
OB 29	ME 4(1B)(c), (2B)(c)
OB 30	ME 5(1)(a), (2)(a)
OB 31	ME 5(1)(d), (2)(d)
OB 32	ME 5(1)(e), (2)(e)
OB 33	ME 5(1)(l), (2)(k)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OB 34	ME 5(1)(ea), (2)(ea), (eb)
OB 35	ME 5(1)(eb), (2)(ea), (eb)
OB 36	ME 5(1)(g), (2)(g)
OB 37	ME 5(1)(h), (2)(e)
OB 38	ME 5(1)(m), (2)(k)
OB 39	ME 5(1)(o), (2)(l), (6), (7)
OB 40	ME 5(1)(ia), (2)(ha)
OB 41	ME 5(1)(i), (2)(h)
OB 42	ME 5(1)(c), (2)(c)
OB 43	ME 5(1)(f), (2)(f)
OB 44	ME 5(1)(fb), (2)(fb), ME 9B(2)(a)(i)
OB 45	ME 41
OB 46	ME 5(1)(ja), (2)(ia)
OB 47	ME 5(1)(b), (2)(b), ME 7
OB 48	ME 5(1)(ka), (2)(ja)
OB 49	ME 5(1)(ab), (2)(ab)
OB 50	ME 5(1)(ac), (2)(ac)
OB 51	ME 5(1)(ad), (2)(ac)
OB 52	ME 13(3)
OB 53	ME 29, MG 17, MI 13
OB 54	ME 5(1)(j), (2)(i)
OB 55	ME 6(4)(a)
OB 56	ME 5(1)(k), (2)(j)
OB 57	ME 5(1A)(a), (2A)
OB 58	ME 5(1A)(b), (2A)
OB 59	ME 5(1A)(c), (2A)
OB 60	ME 1B, ME 6, ME 8(1), (2)
OB 61	ME 8(2), (3), ME 14(2)
OB 62	ME 6
OB 63	ME 6(1B)–(1D)
OB 64	ME 6B
OB 65	ME 9(1), (1A), (2)
OB 66	ME 9(3)
OB 67	ME 9(7)–(9)
OB 68	ME 9(5A), (8), (9)
OB 69	ME 9(5), (5B), ME 13(6)
OB 70	ME 9(6)
OB 71	ME 9B
OB 72	ME 9C
OB 73	ME 30, ME 31
OB 74	ME 32
OB 75	ME 33

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OB 76	ME 34
OB 77	ME 30(3), (4)
OB 78	ME 35, ME 36
OB 79	ME 37
OB 80	ME 38
OB 81	ME 39
OB 82	ME 35
Subpart OC	
OC 1	CD 9, LD 9, ME 4(1)(e), (f), MG 2(1), (3), MG 4(1)(a), (b), MG 5(3)
OC 2	MG 16(1), (4)
OC 3	MG 2(2), (3)
OC 4	MG 2(4), (5)
OC 5	MG 2(6), (7)
OC 6	MG 4(1)(a), (c), (2)(a), (3), MI 10(2)
OC 7	MG 4(1)(b), (2)(b)
OC 8	MG 4(1)(bb), (2)(bb)
OC 9	MG 4(1)(ba), (2)(ba)
OC 10	MG 4(1)(bc), (2)(bc)
OC 11	MG 4(1)(bd), (2)(bd)
OC 12	MG 4(1)(d), (2)(d)
OC 13	MG 5(1)(a), (2)(a)
OC 14	MG 5(1)(d), (2)(d)
OC 15	MG 5(1)(k), (2)(i)
OC 16	MG 5(1)(e), (2)(d)
OC 17	MG 5(1)(ab), (2)(ab)
OC 18	MG 5(1)(c), (2)(c), MG 11
OC 19	MG 5(1)(ca), (2)(ca), MI 6(1)
OC 20	MG 5(1)(b), (2)(b), MG 7
OC 21	MG 16(3)
OC 22	MG 5(1)(f), (2)(e), MG 8(4)
OC 23	MG 5(1)(g), (2)(e), MG 8B, MG 16A(1B)
OC 24	MG 5(1)(i), (2)(g), (3), (4)
OC 25	MG 5(1)(h), (2)(f)
OC 26	MG 5(1)(j), (2)(h)
OC 27	MG 6, MG 8(1), (2)
OC 28	MG 8(2), (3), MG 16A(1)
OC 29	MG 10
OC 30	MG 9(1), (2), (6)
OC 31	MG 9(3)
OC 32	MG 9(7), (8)
OC 33	MG 9(4), (5A)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OC 34	MG 9(5), MG 16(6)
OC 35	MG 8B(4) “DWP reference period”
OC 36	MG 8B(4) “maximum deficit debit”
OC 37	MG 8B(4) “policyholder DWP ratio”
OC 38	MG 8B(4) “reduced deficit debit”
OC 39	MG 8B(4) “shareholder DWP ratio”
Subpart OD	
OD 1	MI 2(1), (4), MI 4(1)(a), MI 5(1)(a), MI 14(1), NG 9(1)(a)
OD 2	MI 2(4), MI 19(1), (5)
OD 3	MI 2(1)–(3)
OD 4	MI 2(5)–(7)
OD 5	MI 4(1)(a), (2)(a)
OD 6	MI 4(1)(e), (2)(e), MI 6(1)
OD 7	MI 4(1)(c), (2)(c)
OD 8	MI 4(1)(b), (2)(b)
OD 9	MI 4(1)(d), (2)(d)
OD 10	MI 5(1)(a), (2)(a)
OD 11	MI 5(1)(i), (2)(h), MI 6(2)
OD 12	MI 5(1)(j), (2)(i)
OD 13	MI 5(1)(b), (2)(b)
OD 14	MI 5(1)(f), (2)(f), (5), (7)
OD 15	MI 5(1)(g), (2)(f), (5)
OD 16	MI 5(1)(e), (2)(e), (3)–(6)
OD 17	MG 8(4), MI 5(1)(c), (2)(c)
OD 18	MI 5(1)(d), (2)(d), MI 9
OD 19	MI 5(1)(h), (2)(g)
OD 20	MG 8(1), (8), MI 7(2), MI 8(1)
OD 21	MG 8(2), (3), (8), MI 8, MI 22(1)–(3)
OD 22	MG 10, MI 7(1), MI 8(1)
OD 23	MI 10
OD 24	MI 13(7)
OD 25	MI 11
Subpart OE	
OE 1	MF 1(1), MF 11(1)
OE 2	MF 1(3), MF 4(1)(a), (3)(a), (5), MF 7(1)(a), MF 9
OE 3	MF 1(1), (2)
OE 4	MF 1(4), (5)
OE 5	MF 15
OE 6	MF 4(1)(a), (2)(a)
OE 7	MF 4(1)(c), (2)(b), MF 5(4)–(7)
OE 8	MF 4(1)(c), MF 5(4)–(7)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OE 9	MF 4(1)(d), (2)(c)
OE 10	MF 4(1)(e), (2)(d), (5), (6)
OE 11	MF 4(1)(f), (2)(e)
OE 12	MF 4(3)(a), (4)(a)
OE 13	MF 4(3)(b), (4)(b), MF 5(1)–(3)
OE 14	MF 4(3)(c), (4)(c)
OE 15	MF 4(3)(d), (4)(d), (5), (6)
OE 16	MF 4(3)(e), (4)(e)
OE 17	MF 11(1), (2)
OE 18	MF 11(4), (5)
OE 19	MF 13(1), (2)
OE 20	MF 13(3)(a), MF 14
OE 21	MF 13(3)(b)
OE 22	MF 13(3)(c)
Subpart OF	
OF 1	MJ 1(1), MJ 5(1), MJ 6(1)
OF 2	MJ 3(1)
OF 3	MJ 1(1)
OF 4	MJ 5
OF 5	ME 4(1)(da), MJ 6
Subpart OJ	
OJ 1	ME 15, ME 21, ME 22(1)
OJ 2	ME 15, ME 17(1), ME 27(1), (3)
OJ 3	ME 14(1), ME 18(1)(a), (2)(a)
OJ 4	ME 18(1)(b), (2)(b)
OJ 5	ME 18(1)(c), (2)(c)
OJ 6	ME 18(1)(bb), (2)(bb)
OJ 7	ME 18(1)(bc), (2)(bb)
OJ 8	ME 18(3)(a), (4)(a), ME 19(1), (2)
OJ 9	ME 18(3)(b), (4)(b), ME 19(3)–(6)
OJ 10	ME 27(2)
OJ 11	ME 18(3)(c), (4)(c), ME 19A
OJ 12	ME 21(1), (2)
OJ 13	ME 21(3), (4)
OJ 14	ME 23(1)(a), (2)(a), (3), (6)(a)
OJ 15	ME 23(1)(b), (2)(b)
OJ 16	ME 23(4)(a), (5)(a), ME 24
OJ 17	ME 23(4)(b), (5)(b)
OJ 18	ME 23(4)(c), (5)(c)
Subpart OK	
OK 1	MK 1, MK 3
OK 2	MK 4(1)(a), (2)(a)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OK 3	MK 4(1)(b), (2)(a)
OK 4	MK 4(1)(c), (2)(a)
OK 5	MK 4(1)(d), (2)(b)
OK 6	MK 4(1)(e), (2)(c)
OK 7	MK 4(1)(f), (2)(c)
OK 8	MK 4(1)(h), (2)(e)
OK 9	MK 4(1)(g), (2)(d)
OK 10	MK 5(1)(a), (2)(a)
OK 11	MK 5(1)(b), (2)(b)
OK 12	MK 5(1)(c), (g), (2)(c)
OK 13	MK 5(1)(j), (2)(i)
OK 14	MK 5(1)(e), (2)(c)
OK 15	MK 5(1)(f), (2)(f)
OK 16	MK 5(1)(d), (2)(d), MK 7(5)
OK 17	MK 5(1)(h), (2)(g)
OK 18	MK 5(1)(i), (2)(h)
OK 19	MK 6, MK 7(1)
OK 20	MK 7(2)–(4)
OK 21	MK 8(1), (2), (6)
OK 22	MK 8(3), (4), (6)
OK 23	MK 8(5)
OK 24	MK 8(5B)
Subpart OP	
OP 1	ME 10, ME 25, MF 7, MG 13, MI 14
OP 2	ME 13, ME 27, MF 9, MG 16, MI 19
OP 3	ME 10(1A), (1B), (1D)
OP 4	ME 10(1C)
OP 5	ME 12(1)
OP 6	ME 14(3)
OP 7	ME 11(1)(a), (2)(a)
OP 8	ME 11(1)(aa), (2)(aa)
OP 9	ME 11(1)(ab), (2)(ab)
OP 10	ME 11(1)(b), (2)(b)
OP 11	ME 11(1)(c), (2)(a)
OP 12	ME 11(1)(d), (2)(c)
OP 13	ME 11(1)(e), (2)(c)
OP 14	ME 11(1)(f), (2)(a)
OP 15	ME 11(1)(eb), (ec), (2)(cb)
OP 16	ME 11(1)(ed), (2)(cc)
OP 17	ME 11(1)(j), (2)(c)
OP 18	ME 11(1)(fb), (2)(fb)
OP 19	ME 11(1)(g), (2)(d)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OP 20	ME 11(1)(jb), (2)(eb)
OP 21	ME 11(1)(k), (2)(d)
OP 22	ME 13(2), (3)
OP 23	ME 11(1A), (2A)
OP 24	ME 11(1)(i), (2)(e)
OP 25	ME 11(1B)(a), (2B)(a)
OP 26	ME 11(1B)(b), (2B)(b)
OP 27	ME 11(1B)(c), (2B)(c)
OP 28	ME 12(1)(a), (2)(a)
OP 29	ME 12(1)(c), (2)(c)
OP 30	ME 12(1)(d), (2)(d)
OP 31	ME 12(1)(l), (2)(k)
OP 32	ME 12(1)(da), (2)(da)
OP 33	ME 12(1)(db), (2)(da)
OP 34	ME 12(1)(f), (2)(d)
OP 35	ME 12(1)(f), (2)(d)
OP 36	ME 12(1)(m), (2)(k)
OP 37	ME 12(1)(k), (2)(j)
OP 38	ME 12(1)(n), (2)(l), (3), (4)
OP 39	ME 12(1)(ab), (2)(ab)
OP 40	ME 12(1)(ac), (2)(ac)
OP 41	ME 12(1)(ad), (2)(ac)
OP 42	ME 12(1)(h), (2)(g), ME 13(2)
OP 43	ME 12(1)(e), (2)(e)
OP 44	ME 12(1)(b), (2)(b), ME 14(1)
OP 45	ME 41
OP 46	ME 12(1)(i), (2)(h)
OP 47	ME 12(1)(j), (2)(h)
OP 48	ME 12(1A)(a), (2A)
OP 49	ME 12(1A)(b), (2A)
OP 50	ME 12(1A)(c), (2A)
OP 51	MG 13(1)
OP 52	MG 2(4), (5)
OP 53	MG 13(6), (7)
OP 54	MG 16(1)
OP 55	MG 16A(2)
OP 56	MG 14(1)(a), (2)(a)
OP 57	MG 14(1)(c), (2)(a)
OP 58	MG 14(1)(b), (2)(a)
OP 59	MG 14(1)(e), (2)(c), MG 16(2), (4)
OP 60	MG 14(1)(bb), (2)(ab)
OP 61	MI 20(2)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OP 62	MG 14(1)(f), (2)(d)
OP 63	MG 14(1)(d), (2)(b)
OP 64	MG 15(1)(a), (2)(a)
OP 65	MG 15(1)(ab), (2)(ab)
OP 66	MG 15(1)(d), (2)(d)
OP 67	MG 15(1)(l), (2)(j)
OP 68	MG 15(1)(e), (2)(d)
OP 69	MG 15(1)(c), (2)(c)
OP 70	MI 20(1)
OP 71	MG 15(1)(k), (2)(i), MG 16(5)
OP 72	MG 15(1)(f), (2)(e)
OP 73	MG 15(1)(i), (2)(g)
OP 74	MG 15(1)(b), (2)(b)
OP 75	MG 15(1)(g), (2)(e)
OP 76	MG 15(1)(h), (2)(f)
OP 77	MG 15(1)(j), (2)(h)
OP 78	MI 14, MI 16
OP 79	MI 19(1), (2)
OP 80	MI 22(1)
OP 81	MI 17(1)(a), (2)(a)
OP 82	MI 17(1)(b), (2)(b)
OP 83	MI 17(1)(c), (2)(c)
OP 84	MI 17(1)(e), (2)(e), MI 19(3), (4)
OP 85	MI 17(1)(f), (2)(f), MI 20(1)
OP 86	MI 17(1)(d), (2)(d)
OP 87	MI 18(1)(a), (2)(a)
OP 88	MI 18(1)(g), (2)(g), MI 20(2)
OP 89	MI 18(1)(b), (2)(b)
OP 90	MI 19(5)
OP 91	MI 18(1)(e), (2)(e), (3), (4)
OP 92	MI 18(1)(c), (2)(c)
OP 93	MI 18(1)(d), (2)(d)
OP 94	MI 18(1)(f), (2)(f)
OP 95	MI 21
OP 96	MI 22(4)
OP 97	MF 7(1), (2)
OP 98	MF 7(3), (4)
OP 99	MF 9
OP 100	MF 8(2)(a), (3)(a)
OP 101	MF 8(2)(c), (3)(b), MF 10(4)–(6)
OP 102	MF 8(2)(c), (3)(b), MF 10(4), (5), (6)
OP 103	MF 8(2)(d), (3)(c)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
OP 104	MF 8(2)(e), (3)(d)
OP 105	MF 8(4)(a), (5)(a)
OP 106	MF 8(4)(b), (5)(b), MF 10(1)
OP 107	MF 8(4)(c), (5)(c)
OP 108	MF 8(4)(d), (5)(d)
OP 109	ME 25
OP 110	ME 26(2)(a), (3)(a)
OP 111	ME 26(2)(b), (3)(b)
OP 112	ME 26(2)(c), (3)(c), ME 27(1), (3)
OP 113	ME 26(2)(d), (3)(d)
OP 114	ME 26(2)(e), (3)(d)
OP 115	ME 26(4)(a), (5)(a), ME 28(1), (2)
OP 116	ME 26(4)(b), (5)(b), ME 28(3), (4)
Subpart OZ	
OZ 1	ME 4(1)(a)(viii)
OZ 2	ME 5(1)(e)(i)
OZ 3	ME 5(1)(n)
OZ 4	ME 5(4), MG 5(4)
OZ 5	MJ 1(2), MJ 4
OZ 6	MJ 7
PART R	
Subpart RA	
RA 1	new
RA 2	MB 12, NC 2(1), ND 1W(2), NE 7(2), NF 13, NG 17(2), NH 3(7)
RA 3	BC 9, MC 1
RA 4	BB 2(3), MB 4
RA 5	BE 1(1), (4), (5), NC 15, ND 1, NE 3
RA 6	NF 4, NG 11, NH 3
RA 7	MH 1
RA 8	NC 16, NE 2A(1), (2), NF 3, NG 12
RA 9	NC 19, NE 6, NF 12, NG 15
RA 10	NC 5(2), NC 16, NC 20(1), ND 1, ND 1W(2), NE 5, NF 3, NF 4, NF 13, NG 12, NG 13
RA 11	NF 6(1), NG 16A(1)
RA 12	NF 6(2)–(4), NF 7(1), (2), NG 16A(2), (3)
RA 13	MC 1
RA 14	MB 8(1), (2)
RA 15	NC 15, ND 9(2), (3), ND 10, ND 13, ND 14, NE 4, NF 4, NG 11, NH 3
RA 16	NF 4(5), NG 11(4)
RA 17	NF 4(6)
RA 18	NF 4(6B), NG 11(4B)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
RA 19	NBA 7, ND 10(4)(a), NF 7, NG 16, NH 4
RA 20	NC 15(7), ND 13(8), ND 14(8), NH 4(8)
RA 21	NC 21, ND 1F
RA 22	NC 20
RA 23	NE 7, NG 17(1)
Subpart RB	
RB 1	MC 1
RB 2	BC 1
RB 3	BC 7, NG 3
RB 4	MD 1(3), (3A)
Subpart RC	
RC 1	MB 1
RC 2	OB 1 “provisional tax rules”
RC 3	MB 2, OB 1 “provisional tax rules”
RC 4	MB 3
RC 5	MB 4
RC 6	MB 5
RC 7	MB 6
RC 8	MB 7
RC 9	MB 8
RC 10	MB 9
RC 11	MB 10
RC 12	MB 12
RC 13	MB 13
RC 14	MB 14
RC 15	MB 16
RC 16	MB 15(1)–(4), (11)
RC 17	MB 15(5)–(10)
RC 18	MB 17
RC 19	MB 18
RC 20	MB 19
RC 21	MB 20
RC 22	MB 21
RC 23	MB 22
RC 24	MB 23
RC 25	MB 24
RC 26	MB 25
RC 27	MB 27
RC 28	MB 29
RC 29	MB 30
RC 30	MB 31
RC 31	MB 32

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
RC 32	MB 33
RC 33	MB 34
RC 34	MB 35
RC 35	MB 37
RC 36	MB 38
RC 37	MBB 2(1)(a), (d)
RC 38	MBB 2(1)(b), (c), (2)–(4)
RC 39	MBB 3
RC 40	MBB 4
Subpart RD	
RD 1	new
RD 2	NC 15(4), OB 1 “PAYE rules”
RD 3	NC 1(2), OB 2
RD 4	NC 15(1), NC 16
RD 5	OB 1 “salary or wages”
RD 6	NC 4
RD 7	OB 1 “extra pay”
RD 8	NC 21(f)–(h), Income Tax (Withholding Payments) Regulations 1979, regulations 2, 4, 6–8
RD 9	NC 6(1A), (3)
RD 10	NC 6, NC 8(1A), Income Tax (Withholding Payments) Regulations 1979, regulation 3
RD 11	NC 6(1C), (1D), NC 13
RD 12	NC 10
RD 13	NC 11
RD 14	NC 12
RD 15	NC 2(2)–(4)
RD 16	NC 2(1)
RD 17	NC 2(5)
RD 18	NC 7(2)
RD 19	Income Tax (Withholding Payments) Regulations 1979, regulations 10, 11
RD 20	Income Tax (Withholding Payments) Regulations 1979, regulation 12
RD 21	NC 5
RD 22	NC 15(1), (5), (6)
RD 23	NC 18
RD 24	NC 18(1), Income Tax (Withholding Payments) Regulations 1979, regulation 5(3)
RD 25	OB 1 “FBT rules”
RD 26	ND 1(1)–(3)
RD 27	ND 1A(1), ND 1L
RD 28	ND 1A(1)–(1D)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
RD 29	ND 1A(2)–(6)
RD 30	ND 1AB
RD 31	ND 1B(1)–(6)
RD 32	ND 1B(7)
RD 33	ND 1C
RD 34	ND 1D, ND 1G
RD 35	ND 1DB
RD 36	ND 1E
RD 37	ND 1H
RD 38	ND 1I
RD 39	ND 1IB, ND 8B
RD 40	ND 1J
RD 41	ND 1K
RD 42	ND 1N
RD 43	ND 1O
RD 44	ND 1P(2)
RD 45	ND 1Q
RD 46	ND 1R
RD 47	ND 3(1), (1A)
RD 48	ND 3(2)
RD 49	ND 3(4)–(7), ND 4, ND 16
RD 50	ND 5(3)–(6)
RD 51	ND 5(1), (2), ND 7, ND 7A
RD 52	ND 5A
RD 53	ND 6
RD 54	GC 15(3), (4), ND 1S
RD 55	ND 1T
RD 56	ND 1U
RD 57	ND 1V
RD 58	ND 1(2)(b), (4), ND 2(2)
RD 59	ND 1(2)(a), ND 10(1), ND 2(1)–(4)
RD 60	ND 1(2)(c), (5), ND 14, ND 15(7), (8)
RD 61	ND 1(2)(c), (4), (5), ND 13
RD 62	ND 2(4), ND 14(2B), ND 15
RD 63	ND 8
RD 64	NE 1, OB 1 “SSCWT rules”
RD 65	NE 2(2), NE 3, NE 3B, NE 6, OB 1 “employer’s superannuation contribution”, “specified superannuation contribution”
RD 66	OB 1 “complying fund rules”
RD 67	NE 2
RD 68	NE 2A(1), (2)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
RD 69	NE 2B
RD 70	NE 5
RD 71	NE 6
RD 72	NEA 1
Subpart RE	
RE 1	OB 1 "RWT rules"
RE 2	NF 1(2), (4), (5)
RE 3	NF 2(1A), (1AB)
RE 4	NF 2(3), (4)
RE 5	NF 2(7)
RE 6	NF 2(8)
RE 7	NF 3(1), (2)
RE 8	NF 3(1)
RE 9	NF 3(3)–(5)
RE 10	NF 2(5)
RE 11	NF 2B
RE 12	NF 2(1)(a)
RE 13	NF 2(1)(b)
RE 14	NF 2(1)(c), (2)
RE 15	NF 2(1)(d)
RE 16	NF 2(1)(e), (f)
RE 17	NF 2(1)(g)
RE 18	NF 2(1B)
RE 19	NF 2A(1), (3), NF 2D(1), (3)
RE 20	NF 4(1), (2)
RE 21	NF 4(1)–(5), (7), (8)
RE 22	NF 5
RE 23	NF 8(1)
RE 24	NF 8A(1)
RE 25	NF 8B
RE 26	NF 4(9)
RE 27	NF 9(1), NF 11(1), (2)
RE 28	NF 4(6)
RE 29	NF 2(7)
RE 30	NF 10
Subpart RF	
RF 1	OB 1 "NRWT rules"
RF 2	NG 1(2)–(4), NG 3, NG 4
RF 3	NG 8(1)
RF 4	NG 8(2), (3)
RF 5	NF 2(6)
RF 6	NG 13

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
RF 7	NG 2(1)(c)
RF 8	NG 2(1)(a)
RF 9	NG 2(3), (4), OB 1 "fully conduit tax relief credited"
RF 10	NG 2(1)(b)(ii), NG 9
RF 11	NG 14
RF 12	NG 2(1)(b)(i), (ib), (iii)
RF 12B	NG 2(1)(ab)
RF 12C	NG 2(1)(b)(iii)
RF 13	NG 11(1)–(3)
RF 14	NG 2(2)
RF 15	NG 10
Subpart RG	
RG 1	OB 1 "dividend withholding payment rules"
RG 2	NH 1(2)
RG 3	NH 1(1), NH 3(1)
RG 4	NH 2(1)
RG 5	NH 2(2), (3)
RG 6	NH 3(2)–(4)
RG 7	NH 7
Subpart RM	
RM 1	new
RM 2	MD 1(1)
RM 3	NH 4(1)
RM 4	MD 1(2)
RM 5	MD 1(1A)
RM 6	MD 1(2B), NH 3(7)
RM 7	NBA 7
RM 8	MD 1(4)(b), (c), NF 7(1), (2), (5), NG 16(1), (1A)
RM 9	ND 10(4)(a)
RM 10	MD 1(3), (3A), MD 1(4)
RM 11	MB 11
RM 12	MB 36
RM 13	MD 2(1), (1A)
RM 14	MD 2(2)
RM 15	MD 2(3), (4)
RM 16	MD 2(5), (5A)
RM 17	MD 2(6)
RM 18	NH 4(2), (3)
RM 19	NH 4(4)(a)
RM 20	NH 4(4)(b)
RM 21	NH 4(5), (6)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
RM 22	MD 2B(1), (1B)
RM 23	MD 2B(2)
RM 24	MD 2B(3)
RM 25	MD 2B(4), (4B)
RM 26	MD 2B(5)
RM 27	MD 2B(6)
RM 28	MD 3(1)
RM 29	MD 3(2)
RM 30	MD 3(3)
RM 31	MD 3(4)
RM 32	MD 2(7)
RM 33	MD 2A
Subpart RP	
RP 1	MBA 1
RP 2	NBA 1, NBA 8, NBB 7(3)
RP 3	NBB 3
RP 4	NBB 1, NBB 6
RP 5	NBB 5(4), (5)
RP 6	NBA 6
RP 7	NBA 4(2), (3)
RP 8	NBA 4(1B)
RP 9	NBA 4(1)(a)
RP 10	NBA 4(1)(b)(i), (ii)
RP 11	NBA 4(1)(b)(iii)
RP 12	NBA 4(4)
RP 13	NBA 5(1), (2)
RP 14	NBA 5(1)
RP 15	NBA 5(1B)
RP 16	NBA 5
RP 17	MBA 2
RP 18	MBA 3, MBA 4(3), MBA 5(1)–(4)
RP 19	MBA 6(1)–(3)
RP 20	MBA 6(4)–(9)
RP 21	MBA 7
Subpart RZ	
RZ 1	MZ 8
RZ 2	MZ 9
RZ 3	MZ 10
RZ 4	MZ 11
RZ 5	MZ 12
RZ 6	MD 2(5)(a)(ii), MD 3(4)(a)
RZ 7	IZ 3

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
RZ 8	IZ 1, IZ 2, IZ 4
RZ 9	IZ 6
RZ 10	IZ 5
PART Y	
Subpart YA	
YA 1 “association”	HF 1(9) “association”
YA 1 “business” (b)	OC 1(2)(c), OC 3(b)
YA 1 “charitable purpose”	OB 3A
YA 1 “company” (d), (e)	OC 1(2)(a), OC 3(a)
YA 1 “cost”	ND 1P(1)
YA 1 “CTR company”	MI 16
YA 1 “grey list company”	EX 24
YA 1 “identical goods”	ND 1M
YA 1 “member”	HF 1(9) “member”
YA 1 “minor”	HH 3F(2)
YA 1 “policyholder loss”	II 2
YA 1 “price”	ND 1P(1)
YA 2	HG 12(2), IZ 7, MB 12, ME 9(6), MI 10(5), MI 21(5), MK 8(6), NC 20(1), ND 1W(2), NE 7(2), NF 13, NG 17(2), NH 3(7), OB 6
YA 3	OB 6(2), (3)
Subpart YB	
YB 1	new
YB 2	OD 7(1)(a), (2), (3), OD 8(1)(a), (2), (3)(a)(i), (3A), (4)(a)(i), (6)
YB 3	OD 8(3)(a)(ii), (3A)
YB 4	OD 8(3)(c), (3A)
YB 5	OD 7(1)(b), (2), OD 8(4)(b)(i)
YB 6	OD 8(4)(b)
YB 7	OD 8(3)(b)
YB 8	OD 8(1)(b), (2)(b), (c)
YB 9	OB 1 “relative”, OD 7(1)(c), OD 8(1)(c), (3)(d), (4)(c)
YB 10	OB 1 “relative”, OD 7(1)(c), OD 8(1)(c), (3)(d), (4)(c)
YB 11	OB 1 “relative”, OD 7(1)(c), OD 8(1)(c), (3)(d), (4)(c)
YB 12	OB 1 “relative”, OD 7(1)(c), OD 8(1)(c), (3)(d), (4)(c)
YB 13	OD 8(1)(g), (3)(g)
YB 14	OD 8(1)(f), (3)(h)
YB 15	OD 8(3)(i)
YB 16	OD 7(1)(d)(i), OD 8(1)(d), (3)(e), (4)(d)
YB 17	OD 7(1)(d)(ii), OD 8(1)(e), (3)(f), (4)(e)

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
YB 18	OD 8(3)(j)
YB 19	OD 8(1)(h)
YB 20	OD 8(1), (3), (4)
YB 21	HH 1(1), OD 9
Subpart YC	
YC 1	OD 1
YC 2	OD 3(1), (2)
YC 3	OD 4(1), (2)
YC 4	OD 3(3)(d), OD 4(3)(d), (4)
YC 5	OD 3(3)(a), OD 4(3)(a)
YC 6	OD 3(3)(c), OD 4(3)(c)
YC 7	OD 5(1)
YC 8	OD 5(2)
YC 9	OD 5(3), (4)
YC 10	OD 5(5)
YC 11	OD 5(6)
YC 12	OD 5(5A)–(5C)
YC 13	OD 5(6A)–(6F)
YC 14	OD 5(7)
YC 15	OD 5(8)
YC 16	OD 5(9)
YC 17	OD 5A
YC 18	OD 5AA
YC 19	OD 5B
YC 20	OD 6
Subpart YD	
YD 1	OE 1
YD 2	GC 9(6), OE 2(1), (1B)
YD 3	OE 2(2)–(6)
YD 4	FB 2(2)
YD 5	FB 2(1A)
YD 6	FC 18, FC 19
YD 7	FC 21
YD 8	FC 13, FC 14(1)
YD 9	OE 8
YD 10	OE 7(1), (2)
YD 11	OE 7(3)–(5)
Subpart YE	
YE 1	OF 1
Subpart YF	
YF 1	new
Subpart YZ	

Provision in Income Tax Act 2007	Corresponding provision in Income Tax Act 2004 (unless otherwise stated)
YZ 1	OE 4(1A)
PART Z	
ZA 1	YA 1
ZA 2	YA 2
ZA 3	YA 3
ZA 4	YA 4
ZA 5	YA 5
ZA 6	YA 6
Schedules	
Schedule 1	schedule 1, schedule 14, schedule 2 part B
Schedule 2	schedule 19
Schedule 3	schedule 13
Schedule 4	Income Tax (Withholding Payments) Regulations 1979, schedule
Schedule 5	GC 16, schedule 2 part A
Schedule 10	schedule 10
Schedule 11	schedule 11B
Schedule 12	schedule 11
Schedule 13	schedule 16
Schedule 14	schedule 17
Schedule 17	schedule 8
Schedule 18	schedule 9
Schedule 19	schedule 6B
Schedule 20	schedule 7
Schedule 24	schedule 3
Schedule 25	schedule 4
Schedule 26	schedule 5
Schedule 27	schedule 6
Schedule 31	schedule 12
Schedule 32	KC 5(1)(ae)–(cp)
Schedule 36	schedule 18
Schedule 37	schedule 15
Schedule 48	schedule 20
Schedule 49	schedule 21
Schedule 50	schedule 22
Schedule 51	schedule 22A
Schedule 52	schedule 23

Schedule 52 part B: amended, on 1 April 2008, by section 593(14) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(15) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(16) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(17) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(18) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(19) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(20) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(21)(a) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(21)(b) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(22) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(23) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(24) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(25) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Schedule 52 part B: amended, on 1 April 2008, by section 593(26) of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Part C
New TAA provisions

New section in TAA 1994	From section in ITA 2004 (unless otherwise stated)
TAA 15C	NBA 1, NBB 3
TAA 15D	NBA 2(1)(a)–(c), (2), (3)
TAA 15E	NBA 2(4)
TAA 15F	NBA 2(1)(c)
TAA 15G	NBB 2
TAA 15H	NBB 4(1)
TAA 15I	NBB 4(2)–(5)
TAA 15J	NBA 3, NBA 8, NBB 7(1), (2)
TAA 15K	NBA 5(3)
TAA 15L	NBA 5(4)
TAA 15M	NBB 3(2), NBB 5(1), (3)
TAA 15N	MBA 3(1)
TAA 15O	MBA 4(5), (6)
TAA 15P	MBA 4(1), (2), (4)
TAA 15Q	MBA 3(1)(d)
TAA 15R	MBA 3
TAA 15S	MBA 8
TAA 15T	NF 2AA

New section in TAA 1994	From section in ITA 2004 (unless otherwise stated)
TAA 24B	NC 8(1), (1AA)
TAA 24C	NC 8(1) proviso
TAA 24D	NC 8(9A)
TAA 24E	NC 8(12)
TAA 24F	NC 14
TAA 24G	NC 12A
TAA 24H	NC 8(7), NC 9
TAA 24I	NC 8(2)–(4), (11), NC 8A
TAA 24J	NC 15(1), (2), (2B)
TAA 24K	NF 8(2)–(4), NF 8A(2)–(3)
TAA 24L	NC 7(1)
TAA 24M	Income Tax (Withholding Payments) Regulations 1979, reg 5
TAA 24N	Income Tax (Withholding Payments) Regulations 1979, reg 6A
TAA 24O	Income Tax (Withholding Payments) Regulations 1979, reg 12A
TAA 24P	NC 7(3), NC 8(10), NC 15(3)
TAA 32E	NF 9(1)–(3)
TAA 32F	NF 9(8), (10)
TAA 32G	NF 9(6), (7), (9)–(11)
TAA 32H	NF 9(4), (5)
TAA 32I	NF 9(12)–(14)
TAA 32J	NF 10(1)(a), (d), (3)
TAA 32K	NF 11(1)
TAA 32L	NF 11(2)–(9)
TAA 32M(1)	NG 5
TAA 32M(2)	NG 6
TAA 32M(3)–(5)	NG 7
TAA 32N	NH 2(4), NH 3(6)
TAA 46B	ND 2(3), ND 9, ND 10(2)–(5), ND 11, ND 12
TAA 46C	ND 13(5), (6), ND 14(5), (6)
TAA 46D	ND 15(7), (8)
TAA 46E	ND 1(6)
TAA 71B	NH 4(5)(b), (c)
TAA 78B	LC 13(1)
TAA 78C	LC 13(2)
TAA 78D	LB 2(4), LD 3(4), LD 3A(5), LD 8(3), LD 9(4)
TAA 78E	LF 6(4)
TAA 78F	LF 6(6)
TAA 80KA	KD 5(1B)–(1C)
TAA 80KB	KD 5(2)–(2AB)
TAA 80KC	KD 5(3), (3A)

New section in TAA 1994	From section in ITA 2004 (unless otherwise stated)
TAA 80KD	KD 5(4), (5)(a)
TAA 80KE	KD 5(11)
TAA 80KF	KD 5(2A), (5)(b), (7)
TAA 80KG	KD 5(9)
TAA 80KH	KD 5(10), (12)
TAA 80KI	KD 7(1)
TAA 80KJ	KD 7(3)
TAA 80KK	KD 7(2B), (2C)
TAA 80KL	KD 7(4)
TAA 80KM	KD 7(2), (2A)
TAA 80KN	KD 6(1)
TAA 80KO	KD 6(1A)
TAA 80KP	KD 6(1B)
TAA 80KQ	KD 6(1C)
TAA 80KR	KD 6(1D)
TAA 80KS	KD 6(2), (3)
TAA 80KT	KD 6(4)
TAA 80KU	KD 7(3A), (3B), (3C)
TAA 80KV	KD 4(5)
TAA 80KW	KD 7A
TAA 90AF	GC 22(3), (7), (8)
TAA 90AG	GC 27A(4), (7)–(9)
TAA 92AB	HG 8
TAA 93B	HH 7
TAA 93C	LC 4(1C)
TAA 104B	ME 20, ME 40, MF 6, MG 12, MI 12, MJ 8, MK 9
TAA 120OE(1)–(3)	MBA 5(5), (6)
TAA 120OE(4)–(5)	MBA 9
TAA 165B	NG 16(5)
TAA 166B	HK 18
TAA 225AA	OC 4
TAA 225B	LC 1A(1), (2)

Taxation (Limited Partnerships) Act 2008

Public Act	2008 No 2
Date of assent	13 March 2008
Commencement	see section 2

1 Title

This Act is the Taxation (Limited Partnerships) Act 2008.

2 Commencement

This Act comes into force on 1 April 2008.

Part 1
Amendments to Income Tax Act 2007

5 New heading and section CB 35 added

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

8 New heading and section CW 55B added

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

9 New heading and section CX 62 added

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

10 New heading and section DV 20 added

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

13 Financial arrangements, income, and expenditure relevant to criteria

(1) *Amendment incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

14 Section EX 13 repealed

(1) *Amendment incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

15 Cash basis holder

(1) *Amendment incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

16 Attribution rule: calculation

(1) *Amendment incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

17 New heading and section GB 50 added

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

18 Section HD 20 replaced

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

19 New subpart HG

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

20 Section HR 1 repealed

(1) *Amendment incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

21 New sections HZ 3 and HZ 4

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

22 When unincorporated bodies hold certificates

(1) *Amendment incorporated in the principal Act.*

(2) For a person who is not a limited partner in a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

23 Definitions

(1) This section amends section YA 1.

(2)–(14) *Amendment incorporated in the principal Act.*

(15) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsections (2) to (14) apply for income years starting on and after 1 April 2008.

26 Classes of income treated as having New Zealand source

(1), (2) *Amendments incorporated in the principal Act.*

(3) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsections (1) and (2) apply for income years starting on and after 1 April 2008.

Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008

Public Act	2008 No 36
Date of assent	29 May 2008
Commencement	see section 2

1 Title

This Act is the Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008.

2 Commencement

(1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.

(2) In Part 1, other than sections 3, 4, 9 and 11,—

(a) the subsections (1) of the sections are treated as coming into force on 1 April 2008:

(b) the subsections (2) of the sections come into force on 1 April 2009:

(c) the subsections (3) of the sections come into force on 1 April 2010:

(d) the subsections (4) of the sections come into force on 1 April 2011.

(3) In Part 1, 11,—

(a) subsection (1) comes into force on 1 July 2008:

(b) subsection (2) comes into force on 1 April 2009:

(c) subsection (3) comes into force on 1 April 2010:

(d) subsection (4) comes into force on 1 April 2011.

(4) In Part 2, other than sections 12 and 17,—

(a) the subsections (1) of the sections come into force on 1 October 2008:

(b) the subsections (2) of the sections come into force on 1 April 2010:

(c) the subsections (3) of the sections come into force on 1 April 2011.

(5) In Part 3,—

(a) Sections 59 and 60 are treated as coming into force on 19 December 2007:

(b) Sections 24, 25, 26(1), 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 43, 44, 45, 46, 48(2) and (3)(a), 49, 50, 56, and 58 are treated as coming into force on 1 April 2008:

(c) Sections 20, 21, 22, 23, 31, 48(4) and (5), 55, and 57 come into force on 1 July 2008:

(d) Sections 39, 40, 41, 42, 47, 51, and 52 come into force on 1 October 2008:

(e) Section 26(2) comes into force on 1 April 2009.

Part 1
Personal tax cuts and Working for Families tax credit increase: 2008–09 start

3 Application

In this Part, other than sections 4 and 9,—

(a) the subsections (1) of the sections apply for the 2008–09 income year and later income years:

(b) the subsections (2) of the sections apply for the 2009–10 income year and later income years:

(c) the subsections (3) of the sections apply for the 2010–11 income year and later income years:

(d) the subsections (4) of the sections apply for the 2011–12 income year and later income years.

Part 3
Annual rates, consequential personal tax cuts amendments, and remedial matters

Amendments to Income Tax Act 2007

24 Heading and section LC 1 repealed

(1) *Amendments incorporated in the principal Act.*

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

25 Section LC 2 repealed

(1) *Amendment incorporated in the principal Act.*

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

32 Tax credits for supplementary dividends

(1) *Amendments incorporated in the principal Act.*

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

34 Meaning of net family scheme income

(1) *Amendment incorporated in the principal Act.*

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

37 Tax credits for non-resident investors

(1), (2) *Amendment incorporated in the principal Act.*

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

38 Payment dates for terminal tax

(1) *Amendment incorporated in the principal Act.*

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

43 Calculation of all-inclusive pay

(1), (2) *Amendments incorporated in the principal Act.*

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

44 Resident passive income

(1), (2) *Amendment incorporated in the principal Act.*

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

Taxation (Business Tax Measures) Act 2009

Public Act	2009 No 5
Date of assent	30 March 2009
Commencement	see section 2

1 Title

This Act is the Taxation (Business Tax Measures) Act 2009.

2 Commencement

(1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.

(2) In Part 1, the sections, other than sections 3 and 24, come into force on 1 April 2009.

(3) In Part 2,—

(a) section 32 is treated as coming into force on 19 December 2007:

(b) sections 29(1), 30(1), and 31(1) come into force on 1 April 2009:

(c) sections 29(2), 30(2), and 31(2) come into force on 1 April 2010.

Part 1
Business tax measures

Amendments to Income Tax Act 2007

4 New heading and new section DB 62

(1) *Amendment incorporated in the principal Act.*

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

5 Valuing closing stock under $5,000

(1), (2) *Amendment incorporated in the principal Act.*

(3) Subsections (1) and (2) apply for the 2009–10 income year and later income years.

6 When use of spreading method not required

(1) *Amendment incorporated in the principal Act.*

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

7 Straight-line method

(1) *Amendment incorporated in the principal Act.*

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

8 Consistency of use of straight-line method and market valuation method

(1), (2) *Amendment incorporated in the principal Act.*

(3) Subsections (1) and (2) apply for the 2009–10 income year and later income years.

9 Section EW 54 replaced

(1) *Amendment incorporated in the principal Act.*

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

10 Section EW 56 repealed

(1) *Amendment incorporated in the principal Act.*

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

11 Thresholds

(1)–(4) *Amendment incorporated in the principal Act.*

(5) Subsections (1) to (3) apply for the 2009–10 income year and later income years.

12 Financial arrangements, income, and expenditure relevant to criteria

(1)–(4) *Amendment incorporated in the principal Act.*

(5) Subsections (1) to (4) apply for the 2009–10 income year and later income years.

13 Section EW 59 replaced

(1) *Amendment incorporated in the principal Act.*

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

14 Trustee of deceased's estate

(1), (2) *Amendment incorporated in the principal Act.*

(3) Subsections (1) and (2) apply for the 2009–10 income year and later income years.

Part 2
Minor remedial matters

Amendments to Income Tax Act 2007

29 Employer's liability for attributed benefits

(1) *Amendment incorporated in the principal Act.*

(2) *[Repealed]*

(3) Subsection (1) applies for the 2009–10 income year and later income years.

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

Section 29(2): repealed, on 29 May 2009, by section 4 of the Taxation (Budget Tax Measures) Act 2009 (2009 No 14).

30 Calculation for certain employees when information lacking

(1) *Amendment incorporated in the principal Act.*

(2) *[Repealed]*

(3) Subsection (1) applies for the 2009–10 income year and later income years.

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

Section 30(2): repealed, on 29 May 2009, by section 4 of the Taxation (Budget Tax Measures) Act 2009 (2009 No 14).

31 Pooling non-attributed benefits

(1) *Amendment incorporated in the principal Act.*

(2) *[Repealed]*

(3) Subsection (1) applies for the 2009–10 income year and later income years.

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

Section 31(2): repealed, on 29 May 2009, by section 4 of the Taxation (Budget Tax Measures) Act 2009 (2009 No 14).

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

Public Act	2009 No 34
Date of assent	6 October 2009
Commencement	see section 2

1 Title

This Act is the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009.

2 Commencement

(1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.

(2) Sections 74, 108, 319, 320, 322, 323, 502, 510, 546, 549, 557(26), (45), (53), (132), (145), and (147), 605(1), and (3), 606, 610, 682, 862, and 863 are treated as coming into force 3 months after this Act receives the Royal assent.

(3) Section 704(5) is treated as coming into force—

(a) in relation to the Parliamentary Service, on 1 October 1986:

(b) in relation to the Office of the Clerk of the House of Representatives, on 1 August 1988.

(4) Section 855 is treated as coming into force on 1 April 1993.

(5) Section 850 is treated as coming into force on 1 April 1995.

(6) Sections 851 and 860 are treated as coming into force on 1 April 1997.

(7) Sections 847, 848, 849, 852, 853, 854, and 856 are treated as coming into force on 1 October 2001.

(8) Sections 628(1), 646(1) and (4), 647(1), (3), and (6), 712, 735, 736, 738, 741, 742, 743, 746, 747, 748, 749, 750, 751, 754, 759, 760, 761, 764(2), 767, 769, 770, 771, 772, 773, 789(2) and (4), 832, 844(2), (9), (15), (23), (25), (31), and (33), 845, 858(1) and (3), and 864 are treated as coming into force on 1 April 2005.

(9) Section 647(2) is treated as coming into force on 1 October 2005.

(10) Sections 744, 768, and 844(3), (13), (14), (22), and (32) are treated as coming into force on 1 April 2006.

(11) Sections 646(2) and 647(4) are treated as coming into force on 3 April 2006.

(12) Sections 706, 739, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789(1) and (3), 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 819(2), 841, and 844(8), (11), (18), (21), and (35) are treated as coming into force on 1 April 2007.

(13) Section 684 is treated as coming into force on 17 May 2007.

(14) Sections 720, 731, 733(2) and (4), and 844(6) and (17) are treated as coming into force on 1 July 2007.

(15) Sections 612, 625, 675, 677, 756, 808, 809, 811, 812, 813, 814, 815, 816, 817, 818, 819(1), 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 833, 834, 835, 836, 837, 838, 839, 840, 842, 843, and 844(26) are treated as coming into force on 1 October 2007.

(16) Section 764(1) and (3) is treated as coming into force on 1 December 2007.

(17) Sections 638(2), 757, 830, and 831 are treated as coming into force on 19 December 2007.

(18) Section 758 is treated as coming into force on 1 January 2008.

(19) Section 737, 740, 755, 762, 790, 791, 792, 803, 804, 805, 806, 807, 810, and 844(4), (5), (7), (10), (12), (16), and (27) to (30) are treated as coming into force on 25 February 2008.

(20) Section 763 is treated as coming into force on 4 March 2008.

(21) Sections 5(1), (2), (4), (5), and (7), 11, 12, 15(1)(b), 16, 18, 19(1), (2), (3) and (5), 20(3), 24, 25, 26, 32, 34, 35, 36, 37, 38, 41(1) and (2), 42, 43, 44, 45, 47, 48, 52, 53, 54, 56(1) and (4), 60, 62, 68, 72, 73(3), 76, 81, 82, 83, 84, 85, 93, 96(1) and (3), 97, 98(1), (3), and (4), 99, 100, 101, 102(1), (3), (5), and (7), 103(1), (3), and (5), 104(1) and (3), 105(1), (3), and (5), 106(1), (3), and (5), 107, 109, 111, 117, 118, 119, 120, 121, 127, 128, 129, 130, 131, 133, 134, 135, 136(1) and (3), 137(1), (2), (3), and (5), 138, 140, 141, 142, 143, 144, 145, 146, 147, 150, 151, 152(1), 161(7) and (15), 166, 167, 168, 169, 170, 171, 172, 173(1) to (3), (5) to (7), and (11), 174, 176(1), 177(1), (2) to (4), and (6) to (10), 178(1) to (5), and (7) to (11), 179, 180(1), 181(1), (2), and (5), 182, 183, 188, 196, 197, 198, 201, 202(1) and (3), 203, 204, 205(1), (4), and (5), 209(2), (3), and (5), 211(3) and (6), 215(1) and (3), 218(1), (4), (5), (7), and (9), 227, 230(4), 232, 233, 234, 235, 236, 238(1) and (4), 239(1), 241, 242(1), 251, 253, 254, 255, 256, 257, 258, 261, 262(1), 263, 264(2) and (4), 265, 266, 268, 269, 270, 271, 272, 273, 274, 275, 277, 280, 281, 282(1), (3), (4), and (5), 283, 284(1), (2), (4), and (6), 285, 286, 287, 288, 289, 290, 291, 293, 294, 296(2), (3), and (8), 297(2) and (5), 298(1) and (4), 299, 300, 302(2) and (4), 304, 306, 308(1), 309, 311, 312, 314, 317, 318, 321, 324(1), (2), (4), and (6), 329, 330, 331, 332, 333, 334, 335, 336(1), (3), (5), and (6), 337, 338, 339, 340(1), (3), (4), and (7), 341, 344, 345, 349, 350, 352, 353, 354, 355, 356, 357, 358, 359, 360(1) and (3), 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 376, 378(1), (2), (4), (5), and (7), 379, 381(2) and (4), 383, 387, 388(2) and (5), 389(2) and (3), 390, 391, 393, 394, 397, 398, 399(1), (4), and (8), 400(2) and (6), 409, 420(1) and (3), 421(1) and (3), 422, 427, 431(1) and (3), 440, 441, 442, 443, 444, 446, 447(2) and (5), 452(3) and (6), 453, 455, 457, 460(2), (4), and (7), 466, 470, 486, 489, 490(2), (3) and (5), 491(1), (3), and (5), 492(1) and (5), 493, 494, 495, 496, 497, 500, 503(2), (3), and (4), 504, 505, 506, 507, 509,

511, 512, 513, 514(1) to (4), (7), and (9) to (11), 515, 516, 517(1) and (3) to (5), 518(1) and (3) to (5), 519(1) to (6) and (8) to (13), 520, 521, 522, 523, 524, 525, 526, 529, 530, 531(1), (2), and (4) to (7), 532, 533, 534, 536, 537, 538, 539, 541, 542, 543, 544, 545, 547, 548, 554, 555, 556, 557(5), (7), (10), (25), (28), (29), (36), (37), (39), (42), (49), (50), (51), (52), (54), (55), (57), (58), (59), (62), (63), (64), (68), (69), (76), (84), (85), (88), (93), (95), (98), (99), (109), (114), (118), (119), (130), (134), (137), (138), (139), (140), (141), (142), (143), (144), (146), (149), (156), (157), (164), (170), (171), (175), (176), (184), (187), (191), (193), (195), (197), (198), (199), (200), (202), (204), (210), (214), (217), (219), (222), (224), (225), and (228), 559, 560, 561, 562, 564, 567, 568, 569, 570, 571(1) and (3), 572, 573, 574, 575, 576, 579(3) to (8), 580, 581, 582, 583, 585, 590, 591, 592, 593, 596(3), (4), (7), and (8), 597(4), 598(1) and (3), 599(1), 609, 614, 615, 616(2), 619(2), (3), (6), and (7), 620, 624, 627, 628(2) to (4), 630(1), 631, 632, 633, 636, 637, 640, 642, 643, 644, 646(3) and (5), 647(5) and (7), 648, 649, 650, 651(1) and (3), 654, 659, 660, 661, 664, 665, 669, 671, 672, 673, 680, 683, 690, 691, 693, 701, 702, 715(1) to (3), 717, 719, 724, 725, 726, 727, 729, 730, 733(3) and (5), 765, 766, 774, 775, 776, 777, 778, 844(19), (20), (24), and (34), 858(2) and (4), 859, and 865 are treated as coming into force on 1 April 2008.

(22) Sections 88, 315, 316, 360(2), 503(1), 557(148), 732, 867, and 868 are treated as coming into force on 1 July 2008.

(23) Sections 40, 58, 61, 243, 244, 745, 752, and 753 are treated as coming into force on 26 September 2008.

(24) Section 137(4) and (6) are treated as coming into force on 1 October 2008.

(25) Sections 10, 80, 112(2) and (3), 115, 116, 132(2) and (4), 173(8), (13), and (15), 557(32), (48), (60), (82), (105), (127), (131), (159), (160), (181), (186), and (206), and 704(2) and (4) are treated as coming into force on 1 January 2009.

(26) Sections 9, 27, 50, 64, 92, 114, 136(2), (4), (5), and (6), 139, 173(9), 176(2) and (3), 181(4) and (8), 184, 276, 278, 279, 282(2), 284(3), (5), (7), and (8), 301, 347(1), 399(2) and (6), 445(1) and (4), 462, 463, 464, 465, 492(2), 508, 514(5), (6), and (8), 517(2), 518(2), 519(7), 550, 557(92), (158), (165), (166), (188), and (209), 571(2), (4), and (5), 587, 607, 608, 619(1), (4), and (5), 623, 715(4), and 721 are treated as coming into force on 1 April 2009.

(27) Sections 5(3), (6), and (8), 6, 14, 17(2), (3) and (5), 20(1), (2), and (4), 22, 23, 29, 30, 39, 41(3) and (6), 69, 70, 71, 79, 90, 91, 110, 152(2) and (3), 153, 154, 155, 156, 160, 161(1) to (6), (9) to (14), (16), and (17), 162, 163, 164, 165, 175, 180(2) to (4), 195, 202(2) and (4), 206, 207, 208, 209(1) and (4), 210, 211(1), (2), (4), (5), and (7), 212, 213, 214, 215(2), (4), and (5), 216, 217, 218(3) and (10), 219, 220, 221, 222, 223, 224, 225, 226, 228, 229, 230(1) to (3), and (5) to (7), 231, 237, 238(2), (3), and (5), 240, 246, 247, 248, 249, 250, 252, 259, 260, 302(1) and (3), 303, 305, 340(2), (5), and (6), 342, 343, 346, 377, 385, 395, 399(3) and (7), 400(3) and (7), 401(2) and (5), 403, 404, 405,

406, 407, 408, 412, 413, 414, 415, 416, 417, 419, 421(2) and (4), 423, 424, 425, 426, 428, 429, 430, 431(2) and (4), 432, 433, 434, 435, 436, 437, 448, 456, 459(1) and (3), 460(3) and (8), 461(1) and (3), 468, 469(1) and (3), 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 485, 488, 490(1) and (4), 491(2), (4) and (6), 492(3), (4), and (6), 527, 528, 540, 557(8), (9), (11), (14), (16), (22), (23), (30), (34), (38), (40), (41), (43), (61), (70), (71), (74), (75), (77), (78), (79), (80), (89), (94), (96), (104), (117), (123), (128), (129), (182), (183), (185), (203), (208), (211), (212), (213), (215), (216), and (229), 558, 577(2), 584, 586, 596(5) and (9), 597(1) to (3), (5) and (6), 605(2) and (4), 617, 634, 635, 651(2) and (5), 652, 655, 656, 657, 658, 666, 668, 674, 676, 678, 686, 687, 688, 695, 697, and 700 are treated as coming into force on 30 June 2009.

(28) Sections 46, 56(2), (3), and (5), 59, 86, 87, and 89 come into force on 1 October 2009.

(29) Sections 95, 123, 124, 125, 126, 557(108), and (110) come into force on 1 January 2010.

(30) Sections 4, 7, 8, 13, 15(1)(a) and (2), 17(1) and (4), 19(4), (6), and (7), 21, 28, 41(4), (5), and (7), 51, 63, 65, 66, 67, 73(1), (2), and (4), 75, 77, 78, 96(2), (4), and (5), 98(2), (5), and (6), 102(2), (4), (6), and (8), 103(2), (4), and (6), 104(2) and (4), 105(2), (4), and (6), 106(2), (4), and (6), 112(1), 113, 122, 149, 157, 158, 159, 161(8) and (18), 173(4), (10), (12), and (14), 177(5), (11), and (12), 178(6), (12), and (13), 181(3), (6), and (7), 191, 192, 218(2), (6), (8), and (11), 239(2) and (3), 242(2) to (4), 245, 262(2) and (3), 264(1) and (3), 267, 292, 295, 296(4), (6), and (9), 298(2), (3), and (5), 308(2) and (3), 313, 324(3), (5), and (7), 328, 336(2), (4), and (7), 347(2), 348, 351, 378(3), (6), and (8), 384, 401(1), (3), and (4), 438, 498, 531(3) and (8), 535, 557(2), (3), (4), (13), (15), (17), (18), (19), (21), (24), (31), (44), (66), (73), (81), (83), (91), (97), (100), (101), (102), (103), (106), (107), (111), (115), (116), (121), (126), (133), (136), (150), (154), (155), (167), (177), (179), (180), (192), (196), (220), (221), (223), and (227), 563, 565, 566, 579(1) and (2), 588, 594, 599(2), 611, 613, 618, 621, 622, 626, 628(5) and (6), 645, 651(4) and (6), 679, 681, 710(3), 713, and 861 come into force on 1 April 2010.

(31) Sections 200 and 487 come into force on 30 June 2010.

(32) Sections 33, 49, 55, 94, 132(1), (3), (5), and (6), 185, 186, 187, 189, 190, 193, 194, 199, 296(1), (5), and (7), 297(1), (3), and (4), 307, 310, 325, 326, 327, 372, 373, 374, 375, 380, 381(1), (3), and (5), 382, 386, 388(1), (3), and (4), 392, 396, 399(5) and (9), 400(1), (4), and (5), 402, 410, 411, 418, 420(2) and (4), 439, 445(2), (3), and (5), 447(1), (3), and (4), 449, 450, 451, 452(1), (2), (4), and (5), 454, 458, 459(2) and (4), 460(1), (5), and (6), 461(2) and (4), 467, 469(2) and (4), 483, 484, 557(6), (12), (20), (27), (33), (35), (46), (56), (65), (67), (72), (87), (90), (112), (113), (120), (122), (124), (151), (152), (153), (161), (162), (163), (168), (169), (172), (178), (189), (190), (194), (201), (205),

(207), (218), and (226), 577(1) and (3), 629, and 663 come into force on 1 July 2010.

Part 1
Amendments to Income Tax Act 2007

5 Withholding liabilities

(1)–(6) *Amendments incorporated in the principal Act.*

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

(8) Subsection (3) applies for all income years beginning on or after 1 July 2009.

6 Other obligations

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

9 Section CB 27B repealed

(1) *Amendments incorporated in the principal Act.*

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

11 New section CC 8B inserted

(1) *Amendments incorporated in the principal Act.*

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

12 What is a transfer of value?

(1), (2) *Amendments incorporated in the principal Act.*

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

14 Section CD 21 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

16 Treasury stock acquisitions

(1) *Amendments incorporated in the principal Act.*

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

17 Property made available intra-group

(1)–(3) *Amendments incorporated in the principal Act.*

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

(5) Subsection (2) applies for all income years beginning on or after 1 July 2009.

20 Available subscribed capital (ASC) amount

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies for all income years beginning on or after 1 July 2009.

22 Heading and sections CD 45 to CD 52 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

23 Prevention of double taxation of share cancellation dividends

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for all income years beginning on or after 1 July 2009.

24 Amounts derived in connection with employment

(1)–(4) *Amendments incorporated in the principal Act.*

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

27 New subpart CO inserted

(1) *Amendments incorporated in the principal Act.*

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

29 When attributed CFC income arises

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) to (4) apply for all income years beginning on or after 1 July 2009.

30 When FIF income arises

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

33 Sections CR 1 and CR 2 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

34 New section CR 4 added

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) for an insurer who uses IFRS 4,—

(i) for the 2009–10 and later income years, unless subparagraph (ii) applies:

(ii) for the first income year for which an insurer adopts IFRSs for the purposes of financial reporting and later income years, if that first income year is before the 2009–10 income year and the person chooses to use IFRS 4 in a return of income for that first year:

(b) for a life insurer,—

(i) on and after 1 July 2010, unless subparagraph (ii) applies:

(ii) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

39 Section CV 10 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

41 Dividend derived by company from overseas

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsection (3) applies for all income years beginning on or after 1 July 2009.

(7) Subsection (4) applies for the 2010–11 and later income years.

44 Expenditure on account, and reimbursement, of employees

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) does not apply in relation to a tax position taken by a person—

(a) in the period from 1 April 2008 to the date on which this Act receives the Royal assent; and

(b) in relation to a deduction for an amount of depreciation loss; and

(c) relying on section CW 17 in the absence of the amendment made by subsection (1).

46 Section CW 37 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for an amount derived by a company as a large budget screen production grant if—

(a) the final application for the large budget screen production grant is made on or after 1 October 2009; and

(b) the company does not incur before 1 July 2008 an amount of $3,000,000 or more in expenditure on the project to which the large budget screen production grant relates.

49 New section CW 59C inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

50 New section CW 62B inserted

(1) *Amendments incorporated in the principal Act.*

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

52 Contributions to superannuation schemes

(1), (2) *Amendments incorporated in the principal Act.*

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

54 Section CX 28 replaced

(1) *Amendments incorporated in the principal Act.*

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

55 Section CX 39 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

56 Government grants to businesses

(1)–(3) *Amendments incorporated in the principal Act.*

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

(5) Subsection (2) applies for an amount derived by a company as a large budget screen production grant if—

(a) the final application for the large budget screen production grant is made on or after 1 October 2009; and

(b) the company does not incur before 1 July 2008 an amount of $3,000,000 or more in expenditure on the project to which the large budget screen production grant relates.

60 New heading and section CX 48D inserted

(1) *Amendments incorporated in the principal Act.*

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

63 Section CX 55 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) for a portfolio investment entity, including a life fund PIE, and the New Zealand Superannuation Fund, for the 2010–11 and later income years:

(b) for a life insurer, other than in relation to a life fund PIE,—

(i) on and after 1 July 2010, unless subparagraph (ii) applies:

(ii) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

68 Determining tax liabilities

(1), (2) *Amendments incorporated in the principal Act.*

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

69 Interest: not capital expenditure

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

70 Interest: most companies need no nexus with income

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

71 Interest: money borrowed to acquire shares in group companies

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

76 Portfolio investment entities: zero-rated portfolio investors and allocated losses

(1) *Amendments incorporated in the principal Act.*

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

81 New section DB 60B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for deductions accrued on or after 1 January 2008.

82 Contributions to employees' superannuation schemes

(1)–(3) *Amendments incorporated in the principal Act.*

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

83 Criteria for approval of share purchase schemes: before period of restriction ends

(1) *Amendments incorporated in the principal Act.*

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

87 Government grants to businesses

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for an amount derived by a company as a large budget screen production grant if—

(a) the final application for the large budget screen production grant is made on or after 1 October 2009; and

(b) the company does not incur before 1 July 2008 an amount of $3,000,000 or more in expenditure on the project to which the large budget screen production grant relates.

90 When attributed CFC loss arises

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (2) and (3) apply for all income years beginning on or after 1 July 2009.

91 When FIF loss arises

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

92 Section DO 11B repealed

(1) *Amendments incorporated in the principal Act.*

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

94 Sections DR 1 to DR 3 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

97 New section DT 1A inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for expenditure incurred on or after 4 March 2008.

99 Petroleum development expenditure

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for expenditure incurred on or after 1 April 2008.

102 Transfer of expenditure to master fund

(1)–(6) *Amendments incorporated in the principal Act.*

(7) Subsections (1) and (3) apply for the 2008–09 and 2009–10 income years.

(8) Subsections (2) and (4) apply for the 2010–11 and later income years.

103 Carry forward of expenditure

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (1) applies for the 2008–09 and 2009–10 income years.

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

104 New section DV 4B inserted and replaced

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for the 2008–09 and 2009–10 income years.

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

105 Investment funds: transfer of expenditure to master funds

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (1) applies for the 2008–09 and 2009–10 income years.

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

106 Formula for calculating maximum deduction

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (1) applies for the 2008–09 and 2009–10 income years.

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

107 Carry forward of expenditure

(1) *Amendments incorporated in the principal Act.*

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

109 New section DW 4 added

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) for an insurer who uses IFRS 4,—

(i) for the 2009–10 and later income years, unless subparagraph (ii) applies:

(ii) for the first income year for which an insurer adopts IFRSs for the purposes of financial reporting and later income years, if that first income year is before the 2009–10 income year and the person chooses to use IFRS 4 in a return of income for that first year:

(b) for a life insurer,—

(i) on and after 1 July 2010, unless subparagraph (ii) applies:

(ii) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

110 Section DX 2 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

114 New heading and section EC 26B inserted

(1) *Amendments incorporated in the principal Act.*

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

117 Pool method: calculating amount of depreciation

(1) *Amendments incorporated in the principal Act.*

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

120 Meaning of adjusted tax value

(1) *Amendments incorporated in the principal Act.*

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

121 Employer's superannuation contribution tax

(1), (2) *Amendments incorporated in the principal Act.*

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

127 Section EJ 12 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for expenditure incurred on or after 1 April 2008.

128 Relinquishing petroleum mining permit

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for expenditure incurred on or after 1 April 2008.

129 New sections EJ 13B and EJ 13C inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for expenditure incurred on or after 1 April 2008.

130 Disposal of petroleum mining asset

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for expenditure incurred on or after 1 April 2008.

131 Sections EJ 19 and EJ 20 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for expenditure incurred on or after 1 April 2008.

132 What is an excepted financial arrangement?

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) and (3) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies; or

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

135 IFRS financial reporting method

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (2) does not apply for a taxpayer and an income year if the taxpayer has,—

(a) before 30 June 2009, filed a return of income for the income year; and

(b) taken a tax position in the return which ignores subsection (2).

136 Determination alternatives

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (2) and (4) apply for the 2009–10 and later income years.

137 Expected value method

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsection (4) applies for the 2009–10 and later income years.

152 Associates and 10% threshold

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (2) applies for all income years beginning on or after 1 July 2009.

153 New section EX 18A inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

154 Formula for calculating attributed CFC income or loss

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

155 Taxable distribution from non-complying trust

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) to (3) apply for all income years beginning on or after 1 July 2009.

156 New heading and sections EX 20B to EX 20E inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

161 Branch equivalent income or loss: calculation rules

(1)–(16) *Amendments incorporated in the principal Act.*

(17) Subsections (1) to (6) and (9) to (14) apply for all income years beginning on or after 1 July 2009.

(18) Subsection (8) applies for the 2010–11 and later income years.

162 New heading and sections EX 21B to EX 21E inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

163 Heading and section EX 22 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

164 Section EX 23 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

165 Change of CFC's balance date

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

169 Exemption for Australian unit trusts with adequate turnover or distributions

(1) *Amendments incorporated in the principal Act.*

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

173 Limits on choice of calculation methods

(1)–(13) *Amendments incorporated in the principal Act.*

(14) Subsections (4) and (10) apply for the 2010–11 and later income years.

(15) Subsection (8) applies for all income years beginning on or after 1 July 2009.

176 Comparative value method

(1), (2) *Amendments incorporated in the principal Act.*

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

180 Additional FIF income or loss if CFC owns FIF

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (2) and (3) apply for all income years beginning on or after 1 July 2009.

181 Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method

(1)–(6) *Amendments incorporated in the principal Act.*

(7) Subsection (3) applies for the 2010–11 and later income years.

(8) Subsection (4) applies for the 2009–10 and later income years.

183 Changes in application of FIF exemptions

(1), (2) *Amendments incorporated in the principal Act.*

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

184 New section EX 66B inserted

(1) *Amendments incorporated in the principal Act.*

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

185 Sections EY 1 to EY 5 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act

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

186 Section EY 6 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

187 Meaning of claim

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

188 Superannuation schemes providing life insurance

(1)–(3) *Amendments incorporated in the principal Act.*

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

189 Meaning of life reinsurance

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply—

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

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

190 Sections EY 15 to EY 47 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act

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

193 Non-resident life insurers with life insurance policies in New Zealand

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsections (1) and (2) apply—

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

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

194 Deductions for disposal of property: 1982–83 and 1989–90 income years

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) to (4) apply—

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

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

195 Section EZ 31 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

197 Income and expenditure where financial arrangement redeemed or disposed of

(1) *Amendments incorporated in the principal Act.*

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

199 New headings and sections EZ 53 to EZ 62 added

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

202 New section FA 2B inserted

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies if a debt security is stapled to a share on or after 25 February 2008.

(4) Subsection (2) applies for all income years beginning on or after 1 July 2009.

203 Financial arrangements rules

(1) *Amendments incorporated in the principal Act.*

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

207 When this subpart applies

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

208 Section FE 3 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

209 Some definitions

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies for all income years beginning on or after 1 July 2009.

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

210 Thresholds for application of interest apportionment rules

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

211 Apportionment of interest by excess debt entity

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsection (3) applies for the 2008–09 and later income years.

(7) Subsections (1), (2), and (4) apply for all income years beginning on or after 1 July 2009.

212 Calculation of debt percentages

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) to (4) apply for all income years beginning on or after 1 July 2009.

214 Consolidation of debts and assets

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

215 Total group debt

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (2) applies for all income years beginning on or after 1 July 2009.

216 Total group assets

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

217 Measurement of debts and assets of worldwide group

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) to (4) apply for all income years beginning on or after 1 July 2009.

218 Banking group's New Zealand net equity

(1)–(9) *Amendments incorporated in the principal Act.*

(10) Subsection (3) applies for all income years beginning on or after 1 July 2009.

(11) Subsections (2), (6), and (8) apply for the 2010–11 and later income years.

219 New Zealand group for excess debt entity that is a company

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

220 Identifying New Zealand parent

(1)–(10) *Amendments incorporated in the principal Act.*

(11) Subsections (1) to (9) apply for all income years beginning on or after 1 July 2009.

221 Section FE 28 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

222 Section FE 29 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

223 Ownership interests in companies outside New Zealand group

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for all income years beginning on or after 1 July 2009.

224 Worldwide group for corporate excess debt entity

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for all income years beginning on or after 1 July 2009.

225 New sections FE 31B and FE 31C inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

226 Section FE 32 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

227 Identifying members of New Zealand banking group

(1)–(4) *Amendments incorporated in the principal Act.*

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

228 Subpart FF repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

229 Consolidation rules

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

230 Some general rules for treatment of consolidated groups

(1)–(6) *Amendments incorporated in the principal Act.*

(7) Subsections (1) to (3) and (5) apply for all income years beginning on or after 1 July 2009.

231 Heading and sections FM 24 to FM 26 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

232 Eligibility rules

(1)–(3) *Amendments incorporated in the principal Act.*

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

234 Trans-Tasman imputation groups and resident imputation subgroups

(1), (2) *Amendments incorporated in the principal Act.*

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

235 Amortising property

(1) *Amendments incorporated in the principal Act.*

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

237 New sections GB 15B and GB 15C inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

238 Attribution rule for income from personal services

(1)–(3) *Amendments incorporated in the principal Act.*

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

(5) Subsection (2) applies for all income years beginning on or after 1 July 2009.

240 Section GB 39 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

246 Insufficient amount receivable by person

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

247 Compensating arrangement: person receiving more than arm's length amount

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

248 Requests for matching treatment

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

249 Section GC 12 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

251 Shareholding requirements

(1), (2) *Amendments incorporated in the principal Act.*

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

252 New section HA 8B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

253 Limit on foreign non-dividend income

(1) *Amendments incorporated in the principal Act.*

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

254 When requirements no longer met

(1) *Amendments incorporated in the principal Act.*

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

256 Fully imputed distributions

(1), (2) *Amendments incorporated in the principal Act.*

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

257 Section HA 16 replaced

(1) *Amendments incorporated in the principal Act.*

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

259 Calculating qualifying company election tax

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for all income years beginning on or after 1 July 2009.

260 Corpus of trust

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for all income years beginning on or after 1 July 2009.

261 Trustee income

(1) *Amendments incorporated in the principal Act.*

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

263 Distributions from community trusts

(1) *Amendments incorporated in the principal Act.*

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

264 Who is a settlor?

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies, for the purposes of—

(a) provisions other than the land provisions, for the 2010–11 and later income years:

(b) the land provisions other than section CB 11, for land acquired on or after the date on which this Act receives the Royal assent:

(c) section CB 11, for land on which improvements are begun on or after the date on which this Act receives the Royal assent.

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

265 Liability of trustee as agent

(1) *Amendments incorporated in the principal Act.*

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

266 Beneficiary income of minors

(1) *Amendments incorporated in the principal Act.*

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

269 General provisions relating to disposals

(1), (2) *Amendments incorporated in the principal Act.*

(3) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsections (1) and (2) apply for income years starting on and after 1 April 2008.

270 Section HG 4 replaced

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

271 Disposal of partner's interests

(1)–(3) *Amendments incorporated in the principal Act.*

(4) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsections (1) and (2) apply for income years starting on and after 1 April 2008.

272 Disposal of trading stock

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

273 Disposal of depreciable property

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

274 Disposal of financial arrangements and certain excepted financial arrangements

(1) *Amendments incorporated in the principal Act.*

(2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (1) applies for income years starting on and after 1 April 2008.

275 Disposal of short-term agreements for the sale and purchase of property or services

(1)–(3) *Amendments incorporated in the principal Act.*

(4) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, subsection (2) applies for income years starting on and after 1 April 2008.

276 Section HG 10 replaced

(1) *Amendments incorporated in the principal Act.*

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

293 Transitional residents

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) to (5) apply for the 2008–09 and later income years.

294 New heading and sections HR 9 and HR 10 added

(1) *Amendments incorporated in the principal Act.*

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

296 Restrictions relating to ring-fenced tax losses

(1)–(6) *Amendments incorporated in the principal Act.*

(7) Subsection (1) applies—

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

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

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

(9) Subsection (4) applies for the 2010–11 and later income years.

297 Restrictions relating to schedular income

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (3) apply—

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

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

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

298 Common ownership: group of companies

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies for the 2008–09 and 2009–10 income years.

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

300 Pre-consolidation losses: use by group companies

(1), (2) *Amendments incorporated in the principal Act.*

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

301 When this subpart applies

(1) *Amendments incorporated in the principal Act.*

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

302 Ring-fencing cap on attributed CFC net losses

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

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

303 New section IQ 2B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

304 Ring-fencing cap on FIF net losses

(1)–(3) *Amendments incorporated in the principal Act.*

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

307 Subpart IT replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

310 New section LA 8B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

311 Use of tax credits

(1) *Amendments incorporated in the principal Act.*

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

314 Tax credits for families

(1)–(4) *Amendments incorporated in the principal Act.*

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

315 Tax credits related to personal service rehabilitation payments: providers

(1) *Amendments incorporated in the principal Act.*

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

316 Tax credits related to personal service rehabilitation payments: payers

(1) *Amendments incorporated in the principal Act.*

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

324 Tax credits for imputation credits

(1)–(5) *Amendments incorporated in the principal Act.*

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

(7) Subsection (3) applies for the 2010–11 and later income years.

325 Use of remaining credits by companies and trustees

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) to (4) apply—

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

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

326 New section LE 2B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

327 Use of remaining credits by others

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies—

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

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

335 What this subpart does

(1), (2) *Amendments incorporated in the principal Act.*

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

336 Tax credits for foreign income tax

(1)–(5) *Amendments incorporated in the principal Act.*

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

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

338 Calculation of New Zealand tax

(1)–(4) *Amendments incorporated in the principal Act.*

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

339 Section LJ 7 replaced by new sections LJ 7 and LJ 8

(1) *Amendments incorporated in the principal Act.*

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

340 Tax credits relating to attributed CFC income

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsection (2) applies for all income years beginning on or after 1 July 2009.

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

341 Calculation of amount of credit

(1) *Amendments incorporated in the principal Act.*

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

342 New section LK 5B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

343 Subpart LL repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

344 Use of remaining credits

(1) *Amendments incorporated in the principal Act.*

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

345 Continuity rules for carrying credits forward

(1), (2) *Amendments incorporated in the principal Act.*

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

346 Sections LQ 1 to LQ 4 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

349 Meaning of full-time earner for family scheme

(1)–(3) *Amendments incorporated in the principal Act.*

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

354 Third requirement: residence

(1) *Amendments incorporated in the principal Act.*

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

355 When person does not qualify

(1), (2) *Amendments incorporated in the principal Act.*

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

356 Continuing requirements

(1)–(3) *Amendments incorporated in the principal Act.*

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

357 Principal caregiver

(1) *Amendments incorporated in the principal Act.*

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

358 Second requirement: principal care

(1) *Amendments incorporated in the principal Act.*

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

359 Third requirement: residence

(1) *Amendments incorporated in the principal Act.*

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

360 Fifth requirement: full-time earner

(1)–(3) *Amendments incorporated in the principal Act.*

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

361 Calculation of in-work tax credit

(1) *Amendments incorporated in the principal Act.*

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

363 Meaning of net family scheme income

(1)–(3) *Amendments incorporated in the principal Act.*

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

364 Recovery of overpaid tax credit

(1) *Amendments incorporated in the principal Act.*

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

365 Section MF 6 replaced

(1) *Amendments incorporated in the principal Act.*

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

371 New section MZ 3 added

(1) *Amendments incorporated in the principal Act.*

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

372 Memorandum accounts

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

373 Credits

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply—

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

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

374 Debits

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies—

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

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

375 Opening balances of memorandum accounts

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies—

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

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

377 Section OA 12 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

378 General rules for companies with imputation credit accounts

(1)–(6) *Amendments incorporated in the principal Act.*

(7) Subsections (1), (2), and (4) apply for the 2008–09 and later income years.

(8) Subsection (3) applies for the 2010–11 and later income years.

380 New section OB 3B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

381 ICA payment of tax

(1)–(3) *Amendments incorporated in the principal Act.*

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

(5) Subsection (1) applies—

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

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

382 ICA resident withholding tax withheld

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies—

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

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

385 Section OB 11 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for dividends received in all income years beginning on or after 1 July 2009.

386 Section OB 17 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

387 ICA transfer to master fund

(1) *Amendments incorporated in the principal Act.*

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

388 ICA refund of income tax

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies—

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

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

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

389 ICA amount applied to pay other taxes

(1), (2) *Amendments incorporated in the principal Act.*

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

390 ICA refund from tax pooling account

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for a tax position taken on or after 1 April 2008 except for a tax position taken by a company when—

(a) the company has received a refund of the type referred to in section OB 34(1); and

(b) the refund is received in the company's 2008–09 income year but before 2 July 2008; and

(c) the company has relied on section OB 34(4), as it was before the amendment made by this section, to determine the date of the debit.

392 New section OB 35B inserted

(1) *Amendments incorporated in the principal Act.*\

(2) Subsection (1) applies—

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

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

393 ICA refund of tax credit

(1), (2) *Amendments incorporated in the principal Act.*

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

395 Section OB 39 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

396 Section OB 47 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

397 ICA benchmark dividend rules

(1) *Amendments incorporated in the principal Act.*

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

398 Imputation additional tax on leaving wholly-owned group

(1)–(4) *Amendments incorporated in the principal Act.*

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

399 Table O1: imputation credits

(1)–(5) *Amendments incorporated in the principal Act.*

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

(7) Subsection (3) applies for all income years beginning on or after 1 July 2009.

(8) Subsection (4) applies for the 2008–09 and later income years.

(9) Subsection (5) applies—

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

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

400 Table O2: imputation debits

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) and (4) apply—

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

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

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

(7) Subsection (3) applies for all income years beginning on or after 1 July 2009.

401 General rules for companies with FDP accounts

(1)–(3) *Amendments incorporated in the principal Act.*

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

(5) Subsection (2) applies for all income years beginning on or after 1 July 2009.

402 New section OC 2B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

403 When company chooses to stop being FDPA company

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

404 When company emigrates

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

405 Section OC 6 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for dividends received in all income years beginning on or after 1 July 2009.

406 Section OC 8 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

407 Section OC 9 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

408 Section OC 10 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

409 FDPA refund of tax credit

(1), (2) *Amendments incorporated in the principal Act.*

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

410 Section OC 20 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

411 Section OC 23 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

413 Payment of further FDP for closing debit balance

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) to (3) apply for all income years beginning on or after 1 July 2009.

414 Payment of further FDP when company no longer New Zealand resident

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) to (3) apply for all income years beginning on or after 1 July 2009.

415 Reduction of further FDP

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for all income years beginning on or after 1 July 2009.

416 Section OC 33 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

417 Section OC 34 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

418 Heading and sections OC 35 to OC 39 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

419 Table O3: FDP credits

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

420 Table O4: FDP debits

(1), (2) *Amendments incorporated in the principal Act.*

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

(4) Subsection (2) applies—

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

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

424 Section OD 5 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

425 Section OD 8 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

426 Section OD 11 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

428 Section OD 23 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

429 Section OD 24 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

433 Heading and sections OE 12 and OE 13 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for dividends received in all income years beginning on or after 1 July 2009.

434 Sections OE 14 to OE 16 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

437 Table O8 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

439 Subpart OJ repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

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

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

440 MACA payment of tax

(1) *Amendments incorporated in the principal Act.*

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

441 MACA refund of income tax

(1) *Amendments incorporated in the principal Act.*

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

442 MACA payment of other taxes

(1) *Amendments incorporated in the principal Act.*

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

443 New section OK 14B inserted

(1) *Amendments incorporated in the principal Act.*

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

444 Table O18: Maori authority debits

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

445 When credits and debits arise only in consolidated imputation group accounts

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies for all income years beginning on or after 1 July 2009.

(5) Subsections (2) and (3) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

446 Provisions applying to consolidated imputation groups

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for the 2008–09 and later income years.

447 Consolidated ICA payment of tax

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

(5) Subsection (2) applies for the 2008–09 and later income years.

448 Section OP 14 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

449 Consolidated ICA resident withholding tax withheld

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

450 Section OP 20 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

451 Section OP 21 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

452 Consolidated ICA refund of income tax

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) and (2) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

(6) Subsection (3) applies for the 2008–09 and later income years.

453 Consolidated ICA amount applied to pay other taxes

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

454 New section OP 33B inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

455 Consolidated ICA refund of tax credit

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for the 2008–09 and later income years.

456 Section OP 38 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

458 Section OP 44 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

459 Table O19: imputation credits of consolidated imputation groups

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

(4) Subsection (2) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

460 Table O20: imputation debits of consolidated imputation groups

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) and (5) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

(7) Subsections (2) and (4) apply for the 2008–09 and later income years.

(8) Subsection (3) applies for all income years beginning on or after 1 July 2009.

461 When credits and debits arise only in consolidated FDP group accounts

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

(4) Subsection (2) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

462 Section OP 56 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

463 Section OP 57 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

464 Section OP 61 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

465 Section OP 62 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

466 Consolidated FDPA refund of tax credit

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

467 Section OP 74 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

468 Table O21: FDP credits of consolidated FDP groups

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

469 Table O22: FDP debits of consolidated FDP groups

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

(4) Subsection (2) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

472 Section OP 81 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

473 Section OP 82 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

474 Section OP 88 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

475 Section OP 95 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

478 Section OP 99 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

479 Heading and sections OP 105 to OP 108 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

482 Table O26 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

483 Headings and sections OP 109 to OP 116 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

484 Tables O27 and O28 repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

485 ASCA lost excess available subscribed capital

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

486 Modifying ratios for imputation credits and FDP credits

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

488 What this Part does

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

489 Tax obligations for employment-related taxes

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) to (3) apply for the 2008–09 and later income years.

490 Withholding and payment obligations for passive income

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies for all income years beginning on or after 1 July 2009.

(5) Subsection (2) applies for the 2008–09 and later income years.

491 When obligations not met

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (1) applies for the 2008–09 and later income years.

(6) Subsection (2) applies for all income years beginning on or after 1 July 2009.

492 Payment dates for interim and other tax payments

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (1) applies for the 2008–09 and later income years. However, subsection (1) does not apply to a person in relation to a tax position taken by the person—

(a) in the period from 1 April 2008 to the date of Royal assent of this Act; and

(b) in relation to the payment of FDP; and

(c) relying upon section RA 15(2) prior to the amendment made by subsection (1).

(6) Subsection (3) applies for all income years beginning on or after 1 July 2009.

493 Amalgamation of companies

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for the 2008–09 and later income years.

494 Regulations

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

496 Payment of terminal tax

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

497 Schedular income tax liability for filing taxpayers for non-resident passive income

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

500 Attribution rule for income from personal services

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for the 2008–09 and later income years.

503 PAYE income payments

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (2) and (3) apply for the 2008–09 and later income years. However, subsections (2) and (3) do not apply to a person in relation to a tax position taken by the person—

(a) in the period from 1 April 2008 to the date of Royal assent of this Act; and

(b) relating to the treatment of an amount of income; and

(c) relying upon section RD 3(3) and (4) as they were prior to the amendment made by subsections (2) and (3).

504 Salary or wages

(1)–(8) *Amendments incorporated in the principal Act.*

(9) Subsections (1), (2), and (6) apply for the 2008–09 and later income years.

(10) Subsections (3) and (4) apply for the 2008–09 and later income years.

507 Reduction in certain circumstances

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsection (1) applies for the 2008–09 and later income years.

508 Multiple payments of salary or wages

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for the 2009–10 and later income years.

509 Advance payments of salary or wages

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

512 Schedular payments without notification

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

514 PAYE income payment forms for amounts of tax paid to Commissioner

(1)–(10) *Amendments incorporated in the principal Act.*

(11) Subsections (4) and (7) apply for the 2008–09 and later income years.

517 Close company option

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) and (3) apply for the 2008–09 and later income years.

518 Small business option

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) and (3) apply for the 2008–09 and later income years.

519 Employer's superannuation contributions

(1)–(12) *Amendments incorporated in the principal Act.*

(13) Subsections (1) to (6) and (8) to (11) apply for the 2008–09 and later income years.

521 Choosing to have amount treated as salary or wages

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) to (3) apply for the 2008–09 and later income years.

523 Calculating amounts on failure to withhold

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for the 2008–09 and later income years.

524 Amounts of tax treated as paid to and received by superannuation funds

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for the 2008–09 and later income years.

525 Resident passive income

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for the 2008–09 and later income years. However, subsections (1) and (2) do not apply to a person in relation to a tax position taken by the person—

(a) in the period from 1 April 2008 to 3 December 2008; and

(b) in relation to the payment of an amount of resident passive income to a non-resident engaged in business in New Zealand; and

(c) relying upon section RE 2 as it was prior to the amendment made by subsections (1) and (2).

526 Obligation to withhold RWT

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

527 Persons who have withholding obligations

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

528 Agents' or trustees' obligations in relation to certain dividends

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for all income years beginning on or after 1 July 2009.

529 Notification by companies

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

530 Interest

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

531 Non-resident passive income

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) and (2) apply for the 2008–09 and later income years.

(7) Subsection (4) applies for the 2008–09 and later income years. However, subsection (4) does not apply to a person in relation to a tax position taken by the person—

(a) in the period from 1 April 2008 to 3 December 2008; and

(b) in relation to a payment of non-resident passive income; and

(c) relying on section RF 2(5) as it was prior to the amendment made by subsection (4).

(8) Subsection (3) applies for the 2010–11 and later income years.

533 When dividends fully imputed or fully credited

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

534 Non-cash dividends

(1)–(5) *Amendments incorporated in the principal Act.*

(6) Subsections (1) and (3) apply for the 2008–09 and later income years.

536 Section RF 12 replaced by sections RF 12 to RF 12C

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

540 Subpart RG repealed

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

543 Using refund to satisfy tax liability

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (1) applies for the 2008–09 and later income years.

544 Operation of PAYE intermediaries' trust accounts

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsections (1) to (3) apply for the 2008–09 and later income years.

545 General responsibility of employers

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for the 2008–09 and later income years.

547 Employer's superannuation contributions

(1)–(3) *Amendments incorporated in the principal Act.*

(4) Subsections (1) and (2) apply for the 2008–09 and later income years.

548 General responsibilities of PAYE intermediaries

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies for the 2008–09 and later income years.

557 Definitions

(1) This section amends section YA 1.

(2)–(223) *Amendments incorporated in the principal Act.*

(224) Subsections (7) and (141) apply—

(a) for an insurer who uses IFRS 4,—

(i) for the 2009–10 and later income years, unless subparagraph (ii) applies:

(ii) for the first income year for which an insurer adopts IFRSs for the purposes of financial reporting and later income years, if that first income year is before the 2009–10 income year and the person chooses to use IFRS 4 in a return of income for that first year:

(b) for a life insurer,—

(i) on and after 1 July 2010, unless subparagraph (ii) applies:

(ii) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

(225) Subsections (5), (10), (29), (36), (42), (51), (54), (55), (57), (58), (59), (62), (68), (84), (88), (99), (109), (119), (130), (134), (144), (145), (146), (184), (187), (193), (195), (198), (199), (214), and (217) apply for the 2008–09 and later income years.

(226) Subsections (6), (12), (20), (27), (33), (35), (46), (56), (65), (67), (72), (87), (90), (112), (113), (120), (122), (124), (151), (152), (153), (161), (162), (163), (168), (169), (172), (178), (189), (190), (194), (201), (205), (207), (218), and (219) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act

in a return of income for the tax year corresponding to the first relevant income year.

(227) Subsections (2), (3), (4), (13), (15), (31), (44), (91), (100), (107), (115), (179), (180), and (196) apply, for the purposes of—

(a) provisions other than the land provisions, for the 2010–11 and later income years:

(b) the land provisions other than section CB 11, for land acquired on or after the date on which this Act receives the Royal assent:

(c) section CB 11, for land on which improvements are begun on or after the date on which this Act receives the Royal assent.

(228) Subsections (50) and (52) apply for the 2008–09 and later income years. However, subsections (50) and (52) do not apply to a person in relation to a tax position taken by the person—

(a) in the period from 1 April 2008 to 3 December 2008; and

(b) in relation to the rate of tax applying to a schedular payment; and

(c) relying on the definition of **employee** or **employer**, as applicable, as the definition was before the amendment made by subsections (50) and (52).

(229) Subsections (8), (9), (11), (14), (16), (22), (23), (30), (34), (38), (40), (41), (43), (61), (70), (71), (74), (75), (77), (78), (79), (80), (89), (94), (96), (104), (117), (123), (128), (129), (182), (183), (185), (203), (208), (211), (212), (213), (215), and (216) apply for all income years beginning on or after 1 July 2009.

558 Meaning of income tax varied

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

563 Table, heading, and sections YB 1 to YB 20 replaced

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies, for the purposes of—

(a) provisions other than the land provisions, for the 2010–11 and later income years:

(b) the land provisions other than section CB 11, for land acquired on or after the date on which this Act receives the Royal assent:

(c) section CB 11, for land on which improvements are begun on or after the date on which this Act receives the Royal assent.

568 Disregarding certain securities

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

571 Residence of natural persons

(1)–(4) *Amendments incorporated in the principal Act.*

(5) Subsection (2) applies for the 2009–10 and later income years.

572 Country of residence of foreign companies

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

576 New section YZ 2 inserted

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

577 Schedule 1—Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in this Act in a return of income for the tax year corresponding to the first relevant income year.

579 Schedule 4—Rates of tax for schedular payments

(1)–(7) *Amendments incorporated in the principal Act.*

(8) Subsections (3) to (7) apply for the 2008–09 and later income years.

580 Schedule 5—Fringe benefit values for motor vehicles

(1) *Amendments incorporated in the principal Act.*

(2) Subsection (1) applies for the 2008–09 and later income years.

581 Schedule 13—Depreciable land improvements

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

582 Schedule 20—Expenditure on farming, horticultural, aquacultural, and forestry improvements

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

585 Schedule 25—Foreign investment funds

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsection (2) applies for the 2008–09 and later income years.

589 Schedule 32—Recipients of charitable or other public benefit gifts

(1), (2) *Amendments incorporated in the principal Act.*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009

Public Act	2009 No 63
Date of assent	7 December 2009
Commencement	see section 2

1 Title

This Act is the Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009.

2 Commencement

(1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in this section.

(2) Sections 102 and 118(20) come into force on the day that the New Zealand Superannuation and Retirement Income Amendment Act 2009 comes into force.

(3) Section 164 is treated as coming into force on 1 April 1995.

(4) Sections 149, 150, 151, 152, 153, 155, 157, 158, 160, 161, 162(2), (5), (6), (7), (8), and (9), and 163, and schedule 2, rows 1, and 3 to 13 are treated as coming into force on 1 April 2005.

(5) Sections 146 and 162(3) are treated as coming into force on 1 July 2007.

(6) Section 159 and schedule 2, row 2 are treated as coming into force on 1 October 2007.

(7) Section 154 is treated as coming into force on 19 December 2007.

(8) Section 162(4) is treated as coming into force on 25 February 2008.

(9) Section 156 is treated as coming into force on 4 March 2008.

(10) Sections 4, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 26, 29, 31, 40, 41, 42, 44, 45, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 80(1), 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 104(1), 105, 106, 107, 110, 111, 112, 113, 116, 117, 118(2), (3), (4), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (24), (26), (27), (29), (31), (32), and (33), 121, 122(1), 123(1), 125, 126, 135, 139, and schedule 1, rows 2 to 17, 20, 22, 23, and 27 to 44 are treated as coming into force on 1 April 2008.

(11) Sections 19, 30, 43, and schedule 1, row 21 are treated as coming into force on 1 April 2009.

(12) Sections 23, 24, 25, 27, 28, and schedule 1, row 18 are treated as coming into force on 30 June 2009.

(13) Sections 147 and 165 are treated as coming into force on 1 July 2009.

(14) Sections 166 and 167 are treated as coming into force on 7 October 2009.

(15) Sections 74, 75, and 76 come into force on 7 January 2010.

(16) Sections 78(1), 114, 115, 118(21), and schedule 1, row 35 come into force on 1 February 2010.

(17) Sections 8, 9, 21, 22, 39, 46, 47, 48, 49, 50, 51, 52, 83, 103, 104(2), 108, 109, 118(5), (18), (22), (23), (25), and (36), 120, 122(2), (4), (5), and (6), 123(2) and (3), 124, 130, 131, 132, 133, and 134(1), (2), (3), (4), (5), (6), and (7), and schedule 1, rows 24 to 26 come into force on 1 April 2010.

(18) Sections 32, 33, 34, 35, 36, 37, 38, 118(6), (19), (28), and (34), and schedule 1, row 19 come into force on 1 July 2010.

(19) Sections 77, 78(2), (3), and (5), 118(35), 119, 122(3), and schedule 1, row 37 comes into force on 1 April 2011.

(20) Sections 73, 78(4) and (6), 79, 80(2), 81, 82, 118(30) and (40), and schedule 1, row 36 come into force on 1 April 2013.

Part 1
Amendments to Income Tax Act 2007

11 Research or development

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

14 Cost of acquiring timber or right to take timber: other cases

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

15 Section DP 11 replaced

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

16 Acquiring film rights

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

18 Meaning of income from forestry

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

19 Determination alternatives

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2009–10 and later income years.

23 Attributable CFC amount

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply for all income years beginning on or after 1 July 2009.

26 Attributable CFC amount and net attributable CFC income or loss

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

27 Non-attributing active CFC: default test

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for all income years beginning on or after 1 July 2009.

28 Non-attributing active CFC: test based on accounting standard

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply for all income years beginning on or after 1 July 2009.

29 Exemption for Australian unit trusts with adequate turnover or distributions

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

33 Policyholder base income: profit participation policies

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) Subsections (1) to (4) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

34 Policyholder base allowable deductions: profit participation policies

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters)

Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

36 Shareholder base income: profit participation policies

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

37 Shareholder base allowable deductions: profit participation policies

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

38 Transitional adjustments: life risk

(1)–(11) *Amendment(s) incorporated in the Act(s).*

(12) Subsections (1) to (11) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

41 Attribution rule for income from personal services

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

43 Beneficiary income

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply for income years corresponding to the 2009–10 and later tax years.

44 Who is a settlor?

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years. However, subsection (1) does not apply to a person in relation to a tax position taken by the person—

(a) in the period that starts on the first day of the 2008–09 income year and ends on the date of Royal assent of this Act; and

(b) in relation to a payment to an employee share purchase agreement in consideration of a valid salary sacrifice made by the employee; and

(c) relying upon paragraph (a)(i) of the definition of **settlor** in the Income Tax Act 2004, that the term **settlor** in the trust rules, and in the definitions of **corpus**, **foreign trust**, and **settlement**, for a trust other than a unit trust, means a person who makes, or has made at any time, a disposition of property to or for the benefit of the trust or on terms of the trust for less than market value.

54 Tax losses

(1)–(9) *Amendment(s) incorporated in the Act(s).*

(10) Subsections (1) to (9) apply for the 2008–09 and later income years.

55 Using tax losses in tax year

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

56 Using loss balances carried forward to tax year

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

57 Restrictions on companies' loss balances carried forward

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply for the 2008–09 and later income years.

58 Restrictions on companies grouping tax losses

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

59 Restrictions relating to ring-fenced losses

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply for the 2008–09 and later income years.

61 New section IQ 1B inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

65 Pre-consolidation losses: general treatment

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

66 When group membership lacking in loss period

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

67 When group membership lacking in tax year of use

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

68 General treatment of mining companies' tax losses

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply for the 2008–09 and later income years.

69 Treatment of tax losses resulting from certain expenditure

(1)–(6) *Amendment(s) incorporated in the Act(s).*

(7) Subsections (1) to (6) apply for the 2008–09 and later income years.

71 Petroleum miners' tax losses

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

84 Adjustments for calculation of family scheme income

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

85 Calculation of maximum permitted ratios

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

87 ICA debit for loss of shareholder continuity

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

89 FDPA debit for loss of shareholder continuity

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

93 MACA debit for loss of shareholder continuity

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

95 Consolidated ICA debit for loss of shareholder continuity

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

97 Consolidated FDPA debit for loss of shareholder continuity

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

101 Amounts treated as income tax

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

104 Payment of extra pay with other PAYE income payments

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsection (1) applies for the 2008–09 and later income years.

(4) Subsection (2) applies for the 2010–11 and later income years.

105 RWT rules and their application

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

106 Resident passive income

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

107 New section RE 10B inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

110 When payment treated as non-resident passive income

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

111 NRWT rules and their application

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

112 Obligation to withhold amounts of tax for non-resident passive income

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

113 When amounts of tax not withheld or partly withheld

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

117 Overpaid RWT or NRWT

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

118 Definitions

(1) This section amends section YA 1.

(2)–(36) *Amendment(s) incorporated in the Act(s).*

(37) Subsections (2), (3), (4), (7), (8), (9), (10), (11), (12), (13), (14), (17), (27), (29), (31), (32), and (33) apply for the 2008–09 and later income years.

(38) Subsections (5), (18), (22), (25), and (36) apply for the 2010–11 and later income years.

(39) Subsections (6), (19), (28), and (34) apply—

- (a) on and after 1 July 2010, unless paragraph (b) applies:
- (b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

(40) Subsection (30) applies for the 2013–14 and later income years.

121 Transparency of nominees

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years.

122 Schedule 1—Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits

(1)–(6) *Amendment(s) incorporated in the Act(s).*

(7) Subsection (1) applies for the 2008–09 and later income years.

(8) Subsections (2), (4), (5), and (6) apply for the 2010–11 and later income years.

(9) Subsection (3) applies for the 2011–12 and later income years.

123 Schedule 2—Basic tax rates for PAYE income payments

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsection (1) applies for the 2008–09 and later income years.

(5) Subsections (2) and (3) apply for the 2010–11 and later income years.

125 Schedule 51—Identified changes in legislation

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for the 2008–09 and later income years.

Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010

Public Act	2010 No 109
Date of assent	7 September 2010
Commencement	see section 2

1 Title

This Act is the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010.

2 Commencement

(1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.

(2) Section 195(2) is treated as coming into force on 24 May 1999.

(3) Section 198 is treated as coming into force on 21 December 2004.

(4) Section 192 is treated as coming into force on 1 January 2005.

(5) Sections 199, 202, 207(1) and (3), 208, and 211(1) and (3) are treated as coming into force on 1 April 2005.

(6) Sections 200, 201, and 207(2) are treated as coming into force on 1 April 2007.

(7) Sections 66, 131, 134, 135, 170, 204, 205, and 206 are treated as coming into force on 1 October 2007.

(8) Sections 197 and 203 are treated as coming into force on 19 December 2007.

(9) Sections 5, 10, 11, 17, 25, 26, 27, 30, 31, 36, 37, 38, 42, 52, 53, 54, 55, 57, 58, 59, 60, 61, 63, 64, 65, 75, 81, 82, 83, 84, 86, 87, 89, 90, 92, 95, 97, 98, 99, 100, 105,106, 107, 108, 112, 116, 117(2), (4), (5), (8), (10), (23), (28), and (33), 118, 119, 121(1), (2), and (4), 127, 128, 130(1) to (3), 136, 138, 145, 195(5), and 211(2) and (4) are treated as coming into force on 1 April 2008.

(10) Section 195(4) is treated as coming into force on 1 July 2008.

(11) Section 56 is treated as coming into force on 26 September 2008.

(12) Sections 6(1), (2), (3), and (5)(b), 20, 21, 28(1) and (5)(b) and 117(9), (18), (22), and (24) are treated as coming into force on 1 January 2009.

(13) Section 117(12) is treated as coming into force on 1 April 2009.

(14) Sections 43, 44, 103, 104, 109, 110, and 149(1) are treated as coming into force on 30 June 2009.

(15) Sections 178, 179, and 180 are treated as coming into force on 7 October 2009.

(16) Section 14 is treated as coming into force on 31 December 2009.

(17) Sections 23, 32 to 35, 117(11) and (14), and 126(3) are treated as coming into force on 1 January 2010.

(18) Sections 101 and 102 are treated as coming into force on 1 March 2010.

(19) Sections 7, 8, 9, 19, 24, 67, 70, 72(3) and (4), 73, 74, 80, 91, 93, 113, 115, 117(13), (15), (19), (20), (21), (29), and (34), 120, 121(3), 122, 123, 124, 126(6), 129, 130(4) and (5), 137, and 186 are treated as coming into force on 1 April 2010.

(20) Sections 76, 77, 78, 79, and 117(6), (25), and (31) are treated as coming into force on 1 June 2010.

(21) Sections 6(4) and (5)(a), 18, 22, 28(2), (3), (4), and (5)(a), 29, 45, 46, 47, 48, 49, 50, 85, 117(7), (26), and (35), 189(3), and 191 are treated as coming into force on 1 July 2010.

(22) Sections 39 to 41 and 51 come into force on 26 September 2010.

(23) Sections 69, 71, 72(1) and (2), and 111 come into force on 1 October 2010.

(24) Sections 12, 16, 68, 88, 96, 114, 117(16), (27), (30), and (32), 132, 133, and 173 come into force on 1 April 2011.

(25) Sections 13, 94, 117(3) and (17), 176(1) and (3), 183, 184, 188, and 189(1), (2), (4), and (5) come into force on the first day of the second month after the month in which the Governments of Australia and New Zealand exchange notes, as provided by clause 21 of the Arrangement between them on trans-Tasman retirement savings portability.

Part 2
Amendments to Income Tax Act 2007

17 Benefits provided to employees who are shareholders or investors

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1)—

(a) applies for the 2008–09 and later income years, except if paragraph (b) applies:

(b) does not apply for a person and an income year in relation to a tax position taken for the income year by the person—

(i) in the period from 1 April 2008 to the date of the Royal assent of this Act; and

(ii) in a return of income, an FBT return, or a GST return filed before the date of the Royal assent of this Act; and

(iii) relying upon section CX 17(4) as it was before the amendment made by subsection (1).

27 Apportionment on disposal of business assets that include trading stock

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1)—

(a) applies for the 2008–09 and later income years, except if paragraph (b) applies:

(b) does not apply for a person and an income year in relation to a tax position taken by the person—

(i) in a return of income filed before 28 October 2009; and

(ii) relating to an apportionment of an amount on a disposal of trading stock and other assets; and

(iii) relying on section EB 24(1) as it was before the amendment made by subsection (1).

42 Meaning of controlled foreign company

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1)—

(a) applies for the 2008–09 and later income years, except if paragraph (b) applies:

(b) does not apply for a person in relation to a tax position taken by the person—

(i) before 19 November 2009; and

(ii) relying on the provision amended by this section as it was immediately before the amendment made by this section.

45 Part-year tax calculations

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) to (3) apply—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

46 Outstanding claims reserving amount: non-participation policies not annuities

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters)

Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

47 Premium smoothing reserving amount: non-participation policies not annuities

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

48 Unearned premium reserving amount: non-participation policies not annuities

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

49 Capital guarantee reserving amount: non-participation policies not annuities

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

50 Transitional adjustments: life risk

(1)–(16) *Amendment(s) incorporated in the Act(s).*

(17) Subsections (1) to (15) apply—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

54 Disposals of trading stock at below market value

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1)—

(a) applies for the 2008–09 and later income years, except if paragraph (b) applies:

(b) does not apply for a person and an income year in relation to a tax position taken by the person—

(i) in a return of income filed before 28 October 2009; and

(ii) relating to a disposal of trading stock; and

(iii) relying on section GC 1 as it was before the replacement made by subsection (1).

117 Definitions

(1) This section amends section YA 1.

(2)–(32) *Amendment(s) incorporated in the Act(s).*

(33) Subsections (2), (5), (8), (23), and (28) apply for the 2008–09 and later income years.

(34) Subsection (13) applies for the 2010–11 and later income years.

(35) Subsection (26) applies—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

121 Schedule 4—Rates of tax for schedular payments

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsection (2) applies to a payment for work and services made in the 2008–09 and later income years, other than a payment—

(a) for work or services performed before the day that this Act receives the Royal assent; and

(b) from which the payer is not obliged to withhold an amount of tax, ignoring subsection (2).

Taxation (GST and Remedial Matters) Act 2010

Public Act	2010 No 130
Date of assent	20 December 2010
Commencement	see section 2

1 Title

This Act is the Taxation (GST and Remedial Matters) Act 2010.

2 Commencement

(1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in this section.

(2) Section 184 is treated as coming into force on 1 January 2005.

(3) Sections 164, 165, 168, and 170 are treated as coming into force on 1 April 2005.

(4) Section 169 is treated as coming into force on 1 April 2006.

(5) Sections 166 and 167 are treated as coming into force on 1 October 2007.

(6) Section 12 is treated as coming into force on 30 November 2007.

(7) Sections 28, 30, 37(1), 38, 41, 51, 52, 65, 66, 82, 83, 106, 108, 113, 117, 118, 119, 125, 126(1) and (3), 127, 128, 132(30), (32), and (46), 133, 141, 146(2), (4), (5), and (9), 147, 156, 160, and 188 are treated as coming into force on 1 April 2008.

(8) Section 114 is treated as coming into force on 1 October 2008.

(9) Sections 132(39) and 146(1), (6), and (8) are treated as coming into force on 1 April 2009.

(10) Sections 132(31) and 151 are treated as coming into force on 6 October 2009.

(11) Sections 43, 44, 57, 72, 75, 85, 86, 87, 88, 89, 90, 91, 92, 94, 97, 98, 99, 100, 105, 110, 130(2), 132(3), (13), and (22), and 146(3) and (7) are treated as coming into force on 1 April 2010.

(12) Sections 49 and 50 are treated as coming into force on 20 May 2010.

(13) Sections 10(2), 11, 27, 47, 48, 58, 59, 132(35), and 180 are treated as coming into force on 1 July 2010.

(14) Sections 145, 182, and 183 come into force on 1 August 2010.

(15) Section 34 comes into force on 5 August 2010.

(16) Section 23 comes into force on 7 September 2010.

(17) Sections 22, 35, 42, 56(1) and (3), 116, 120 to 124, 131, and 157 come into force on 1 October 2010.

(18) Section 186 comes into force on 31 October 2010.

(19) Section 138 comes into force on 1 November 2010.

(20) Sections 4, 5, 6, 7, 8, 9, 10(1), (3), and (4), 14, 15, 16, 19, 21, 26, 31, 37(2) and (3), 39, 40, 46, 54, 56(2), (4), and (5), 62, 63, 67, 68, 69, 70, 73, 74, 76, 77, 78, 79, 81, 96(1), 104, 111, 112, 126(2) and (4), 132(2), (4), (5), (6), (7), (8), (9), (11), (12), (14), (15), (16), (19), (21), (23), (24), (25), (26), (27), (28), (33), (34), (36), (37), (38), (40), (41), (42), (44), (45), (47), (48), and (50), 135, 136, 137, 139(1)(b), (c), and (d), 140, 144, 149, 152, 154, 155, 158, 162, and 172 come into force on 1 April 2011.

(21) Section 96(2) comes into force on 1 April 2013.

(22) Section 115 comes into force on the first day of the second month after the month in which the Governments of Australia and New Zealand exchange notes, as provided by clause 21 of the Arrangement between them on trans-Tasman retirement savings portability.

Part 2
Amendments to Income Tax Act 2007

58 Outstanding claims reserving amount: non-participation policies not annuities

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

59 Transitional adjustments: life risk

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1), (2), and (3) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

95 New section HM 35B inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2010–11 and later income years. However, subsection (1) does not apply to a multi-rate PIE in relation to a tax position taken by the PIE—

(a) in the period from 1 April 2010 to the date of Royal assent of this Act; and

(b) in relation to the attribution of income to investors in the PIE and the determination of net amounts in section HM 35; and

(c) relying on the PIE rules as they were before the amendment made by subsection (1).

Taxation (Tax Administration and Remedial Matters) Act 2011

Public Act	2011 No 63
Date of assent	29 August 2011
Commencement	see section 2

1 Title

This Act is the Taxation (Tax Administration and Remedial Matters) Act 2011.

2 Commencement

(1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.

(2) Sections 219 and 222 are treated as coming into force on 1 April 1995.

(3) Sections 220 and 221 are treated as coming into force on 1 April 1997.

(4) Sections 192, 193, 194, 195, 196, 197, 198, 201, 206, 207, and 208 are treated as coming into force on 1 April 2005.

(5) Sections 199, 200, and 202 are treated as coming into force on 1 April 2007.

(6) Sections 203, 204, and 205 are treated as coming into force on 1 October 2007.

(7) Sections 4, 7, 12, 13, 17, 18, 19, 20, 22, 31, 32, 33, 34, 35, 40, 41, 45(1), (3), (4), and (6), 46, 48, 49, 50, 91, 92(1) and (3), 93, 94(1), (3), (7), (8), and (10), 96(1), (3), (4), and (5), 97(1), (2), (3), (6), and (8), 98, 99, 100, 101, 102, 103, 104, 108, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 124, 130(3), (5), (10), (15), (16), and (19), 131, 133, 135, 140, 161, and 210 are treated as coming into force on 1 April 2008.

(8) Section 130(14) is treated as coming into force on 1 January 2009.

(9) Sections 21(1) and (3), 37(1), (3), and (5), 39, 42, 44(1) and (3), 94(4), (5), (6), (9), and (11), 95, 96(2) and (6), 97(5), (7), and (9), and 130(6), (8), and (17) come into force on 30 June 2009.

(10) Sections 109 and 110 come into force on 5 January 2010.

(11) Sections 53, 54(1) and (5), 59(1) and (2), 65, 80(1), (3), (4), and (5), 106(1) and (3), and 130(9) and (18) are treated as coming into force on 1 April 2010.

(12) Section 237 comes into force on 1 July 2010.

(13) Sections 5, 11, 23, 24, 25, 26, 27, 43, and 188 are treated as coming into force on 4 September 2010.

(14) Sections 47, 130(2), and 160 are treated as coming into force on 30 September 2010.

(15) Section 136(8) is treated as coming into force on 1 October 2010.

(16) Section 45(2) and (5) are treated as coming into force on the day of introduction for the Taxation (Tax Administration and Remedial Matters) Bill.

(17) Sections 28, 29, 30, 88, 89, 107, 134, 136(1), (2), (3), (6), (7), and (9), 139, 209, 235(1)(b) and (c), (2), and (3), 236, 238, 239, 240, 241, 243, 244(2) and (3) are treated as coming into force on 1 April 2011.

(18) Section 132 is treated as coming into force on 1 May 2011.

(19) Sections 92(2), 94(2) and (12), and 97(4) and (10) come into force on 1 July 2011.

(20) Section 245 comes into force on 1 October 2011.

(21) Sections 9(3) and (5), 71, 81, 106(2) and (4), 123, 130(13) and (20), 136(4) and (5), and 138 come into force on 1 April 2012.

(22) Sections 21(2) and (4), 37(2), (4), and (6), and 44(2) and (4) come into force on 30 June 2013.

8 Dividend within New Zealand wholly-owned group

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply to—

(a) dividends derived by a company, other than a Maori authority, on or after the first day of the company's 2010–11 income year; or

(b) dividends derived by a Maori authority on or after the first day of the Maori authority's 2012–13 income year.

13 New section DB 3B

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) for the 2010–11 and later income years; and

(b) for the 2009–10 income year,—

(i) for a person who has not furnished a return of income for the income year on or before 24 November 2010; or

(ii) for a person who has furnished a return of income on or before 24 November 2010, only in relation to an amount of interest imposed under Part 7 of the Tax Administration Act 1994 that the person has treated as a deduction in the return or in a notice of proposed adjustment issued before that date:

(c) for the 2008–09 income year, only in relation to an amount of interest imposed under Part 7 of the Tax Administration Act 1994 that the person has treated as a deduction—

(i) in a return of income that they have furnished on or before 24 November 2010:

(ii) in a notice of proposed adjustment that is issued on or before 24 November 2010.

39 Limits on choice of calculation methods

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1)—

(a) applies for income years beginning on or after 1 July 2009, except if paragraph (b) applies:

(b) does not apply for a person and an income year in relation to a tax position taken by the person—

(i) in a return of income filed before the date of Royal assent to the Taxation (Tax Administration and Remedial Matters) Act 2011; and

(ii) relating to the calculation of FIF income or loss from shares; and

(iii) relying on section EX 46(10)(a) as it was before the replacement made by subsection (1).

45 Apportionment of interest by excess debt entity

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) Subsection (2) does not apply to a person and an income year in relation to a tax position taken by the person—

(a) in a return of income filed before the date on which the Taxation (Tax Administration and Remedial Matters) Bill is reported to the House of Representatives by the select committee considering the bill; and

(b) relating to the apportionment of interest expenditure; and

(c) relying on section FE 6(3)(ac) as it was before the replacement made by subsection (2).

(6) Subsection (3) applies for the 2008–09 and later income years.

94 Ring-fencing cap on attributed CFC net losses

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Section IQ 2(1), other than its heading, is replaced by the following:

(1) The total amount of attributed CFC net loss and FIF net loss, relating to a CFC or FIF that is resident in the jurisdiction when the loss arises, that is subtracted from the person's net income for the tax year is—

(a) the total amount of attributed CFC income and FIF income calculated under the branch equivalent method that the person derives in the tax year in relation to a CFC or FIF that is resident in the jurisdiction, if that amount is less than or equal to the amount referred to in paragraph (b); or

(b) the total amount of such attributed CFC net loss and FIF net loss that—

(i) the person carries forward to the tax year:

(ii) is made available in the tax year to the person by another company in the same group.

(4)–(9) *Amendment(s) incorporated in the Act(s).*

(10) Subsections (1), (3), and (7) apply for the 2008–09 and later income years.

(11) Subsections (4), (5), and (6) apply for income years beginning on or after 1 July 2009.

(12) Subsection (2) applies for income years beginning on or after 1 July 2011.

96 Ring-fencing cap on FIF net losses

(1) Section IQ 3(1), other than the heading, is replaced by the following:

(1) If a person's FIF net loss is carried forward to a tax year or FIF net loss is made available to the person in the tax year, the FIF net loss may be subtracted, under section IQ 2, from the person's net income for the tax year.

(2)–(4) *Amendment(s) incorporated in the Act(s).*

(5) Subsections (1), (3), and (4) apply for the 2008–09 and later income years.

(6) Subsection (2) applies for income years beginning on or after 1 July 2009.

130 Definitions

(1) This section amends section YA 1.

(2)–(15) *Amendment(s) incorporated in the Act(s).*

(16) Subsection (5) does not apply in relation to a tax position taken by a person—

(a) in the period from 1 April 2008 to 30 November 2010; and

(b) in relation to the payment of fringe benefit tax; and

(c) relying on section RD 3(2) to (4) in the absence of the amendment made by subsection (5).

(17) Subsections (6) and (8) apply for income years beginning on or after 1 July 2009.

(18) Subsection (9) applies for the 2010–11 and later income years.

(19) Subsection (10) applies for the 2008–09 and later income years.

(20) Subsection (13) applies for the 2012–13 and later income years.

Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012

Public Act	2012 No 88
Date of assent	2 November 2012
Commencement	see section 2

1 Title

This Act is the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012.

2 Commencement

(1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.

(2) Section 251(1) and (4) come into force on 1 February 1995.

(3) Section 251(2) and (5) come into force on 1 April 1998.

(4) Section 251(3) and (6) come into force on 1 October 2001.

(5) Section 173 comes into force on 17 October 2002.

(6) Section 209(2) and (3) come into force on 1 April 2003.

(7) Sections 209(1) and 214(1) come into force on 1 January 2005.

(8) Sections 170(2) and (5), 241, 242, 244, 245, 246, and 247 come into force on 1 April 2005.

(9) Section 243 comes into force on 1 April 2006.

(10) Section 248 comes into force on 1 October 2007.

(11) Sections 11, 16, 21, 23, 30, 37, 38, 39, 69, 72, 82, 84, 85(1), (2), (3), (7), and (9), 86, 115, 117, 120, 122, 124, 125, 126(1), 127(2), 134, 136, 139, 140(1), (2), and (4), 141, 143, 144, 145, 153, 154(7), (11), (12), (17), and (43), 162(3), (4), and (7), 170(3) and (6), 171(1)(b) and (d), 186, 199, and 202 come into force on 1 April 2008.

(12) Section 83 comes into force on 1 April 2009.

(13) Section 154(30) comes into force on 9 June 2009.

(14) Sections 24(1), (3), (4), and (6), 25(1), (3), (4), and (6), 28, 40, 41, 42(1), (2), (6), (7), and (8), 43(1) to (6), 44, 52, 63, 64, 65, 76, 114, 129, 131, 132, 146, and 154(8) and (44) come into force on 30 June 2009.

(15) Sections 68 and 154(40) come into force on 1 July 2009.

(16) Section 152 comes into force on 1 February 2010.

(17) Sections 98 and 100 come into force on 1 April 2010.

(18) Section 66 comes into force on 30 June 2010.

(19) Sections 31, 32, 53, 54, and 55 come into force on 1 July 2010.

(20) Section 45 comes into force on 1 August 2010.

(21) Sections 12, 13, 18, 19, 20, 29, 35, 36, 56, 57, 58, 59, 60, 61, and 73 come into force on 4 September 2010.

(22) Sections 27 and 33 come into force on 7 September 2010.

(23) Section 154(3), (4), and (42) come into force on 1 October 2010.

(24) Section 154(5) comes into force on 27 October 2010.

(25) Sections 154(22) and 207(3) come into force on 1 November 2010.

(26) Sections 154(28), 155, 156(a), and 158 come into force on 1 January 2011.

(27) Sections 78, 79, 80, 81, 111, 112, 123, 126(2) and (3), 127(1) and (3), 154(6), (9), (10), (14), (19), (27), and (32), 162(1), (2), (5), (6), and (8), 207(2) and (4), 208(2) and (3), 210, 211, 212, 214, 215, 216, 217, 218, 221, 222, 223, 224, 225, and 226 come into force on 1 April 2011.

(28) Sections 24(2) and (7), 25(2) and (7), 42(3), (4), (5), and (9), 43(7) and (8), 46, 48, 49, 50, 116, 128, and 133 come into force on 1 July 2011.

(29) Sections 90, 91, 97, 252, 253, 254, and 255 come into force on 29 August 2011.

(30) Section 208(1) comes into force on the date of introduction of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill.

(31) Sections 47 and 51 come into force on 1 October 2011.

(32) Section 194 comes into force on 7 March 2012.

(33) Sections 70, 85(4), (5), (6), and (8), 89, 94, 140(3), 142, 154(20) and (33), and 163(2) come into force on 1 April 2012.

(34) Section 168(1)(d) comes into force on 31 May 2012.

(35) Sections 71, 228, 229, 230, 235, and 238 come into force on 1 July 2012.

(36) Sections 6, 7, 8, 9, 10, 147, 148, 151, and 154(2), (31), (37), and (39) come into force on 1 October 2012.

(37) Sections 88, 93(2), 99, 101, 103, 104(2), 107, 118, 150, 154(18) and (29), 163(3), 166, 168(1)(a) to (c) and (e) and (3), 231, and 234 come into force on 1 April 2013.

(38) Sections 137, 154(25), 170(4), 171(3), 176, 177, 179, 180, 181, 183, 184, 185, 189, 190, 191, 192, 193, 197, 198, 200, 201, and 239 come into force on 1 April 2016 or on an earlier date set by Order in Council.

(39) Section 168(2) and (4) come into force on 1 April 2014.

Part 2
Amendments to Income Tax Act 2007

12 Section CG 4 replaced

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for—

(a) the 2011–12 and later income years, except as given by paragraph (b); or

(b) the 2010–11 and later income years for a person who is granted an extension of time for filing a return of income for the 2010–11 income year under the Canterbury Earthquake (Inland Revenue Acts) Order 2011.

13 Receipts from insurance, indemnity, or compensation for interruption or impairment of business activities

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for—

(a) the 2011–12 and later income years, except as given by paragraph (b); or

(b) the 2010–11 and later income years for a person who is granted an extension of time for filing a return of income for the 2010–11 income year under the Canterbury Earthquake (Inland Revenue Acts) Order 2011.

27 Deduction for general insurance outstanding claims reserve

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply to a transfer of general insurance contracts—

(a) on and after 1 October 2012, unless paragraph (b) applies:

(b) on and after 7 September 2010, if the transferor chooses to apply subsection (1) and the transfer is made—

(i) to a transferee who is a non-resident and does not carry on a business in New Zealand through a fixed establishment; and

(ii) for the purposes of complying with the Insurance (Prudential Supervision) Act 2010.

30 Application of subpart

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for the 2008–09 and later income years. However, subsection (1) does not apply to a person in relation to a tax position taken by the person—

(a) in the period from 1 April 2008 to 31 May 2011; and

(b) relating to the valuation of livestock; and

(c) relying on the provisions of subpart EC as they were before the amendment made by subsection (1).

33 New section ED 3

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies to a transfer of general insurance contracts—

(a) on and after 1 October 2012, unless paragraph (b) applies:

(b) on and after 7 September 2010, if the transferor chooses to apply subsection (1) and the transfer is made—

(i) to a transferee who is a non-resident and does not carry on a business in New Zealand through a fixed establishment; and

(ii) for the purposes of complying with the Insurance (Prudential Supervision) Act 2010.

35 Cases affecting pool

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for—

(a) the 2011–12 and later income years, except as given by paragraph (b); or

(b) the 2010–11 and later income years for a person who is granted an extension of time for filing a return of income for the 2010–11 income year under the Canterbury Earthquake (Inland Revenue Acts) Order 2011.

36 Consideration for purposes of section EE 44

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies for—

(a) the 2011–12 and later income years, except as given by paragraph (b); or

(b) the 2010–11 and later income years for a person who is granted an extension of time for filing a return of income for the 2010–11 income year under the Canterbury Earthquake (Inland Revenue Acts) Order 2011.

54 Shareholder base other profit: profit participation policies that are existing business

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters)

Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

55 Transitional adjustments: life risk

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) Subsections (1) to (4) apply—

(a) on and after 1 July 2010, except if paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chooses to apply the new life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

139 ESCT rules and their application

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) do not apply for a tax position that is inconsistent with subsections (1) and (2) and that is taken in a tax return filed before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill was introduced.

140 Employer's superannuation cash contributions

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) and (2) do not apply for a tax position that is inconsistent with subsections (1) and (2) and that is taken in a tax return filed before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill was introduced.

141 Calculating amounts of tax for employer's superannuation cash contributions

(1) In section RD 67(a), "if the employer" is replaced by "if, for a contribution that is an employer's superannuation contribution, the employer".

(2) In section RD 67, in the list of defined terms, "employer's superannuation contribution" is inserted.

(3) Subsections (1) and (2) do not apply for a tax position that is inconsistent with subsections (1) and (2) and that is taken in a tax return filed before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill was introduced.

143 Choosing different rates for employer's superannuation cash contributions

(1) In section RD 69(1), "on behalf of an employee" is replaced by "that is an employer's superannuation contribution".

(2) In section RD 69, in the list of defined terms, "employer's superannuation contribution" is inserted.

(3) Subsections (1) and (2) do not apply for a tax position that is inconsistent with subsections (1) and (2) and that is taken in a tax return filed before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill was introduced.

144 Calculating amounts of tax on failure to withhold

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) does not apply for a tax position that is inconsistent with subsection (1) and that is taken in a tax return filed before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill was introduced.

145 Amounts of tax treated as paid to and received by superannuation funds

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) does not apply for a tax position that is inconsistent with subsection (1) and that is taken in a tax return filed before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill was introduced.

154 Definitions

(1) This section amends section YA 1.

(2)–(41) *Amendment(s) incorporated in the Act(s).*

(42) Subsections (3) and (4) apply for the 2011–12 and later tax years, except for a tax position that is—

- (a) inconsistent with subsections (3) and (4); and
- (b) taken in a tax return filed before the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Bill is first considered by a committee of the whole House.

(43) Subsections (7) and (11) apply for the 2008–09 and later income years.

(44) Subsection (8) applies for income years beginning on or after 1 July 2009.

(45) Subsections (34) and (35) apply for income years beginning on or after the date on which the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 receives the Royal assent.

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014

Public Act	2014 No 4
Date of assent	27 February 2014
Commencement	see section 2

1 Title

This Act is the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014.

2 Commencement

(1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.

(2) Section 139 comes into force on 24 October 2001.

(3) Section 142 comes into force on 1 April 2005.

(4) Sections 15, 17, 34(1), (2), (3), (5), and (9), 37, 71, 72(1), (4), and (5), 73(1) and (4), 74, 75, 82, 119, 120, 123(2), 124, 125, 126, 127(4), (13), (41), and (54), 136, 138, and 144(a) come into force on 1 April 2008.

(5) Section 5 comes into force on 1 January 2009.

(6) Section 20 comes into force on 1 April 2009.

(7) Section 89 comes into force on 1 April 2010.

(8) Sections 39(1) and (3) to (5), 58(1), (3), and (8), 59, 60, 61(1) to (3) and (5), 62(1) and (3), 63, 121, and 122 come into force on 1 July 2010.

(9) Sections 28, 29(1), 48, 64, 65, 76, 127(6), (50), and (51) come into force on 4 September 2010.

(10) Section 128 comes into force on 1 April 2011.

(11) Section 127(38) and (39) come into force on 1 July 2011.

(12) Sections 85, 86, 87, 88, and 92 come into force on 29 August 2011.

(13) Section 79 comes into force on 2 November 2012.

(14) Sections 35, 90, 91, and 123(1) come into force on 1 April 2013.

(15) Sections 146 to 149 come into force on 17 April 2013.

(16) Sections 30, 34(4), (6), (7), and (8), and 127(16) come into force on 20 May 2013.

(17) Section 49 comes into force on 25 June 2013.

(18) Sections 10, 42, 47, and 57 come into force on the first day of the first financial quarter beginning after this Act receives the Royal assent.

(19) Sections 6, 7, 8, 9, 11, 12, 13, 14, 16, 18, 19, 21, 22, 23, 24, 25, 26, 27, 31, 32, 33, 36, 40, 41, 43, 45, 46, 50, 51, 52, 53, 54, 55, 56, 67, 69, 70, 72(2) and (3), 73(2) and (3), 77, 78, 81, 83, 84, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 114, 115, 116, 118, 127(2), (3), (5), (7), (8), (9), (10), (11), (12), (14), (15), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (11632), (33), (34), (35), (36), (37), (42), (43), (44), (45), (46), (47), (48), (49), (52), (53), and (55), 129, 130, 137, 140(1), 141, 143, and 144(b) come into force on 1 April 2014.

(20) Sections 44, 66, and 68 come into force on 1 April 2016.

Part 2
Amendments to Income Tax Act 2007

4 Income Tax Act 2007

This Part amends the Income Tax Act 2007.

20 New section CW 55BAB inserted (Rebate of fees paid by FIF)

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies to a person for a rebate derived—

(a) on or after the date (the **assent date**) on which the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 receives the Royal assent:

(b) at or after the beginning of the 2009–10 income year and before the assent date, if the person gives notice to the Commissioner of an election to have the inserted provision apply to rebates derived in the income year of the rebate.

39 Section DR 4 amended (Life insurers' claims reserves)

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) Subsections (2) and (3) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

58 Section EY 15 amended (Policyholder base income: non-participation policies)

(1)–(7) *Amendment(s) incorporated in the Act(s).*

(8) Subsections (1) and (3) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

59 Section EY 16 amended (Policyholder base allowable deductions: non-participation policies)

(1)–(3) *Amendment(s) incorporated in the Act(s).*

(4) Subsections (1) and (2) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

60 Section EY 17 amended (Policyholder base income: profit participation policies)

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

61 Section EY 19 amended (Shareholder base income: non-participation policies)

(1)–(4) *Amendment(s) incorporated in the Act(s).*

(5) Subsections (1) to (3) apply—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

62 Section EY 20 amended (Shareholder base allowable deductions: non-participation policies)

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

63 Section EY 21 amended (Shareholder base income: profit participation policies)

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

121 Section OB 47 amended (Debit for policyholder base imputation credits)

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in a return of income for the tax year corresponding to the first relevant income year.

122 Section OP 44 amended (Consolidated ICA debit for policyholder base imputation credits)

(1) *Amendment(s) incorporated in the Act(s).*

(2) Subsection (1) applies—

(a) on and after 1 July 2010, unless paragraph (b) applies:

(b) for an income year that includes 1 July 2010 and later income years, if the life insurer chose to apply the life insurance rules in the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009

in a return of income for the tax year corresponding to the first relevant income year.

125 Section RE 4 amended (Persons who have withholding obligations)

(1), (2) *Amendment(s) incorporated in the Act(s).*

(3) Subsections (1) and (2) apply for a person and a payment made in the 2008–09 or a later income year, except if—

(a) the person makes the payment before the date on which the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 receives the Royal assent; and

(b) the person withholds from the payment an amount required by the law that would apply to the payment in the absence of subsection (2).

Notes

1 General

This is a consolidation of the Income Tax Act 2007 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Statutes Amendment Act 2025 (2025 No 74): section 49

Parliament (Repeals and Amendments) Act 2025 (2025 No 63): section 51

Education and Training (Vocational Education and Training System) Amendment Act 2025 (2025 No 56): section 41

Income Tax (FamilyBoost) Amendment Act 2025 (2025 No 50)

Local Government (Water Services) (Repeals and Amendments) Act 2025 (2025 No 43): sections 35–37

Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2024–25 Income Year) Order 2025 (SL 2025/150)

Taxation (Budget Measures) Act 2025 (2025 No 26): Part 1

Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (2025 No 9): Part 2

Te Ture Whakatupua mō Te Kāhui Tupua 2025/Taranaki Maunga Collective Redress Act 2025 (2025 No 1): section 57

Taxation (Budget Measures) Act 2024 (2024 No 19): Parts 1, 4, sections 9–16, 26–29

New Zealand Superannuation and Retirement Income (Controlling Interests) Amendment Act 2024 (2024 No 16): sections 13–17

Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11): Part 2

Pae Ora (Disestablishment of Māori Health Authority) Amendment Act 2024 (2024 No 5): section 43

Water Services Acts Repeal Act 2024 (2024 No 2): section 12(1)

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Income Tax (Tax Credit) Order 2023 (SL 2023/288)

Education and Training Amendment Act 2023 (2023 No 45): section 43

Civil Aviation Act 2023 (2023 No 10): section 486

Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 (2023 No 5): Part 2

Natural Hazards Insurance Act 2023 (2023 No 1): section 163

Plant Variety Rights Act 2022 (2022 No 61): section 159

Data and Statistics Act 2022 (2022 No 39): section 107(1)

Pae Ora (Healthy Futures) Act 2022 (2022 No 30): section 104

Taxation (Cost of Living Payments) Act 2022 (2022 No 25): Part 2

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022 (2022 No 10): Part 3

Land Transport (Clean Vehicles) Amendment Act 2022 (2022 No 2): sections 26, 27

Taxation (COVID-19 Support Payments and Working for Families Tax Credits) Act 2021 (2021 No 52): Part 2

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(1)

Income Tax (Crown Regional Holdings Limited) Order 2021 (LI 2021/178)

Taxation (Budget 2021 and Remedial Measures) Act 2021 (2021 No 19): Part 1

Financial Market Infrastructures Act 2021 (2021 No 13): section 163(1)

Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8): Part 2

Secondary Legislation Act 2021 (2021 No 7): section 3

Taxation (COVID-19 Resurgence Support Payments and Other Matters) Act 2021 (2021 No 1): Part 2

Income Tax (Ngāpuhi Investment Fund Limited) Order 2020 (LI 2020/308)

Taxation (Income Tax Rate and Other Amendments) Act 2020 (2020 No 65): Part 1 (as amended by Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Act 2021 (2021 No 8)), sections 37, 38

COVID-19 Response (Further Management Measures) Legislation Act (No 2) 2020 (2020 No 58): section 3

Public Service Act 2020 (2020 No 40): section 135

Education and Training Act 2020 (2020 No 38): section 668

New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36): sections 45, 46

Racing Industry Act 2020 (2020 No 28): section 129

Climate Change Response (Emissions Trading Reform) Amendment Act 2020 (2020 No 22): sections 279, 280

COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13): section 3

COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10): Part 1

COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020 (2020 No 8): Part 1

Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5): Part 3

New Zealand Superannuation and Retirement Income Amendment Act 2019 (2019 No 77): section 17

Partnership Law Act 2019 (2019 No 53): section 86

Kāinga Ora–Homes and Communities Act 2019 (2019 No 50): section 33

Trusts Act 2019 (2019 No 38): section 161

Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2019 (2019 No 33): sections 43 to 80

Income Tax (New Zealand Green Investment Finance Limited) Order 2019 (LI 2019/119)

Taxation (Research and Development Tax Credits) Act 2019 (2019 No 15): sections 4–22, 40, 41

Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5): Part 3

New Plymouth District Council (Waitara Lands) Act 2018 (2018 No 2 (L)): section 65

Family Violence Act 2018 (2018 No 46): section 259(1)

Social Security Act 2018 (2018 No 32): section 459

Friendly Societies and Credit Unions (Regulatory Improvements) Amendment Act 2018 (2018 No 17): section 58

Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 (2018 No 16): Part 1

Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (2018 No 5): Part 2

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Families Package (Income Tax and Benefits) Act 2017 (2017 No 51): subpart 1 of Part 1, sections 48, 50, 52–56

Land Transport Amendment Act 2017 (2017 No 34): section 110(3)

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): sections 146, 149

Land Transfer Act 2017 (2017 No 30): section 250

Statutes Repeal Act 2017 (2017 No 23): section 4(2)

Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017 (2017 No 14): Part 2

Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7): section 26

Contract and Commercial Law Act 2017 (2017 No 5): section 347

Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017 (2017 No 3): subpart 1 of Part 1, subpart 1 of Part 2, subpart 1 of Part 3

Taxation (Thresholds for Community Housing Entities) Regulations 2016 (LI 2016/220)

Compensation for Live Organ Donors Act 2016 (2016 No 96): section 30

Taxation (Transformation: First Phase Simplification and Other Measures) Act 2016 (2016 No 27): Part 1

Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2016 (2016 No 21): Part 2

Parental Leave and Employment Protection Amendment Act 2016 (2016 No 8): section 83

Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2016 (2016 No 1): Part 3

Taxation (Bright-line Test for Residential Land) Act 2015 (2015 No 111): Part 1

Income Tax Amendment Act 2015 (2015 No 104)

Taxation (New Zealand Superannuation and Retirement Income) Act 2015 (2015 No 94)

Health and Safety at Work Act 2015 (2015 No 70): section 232

Income Tax (Maximum Pooling Value) Order 2015 (LI 2015/141)

Taxation (KiwiSaver HomeStart and Remedial Matters) Act 2015 (2015 No 40): sections 11–14

Veterans' Support Act 2014 (2014 No 56): section 278

Te Urewera Act 2014 (2014 No 51): section 40(6)

Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 (2014 No 39): Part 2

Credit Contracts and Consumer Finance Amendment Act 2014 (2014 No 33): section 82

Taxation (Parental Tax Credit) Act 2014 (2014 No 28)

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (2014 No 4): Part 2

Companies Amendment Act 2013 (2013 No 111): section 14

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): sections 92–97, 126

Members of Parliament (Remuneration and Services) Act 2013 (2013 No 93): section 66

Telecommunications (Interception Capability and Security) Act 2013 (2013 No 91): section 123

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 (2013 No 52): Part 1, section 172

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Crown Minerals Amendment Act 2013 (2013 No 14): section 65

Social Assistance (Living Alone Payments) Amendment Act 2013 (2013 No 11): section 16

State-Owned Enterprises (KiwiRail Holdings Limited) Order 2012 (SR 2012/346): clause 5

Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88): Part 2

Income Tax (Working for Families Indexation—Budget Measures) Amendment Act 2012 (2012 No 80): section 3

Public Finance (Mixed Ownership Model) Amendment Act 2012 (2012 No 45): section 11

State-Owned Enterprises Amendment Act 2012 (2012 No 44): sections 10, 11

Taxation (Budget Measures) Act 2012 (2012 No 38): Part 1

Taxation (International Investment and Remedial Matters) Act 2012 (2012 No 34): Part 1

Local Government Borrowing Act 2011 (2011 No 77): section 14

Taxation (Tax Administration and Remedial Matters) Act 2011 (2011 No 63): Part 1

Student Loan Scheme Act 2011 (2011 No 62): section 223

Taxation (Canterbury Earthquake Measures) Act 2011 (2011 No 24): Part 1

Taxation (Annual Rates and Budget Measures) Act 2011 (2011 No 23): sections 6–14

Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13): section 100(3)

Kiwisaver Amendment Act 2011 (2011 No 8): section 56

Financial Markets Authority Act 2011 (2011 No 5): sections 82, 85(1)

Research, Science, and Technology Act 2010 (2010 No 131): section 18

Taxation (GST and Remedial Matters) Act 2010 (2010 No 130): Part 2, section 189

Governor-General Act 2010 (2010 No 122): sections 22–25

Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109): Part 2

Taxation (Definitions of Dependent Child) Act 2010 (2010 No 104): section 7

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1)

Taxation (Budget Measures) Act 2010 (2010 No 27): sections 4–40, 59–61, 63–72, 75–94, 96(2)–(5), (7)–(9), 97–99

Accident Compensation Amendment Act 2010 (2010 No 1): section 49

Taxation (Consequential Rate Alignment and Remedial Matters) Act 2009 (2009 No 63): Part 1

Immigration Act 2009 (2009 No 51): section 406(1)

Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34): Part 1

Taxation (Business Tax Measures) Act 2009 (2009 No 5): sections 4–22, 29–31

Taxation (Urgent Measures and Annual Rates) Act 2008 (2008 No 105): sections 5–14, 19–22, 29(1), 31, 33–36, 52–57

Climate Change Response (Emissions Trading) Amendment Act 2008 (2008 No 85): sections 68–76

Taxation (Personal Tax Cuts, Annual Rates, and Remedial Matters) Act 2008 (2008 No 36): sections 5–8, 13–16, 20–52

Taxation (Limited Partnerships) Act 2008 (2008 No 2): Part 1

Taxation (KiwiSaver) Act 2007 (2007 No 110): sections 123–137

Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109): sections 307–562

Finance Act 1991 (1991 No 93): section 26

Finance Act (No 2) 1988 (1988 No 128): section 23

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